



# TOWN OF PALM BEACH

Office of the Town Clerk

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

### I. CALL TO ORDER

Chairman Doyle Rogers called the fifth meeting of the Charter Review Commission to order at 9:00 a.m. on Friday, January 16, 1998, 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. Also attending the meeting were Mayor Paul R. Ilyinsky, Town Attorney John C. Randolph, Town Manager Robert J. Doney, Assistant Town Manager Peter Elwell, and Town Clerk Mary Pollitt.

Chairman Rogers welcomed Mayor Ilyinsky and former Mayor Mack Ritchie who is visiting from Illinois and would be heard later in the meeting.

### III. APPROVAL OF AGENDA

Mr. Guttman made a motion to approve the agenda. The motion was seconded by Mr. Wearn. The motion was approved unanimously by voice vote.

Mr. Rogers said three items of correspondence were sent in—one from Mr. William Cassella that was received by all of the Commission members.

Mrs. Marix suggested that the letters should be read for the benefit of the people in the audience.

Mr. Rogers agreed. He said the letter from Mr. William Cassella was directed to him. Mr. Cassella is an expert in municipal government.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Dear Doyle:

It has been some time since we have been in touch and I am curious to know how the charter review process in Palm Beach is progressing.

You will recall that I indicated I wanted to be helpful if you felt that I could be. I volunteered to be a resource at a distance to provide names of individuals that you might want to engage as consultants or use for presentations to your commission on questions under study.

As I mentioned, my own availability to come to Palm Beach is uncertain because of my travel schedule which at this point in my life is mainly controlled by my widely scattered family. I know now that the best time for me to come to Palm Beach would be in March or April when my time is fairly flexible.

Your commission has an opportunity to make an important contribution to your city. I wish you all the best and look forward to being in touch.

Sincerely yours,

(Signed) William N. Cassella, Jr.

Mr. Rogers said that was when he was available, and he was available to give the Commission other names of experts on municipal government.

Mr. Rogers said another one that the Commission members did not receive because he just received it and it was directed to him was from James Nemec, who is a local lawyer and a long time resident of Palm Beach.

Dear Mr. Rogers:

RE: Reviewing the Charter

Enclosed please find a copy of a letter I wrote Mayor Ilyinsky and the members of the Town Council on February 27, 1997. I did not receive a reply to what I believe is a fair proposal to equalize voters' strength throughout the entire Town, as contrasted with one section controlling Palm Beach with an inordinately unequal share of the votes.

I hope you will make the contents of my letter a part of your plank.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Very truly yours,

(Signed) James Nemec

Mr. Rogers asked Mayor Ilyinsky if he remembered getting a letter from Mr. Nemec?

The Mayor replied he really did not.

Mr. Rogers read the letter.

Dear Mayor Ilyinsky:

I note with interest there is some discussion about a new Charter for the Town of Palm Beach.

For some time now I have discussed with various Town residents a proposal for a new Charter, which has been received wholeheartedly.

The new Charter which I would suggest would be as follows:

1. Division of the Town of Palm Beach into three Districts, by population:
  - a. North District - Inlet to Southern Blvd.
  - b. Middle District - Southern Blvd. To Lake Worth Bridge
  - c. South District - Lake Worth Bridge south to City Limit
2. Two Council Members, to be elected from each District
3. A Mayor to be elected and voted upon from all three Districts of Palm Beach;
  - a. Mayor to have no vote except in case of a tie;

Under this solution, each District will be represented by the Council Members of its choice.

Furthermore, each Council Member must be a resident of his/her District for at least three years.

To qualify to vote, a resident must reside in Palm Beach at least six months per year for the

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

previous two years.

This will provide for each District to elect its own officials, and those officials will participate with the other Districts for the benefit of the Town.

With kindest regards,

(Signed) James Nemec

Mr. Rogers said that was now a part of the record.

Mr. Rogers said they had always requested input from residents and citizens on anything they would like to bring up and Mr. Nemec's letter is an example of what he would like to bring up. It is open to the public for any comments they would like to make.

Mr. Doney said a letter was received from Mrs. Nancy Douthit on the morning of this meeting.

Mr. Doney recalled that Mr. Nemec's letter was received some time ago and was distributed at that time.

Mr. Rogers read Mrs. Douthit's letter.

RE: Charter Review Commission Meetings

Charter Review Members  
Mayor and Town Council  
Randolph, Pollitt, and Elwell

The Charter Review Commission has met three times prior to January 16<sup>th</sup> for a total of 10.75 hours. By necessity and at taxpayers' expense, Mr. Doney, Mr. Randolph, and Mrs. Pollitt attend these meetings. At approximately \$150/hour, Mr. Randolph's time has cost the taxpayers \$1,612.50. (Mr. Randolph said his rate is currently \$160/hour).

Mr. Doney has responded to research questions amounting in time to approximately 5.5 hours which on top of his many other duties and responsibilities amount with meeting time to two whole days. One mandatory recording tape represents 1.5 hours of meeting time. On top of all her many other duties, the Town Clerk is forced to spend approximately one day per tape in order to produce roughly ten pages of accurately transcribed minutes. 10.75 hours of meeting time create seven tapes which, including meeting time, represents eight days of work. Mrs. Pollitt's time does not come for free nor does that of the assistants necessitated



## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

by assorted commission activities.

No Charter problems have yet been pinpointed. Why oh why the eternal request for the financing of expertise when the expertise remains undirected?

This whole process has had review and now at taxpayers' expense begins to look like a mass effort to keep a few individuals busy.

Sincerely,

(Signed) Nancy Douthit

Mr. Doney said there was one other letter—Mr. Guttman had also provided—and the Town Manager's office had copies for the Commission members—copies of the Newport, Vale, Aspen, and East Hampton Charters. Mr. Doney asked when the Commission would like to have those distributed?

Mr. Rogers asked to have them distributed.

### **IV. APPROVAL OF REPORT OF THE CHARTER REVIEW COMMISSION MEETING ON DECEMBER 5, 1997**

Mr. Rogers asked for any corrections or additions to the minutes of December 5<sup>th</sup>?

Mr. Wearn made a motion to approve the report. The motion was seconded by Mrs. Habicht. On a voice vote, the motion was approved unanimously.

Mr. Rogers said the Commission would wait until the next meeting to approve the minutes from December 19<sup>th</sup>.

Mr. Doney asked Mrs. Pollitt how far along the minutes were?

Mrs. Pollitt replied they had been started, and she anticipated, depending on what kind of week the following week was, to have them finished toward the end of the week.

Mr. Rogers said this may indicate the Commission should have more time in between the meetings, because there were a lot of important items that came up and pertinent discussion at the last meeting on December 19<sup>th</sup>.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mr. Doney said the Commission may want to consider that when they set a date for the next meeting.

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

Mr. Rogers said he believed that Caldwell "Blitz" Robinson would attend the meeting and make some comments. Former Mayor Mack Ritchie is present and Mr. Rogers invited him to make some comments regarding his experiences under the Charter. He asked Mr. Ritchie if he saw anything that should be considered? Or that he thought should be changed? Mr. Rogers believed that Mr. Ritchie was the first Mayor to operate under the new Charter as Mayor.

Mr. Ritchie responded he believed that was correct.

Mr. Doney asked that Mr. Ritchie come to the podium, for the record.

Mr. Ritchie said he was at the meeting to simply say that it was so long since he had been involved with the Town business, and he no longer lives here, that he did not feel that he was really qualified to comment too much, but he had read with interest the data that was forwarded to him concerning this particular subject and the meetings that have already taken place.

Mr. Ritchie said that, quite honestly, he did not come with any prepared comments, and he did not intend to make them as he said before. He said he had a hard time finding a listing or any kind of indication of what the problems are that have motivated these meetings. He read all kinds of solutions, but he had not read the problems that had motivated this thing. It has always been, as long as he remembered, and he lived in Palm Beach for forty years—ten years sitting up on the dais—the Town always had conditions arising whereby various individuals would suggest changes to the Town's Charter and to other things within the Town that really were not motivated by problems. It looked to him that this is perhaps the same thing. Other than that, he had nothing more to say, but the Town always motivating, and he was sure the Commission had heard it a dozen times from people speaking here, "If it ain't broke, don't fix it". He wondered what had to be fixed. He had not seen any elaboration on that. Frankly—those are just comments off the cuff, and he had nothing more to say. He appreciated the Commission including him in the meetings, but since he no longer lives in Palm Beach, he felt he could not contribute anything properly.

He thanked the Commission again, and said it was nice to be back in the Town Council Chambers. He saw his picture on the wall and recalled that when it was brought in, George

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Frost told him he had a special place to hang it but only men would see it, and since that time, he was happy to see he was at least in the Council chambers.

Mr. Rogers replied the Commission appreciated Mr. Ritchie coming forward and making those comments.

Mr. Rogers said this was a Charter review. It had been done in the past and was probably a healthy thing to have a review of the Charter periodically. That was the whole idea of this review.

Mr. Ritchie responded that normally the review is done, then the problems are brought forth as a result of the review. After the problems are pinpointed, then solutions are suggested. He said this seemed to be kind of a strange way of doing things—come up with solutions before problems.

Mr. Rogers responded there had been some problems.

Mrs. Marix asked if the problems had been with the Charter?

Mr. Rogers replied there have been some management problems. The Commission is trying to address some of those and inquiring into it. That is the whole idea.

Mr. Rogers wondered if Mr. Robinson was going to be at the meeting.

Mr. Doney said that when Cindy (Cousins) contacted him, he indicated he would be at the meeting, and Cindy left another message on his answering machine.

Mr. Rogers said they would come back to Mr. Robinson when he appeared.

### **VI. COMMENTS FROM RESIDENTS OF THE TOWN CONCERNING AGENDA TOPICS FOR CHARTER REVIEW**

Mr. Rogers asked if there were any comments from residents of the Town concerning agenda items?

Mr. Harry Pokopf, 3230 South Ocean Boulevard, said he had been a resident of Palm Beach for thirty odd years. He said he did not want to put the Charter Commission out of business—definitely (the Charter) should be looked at; however, it reminded him of a commercial he saw many years ago. People came across a beautiful lake, peaceful tranquility, everything was marvelous. They kept saying how great this is—how beautiful it

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

is. Then they turn around and leave and say let's fix it. Why play around with the Charter that has been working and is in good shape. Sure, there are always problems, but he said leave it alone. As a voter, he is very happy with it. He has been here many years. He did not want to see things changed, and he is against it. He put himself on the record as being so.

Fran Pokopf, wife of Harry Pokopf, said that since husbands and wives do not always agree, she felt she was entitled to give her opinion. Along with Harry, she has lived in the Palm Beach area for thirty years. She has lived in South Florida for forty-five years. She has seen a lot of changes. They came to Palm Beach—they moved to Palm Beach because they liked what they saw here. She is constantly amazed at the newcomers who arrive and immediately want to make a lot of changes. They like it here. There is no super market two blocks away—no public library—no post office in the neighborhood—no four lane roads. That is part of the appeal. They found it hard to understand that people come to Palm Beach for the beauty and the way of life and then they are interested in making a lot of changes. Her observation of the Town Council, over these years, is that the Town is very well run. She was against any Charter revision.

Mr. Rogers asked if there were any other comments from citizens? There were none.

### **VII. CONTINUED CONSIDERATION OF "REVISED SYNTHESIZED CHARTER AGENDA PROPOSALS," AS REVISED JANUARY 8, 1998**

Mr. Rogers said, at this point, the Commission should go through each of the items which had been set forth at previous meetings and have further discussion on whether the Commission intends to pursue consideration of the items.

Mr. Doney pointed out the latest Synthesized Charter Agenda Proposals was dated 1/08/98 in the upper right hand corner.

Mr. Rogers asked if all the members had the proposals and the enlarged copy of the Charter?

Mrs. Marix said as far as she could see the list of proposals did not indicate which items could be addressed by ordinance, and she thought that was going to be listed. Things that were being discussed at this meeting would only be items connected with the Charter as opposed to things that could be addressed by ordinance.

Mr. Guttman said the minutes in the agenda package (12/05/97) of two meetings ago indicated which matters the Commission thought could be handled by ordinances and which couldn't.

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mrs. Marix said she had suggested that be added to the list so the members could immediately see it.

Mr. Guttman said it was there, but in the minutes themselves which was in the agenda package.

Mr. Doney said that the minutes of the December 16<sup>th</sup> meeting will include a number of substantive discussions where Mr. Randolph commented item by item as to whether he believed it could be accomplished by ordinance or whether it needed to be a Charter item.

Mrs. Marix said she thought it ought to be rather clear and simple rather than digging back through miles of conversation. It would have been good to have it written on the proposals agenda.

Mr. Rogers agreed.

Mr. Rogers asked Mr. Randolph if the Commission took a recess, if he could go through the list?

Mr. Randolph replied he could almost do it as the Commission dealt with each item. He read from the State Statute that stated the things that the Commission cannot change (to be done by ordinance) and have to be done by Charter are the following:

- items which affect the exercise of extra territorial powers or which affect an area that includes land within and without a municipality;
- any changes in a special law or in a municipal charter which affect the creation or existence of the municipality;
- the terms of elected officers and the manner of elections;
- the selection of election dates and qualifying periods for candidates and for changes in the terms of office;
- the distribution of powers among elected officers;
- matters prescribed by the charter relating to appointive boards;
- any change in the form of government;
- any rights of municipal employees.

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mr. Randolph said those were all things that would have to be changed by charter. In addition, however, if there is anything in the Town's Charter that specifies something other than this and the Commission no longer wants to see it in the Charter, or the Commission wanted to change it, the Commission would have to make a Charter amendment.

Mr. Randolph said they could go down each one of the items and indicate whether or not it is something that was a Charter change or an ordinance change. Quite frankly, Mr. Randolph thought that everything on the list--most of everything on the list-- would probably be a Charter consideration. As the Commission speaks to each one--again--as was done in the previous meeting address each item.

Mr. Rogers said he thought that was the appropriate way to do it. As the Commission starts it, let's indicate if it must be done by Charter. He thought that was the question the Commission wants to answer.

Mr. Rogers read the list of items.

Item 1: Should Section 1.02 be amended?

Mr. Rogers said Section 1.02 deals with the powers of the Town.

Mr. Guttman said at some juncture it would be helpful to the Charter Commission to understand precisely the ambiguities that Mr. Wearn saw in Section 1.02, or otherwise it is going to be somewhat difficult for the Commission to grapple with the question.

Mr. Rogers said he meant to explain his position on that--because he is the one who proposed it.

Mr. Wearn said he would be happy to do that at the appropriate time. He did not understand that now is the appropriate time. He thought he addressed the question when the Commission made up the list to some extent by pointing out that there was some ambiguity and some restrictions imposed on the power. As he originally stated the issue, it was should the Charter statement of the Town's municipal powers be expanded? What he was referring to was there is a restriction in the language that he perceived which is unnecessary and restricts the broad powers that the Constitution and Statutes enable. As a result of which, he raised that for a consideration. He was not advocating a change and was only raising it for consideration. He would be happy to expand on it at a later time, once he has had the opportunity to know that is what the Commission is going to do--to get into discussing each of the items--the merits of each of the items. At this point, he said he did not understand that the Commission was doing anything other than compiling a list or schedule of items to be

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

addressed--for consideration.

Mr. Rogers said perhaps the Commission should go through all of the items--designating which ones must be done by Charter.

Mr. Guttman said--in sort of a thought--without knowing precisely what restriction Mr. Wearn is referring to, and bear in mind, if there is a restriction, he certainly thought they should have the most expansive municipal powers possible. But if there is a restriction, it seemed to him, the Commission might want to consider hearing from somebody like a Chip Morrison or a Frank Radd or some other expert in legislative drafting so the Commission could get their input and context. Unless Mr. Randolph could spot the restriction right off the top of his head?

Mr. Randolph responded he did not know what it was. Obviously, if the Commission is going to make a change in this section of the Charter, the Commission would have to address it by a Charter amendment. He said he did not know what is on the table.

Mr. Wearn said if the Commission were going to go through and make a determination on the merits of these issues, then he would pull out the papers he had that addressed the questions and start to prepare them for discussion. He said it was his understanding that the Commission was not going to do that. If the question is: Whether the identification in the listing is sufficiently clear to identify the subject, then he recommended the Commission go back to his original statement of the subject and that is: Should the Charter statement of the Town's municipal powers be expanded and perhaps, additionally, to delete any restrictions.

Mr. Guttman said he did not propose that the Commission deal with the merits, it was premature to deal with the merits. At this juncture, if the Town Attorney can understand the import of the question, he did not know--he just did not know what it means at this point. He thought the Commission needed some guidance as to what Mr. Wearn's recommendation--it didn't need to happen today, incidently, but at some appropriate juncture, before the Commission deals with the merits, the Commission should understand the matters that Mr. Wearn thinks clarification or expansion--whatever they are.

Mr. Rogers said he guessed the Commission really needed to know, but if Mr. Wearn were not prepared at this meeting, the Commission could....

Mr. Wearn said he would be happy to be prepared at another meeting.

Mr. Rogers said the Commission could do that at another meeting then. He said he would like to go through the list and designate which items must be done by Charter and be certain that everyone understands exactly what the thrust of each item on the list means. He said



## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

they would wait until the next meeting to discuss what expansion or amendments might be made. He asked all of the Commission members to take a look at Section 1.02, Powers of the Town.

Mr. Rogers read the Section so the public would know what was being talked about.

### **Section 1.02 Powers of the Town**

The Town of Palm Beach shall have all powers of local self government and home rule and all powers possible for a municipality to have under the Constitution of the State of Florida. The Town shall have all powers it now or hereafter may be granted to municipalities by the laws of the State of Florida. All such powers should be exercised in the manner prescribed in this charter, or if not prescribed in this charter, in such manner as shall be provided by lawfully enacted ordinances of the Town. The powers of the Town shall be construed liberally in favor of the Town.

Mr. Randolph said since the Chairman read that section he would like to read the appropriate section that related to that from the Model Charter for Florida Municipalities. He thought that would help identify what the question is.

Mr. Randolph said the language that corresponds to the Town's Charter in the Model Charter was:

The City of \_\_\_\_\_ is hereby created which shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal services except as otherwise provided by law.

Mr. Randolph said perhaps, the suggestion is, there is surplus language in this Charter that is not necessary.

Mr. Wearn said that the suggestion Mr. Randolph made was accurate. There is surplusage, and there are restrictions that are imposed. If the Commission looked at the third sentence, "All such powers shall be exercised in a manner..." It describes two manners of exercise of all such powers. Those are only as provided in the Charter or as provided by ordinances of the Town. There are other means of exercising powers such as the exercise of resolutions and such as motions and such as policy. If there are limitations that are contained within the language of this section of the Charter which restrict the exercise of power, perhaps unnecessarily.

Mr. Rogers said that was perhaps adopting a section from the Model Code that might be all



## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

inclusive than the definition in the Town's Charter.

Mr. Randolph replied that could be done or just deleting...but he did not know how far the Commission wanted to go in discussing the substance of what the Commission wanted to change. He thought the Commission had identified what the concern was, and the Commission might want to totally replace it or simply delete some language.

Mr. Rogers said Mr. Wearn was actually talking about deleting, "All such powers should be exercised in the manner prescribed in this Charter or if not described in this Charter in such a manner as should be provided by lawfully enacted ordinances of the Town."

Mr. Wearn replied he was merely indicating that was a restriction and was not suggesting that the answer to the restriction is that removal. He had other suggestions if the idea or the desire is to strengthen the Charter to have and to enable the maximum of powers which are allowed under the Constitution and Statutes of the State of Florida.

Mr. Guttman said it was very helpful now that the Commission understood the issue.

Mr. Rogers read the next item.

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

Mr. Wearn said he was not suggesting that it should be amended. The original suggestion was: "Should the charter-provision governing the sale of parks and other open green spaces be strengthened? He said the question again is raised by some ambiguity or some limitations that are contained within that language. He thought the language was not entirely clear and therefore causes some limitations on it.

Mr. Rogers said what Mr. Wearn was saying was that the item which he suggested should have "amended" changed to "strengthened".

Mr. Wearn responded that was what the original suggestion was.

Mr. Rogers asked Mr. Wearn to make a motion to have that changed to indicate his intent?

Mr. Wearn said he was happy to do that if it were appropriate. He so moved.

Mr. Rogers asked for a second.

Mrs. Habicht seconded the motion.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mr. Rogers asked for discussion.

Mr. Guttman said he would still like to know--again, he was for strengthening, if it needs strengthening, if there are restrictions, if there are ambiguities, but he thought--much like the first item was dealt with--if the Commission could have some sense of what Mr. Wearn sees as restriction, it would be helpful in thinking about this particular section or this particular agenda item.

Mr. Rogers responded that he understood Mr. Wearn's idea was that he looked at it, and he wanted it strengthened.

Mr. Guttman asked it if were obvious? It was not obvious to him what the Commission would do to strengthen it. He said he could just not read that and understand precisely what Mr. Wearn had in mind. He asked Mr. Randolph if he understood?

Mr. Randolph responded negatively. He said at this point he did not know what is being suggested.

Mr. Rogers said he would read Section 1.03.

Section 1.03 Sale of Property, Referendum required. He asked Mr. Wearn to point out the part that needed strengthening.

In the disposition of certain Town-owned open green spaces designated herein and located within the corporate limits of the Town of Palm Beach, in the improvement of same by way of placing of structures thereon and any lease of said real property by the Town as lessor for a period exceeding five years shall require approval by vote of the Town electors in a referendum election called and held as provided by law. No referendum election held for such purpose shall be between the first day of April and the fifteenth day of December of any year. The properties to which this provision shall apply, referred to herein by their common names as:

1. Palmo Way Nursery
2. Boyd Park
3. Par 3 Golf Course
4. Lake Drive Park (near the Docks)
5. Bradley Park

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

6. Phipps Ocean Park
7. Park Avenue Park
8. Tangier Parks (3 of them)
9. Memorial Park
10. Seaview Park

A full legal description of said properties is a matter of record with the Clerk of the Circuit Court of Palm Beach County and said legal descriptions are hereby incorporated in the terms of this ordinance.

The power to dispose of properties shall embrace sale, exchange, lease, mortgage, pledge, or other encumbrance of real property and also abandoned or gift to charity of real property officially determined to be of no further use to the Town, of nominal sale value, or no value.

Improvements shall include the construction of above ground structures which diminish open green space but shall not include, nor is this intended to preclude the construction of public utility structures deemed necessary by the Town. Underground utility structures, including, but not limited to water mains, sewer lines, storm water drainage, and other utilities.

Neither shall this section preclude the construction of structures deemed necessary by the Town for public recreational purposes on those properties described herein on which public recreational structures exist as of the date of adoption of this Charter amendment. In addition to the properties listed above, there is hereby included an additional property described below to which all of the provisions of this section apply except; however, the Town Council shall not be precluded by way of these Charter provisions from providing surface parking on said property described herein in the event the Town Council determines to locate parking on said property at any time at its discretion. The property to which this provision applies is described as:

2125 South Ocean Boulevard, Tract 1, (etc.)

Mr. Rogers said that concluded the section. He presumed that 2125 is part of the ocean part. He asked Mr. Doney if he knew?

Mr. Randolph answered that was done on some property that was adjacent to the Phipps Park area. There was some controversy some time ago about the use of it. Whether or not it would be paved for the use of the adjacent condominium. He was speaking in general terms,

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

as he recalled. Mr. Randolph said he thought the Town wanted to make sure that was not sold off by the Town, but that it could be paved. He thought that some of it was paved and was being used by an adjacent condominium.

Mr. Randolph said he was sure that someone from the Building and Zoning Department could add to that.

Mr. Doney said that when the Sloan's Curve P.U.D. was being approved, there was a parcel of land within that property that was swapped between the --with the Town--and so that the Town's land was contiguous with the north end of Phipps Ocean Park. The Town wanted to have the same restriction applicable to that parcel as it had for Phipps Ocean Park. He said that was from memory, but he believed that to be true.

Mr. Rogers recognized Adrian Winterfield.

Mr. Winterfield said that in his opinion, this section needed more than strengthening. It needed complete rewriting. There are, what he considered, obvious defects. There is no reason, that he could see, that it should be limited to the listed properties. One of the properties is not even owned by the Town. Boyd Park is not owned by the Town. The Town does not have the right to sell. Abandonment is something different.

Mr. Winterfield respectfully suggested that consideration be given to applying the principle to all Town-owned property wherever located. This is not simply a green space orientation. On the other hand, the way the referendum is articulated, is really not clear. Council says to the public, "Can we sell Parcel X?" The provision does not say that Council has to specify the terms of the sale. He recommended that Council have authority to enter into a contract for the sale of any Town property subject to a suspension clause which allows that a referendum be initiated. That way the public has an opportunity to say, by its silence it says o.k. we approve, and if the public requests the referendum, then it must proceed that way. In most cases, there is very little likelihood there would be opposition. He felt this was an undo burden upon Council's authority to require a referendum on vague terms. Should we sell this property? There might be a difference if the price is \$10 or \$1,000. If the public is going to have its say, then it should have all of the relevant information.

Mr. Rogers asked Mr. Wearn if he had any comments on the manner he would like to strike that?

Mr. Wearn replied that, again, he raised this as a subject for consideration, and he was not necessarily advocating its strengthening. Perhaps one of the best ways to evidence the application of this section since its adoption, is to pose a couple of questions to the Town Attorney.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mr. Wearn asked Mr. Randolph if the Town, without violating this provision, could install temporary above ground Town-service facilities? Mr. Wearn said he thought the Town Attorney would obviously answer "yes".

Mr. Randolph replied affirmatively.

Mr. Wearn said that such that there are therefore above ground improvements which are other than utilities but would involve Town service facilities which could be installed, and he questioned if that was understood or contemplated by the public to be part of the language and part of the intent of this section? There are, and have been, for example two uses of these spaces that he observed over the years that he questioned whether or not they would be within the purview of the intent and the language of this section. One of them exists now, that is, signage on land indicating xeriscaping example and the other is a temporary use of a north end fire station.

He commented that the language in the paragraph that is the fifth paragraph, in the opening sentence, would allow of, for example, a water plant to be installed on these properties. He raised for consideration the question of strengthening and perhaps clarifying this language.

Mr. Guttman asked Mr. Wearn if he meant the paragraph that started, "Improvements shall include...?"

Mr. Wearn responded affirmatively.

Mr. Rogers said those improvements are prohibited unless a referendum was held.

Mr. Randolph replied they were allowed by the Town.

Mr. Wearn said they were allowed by the Town with this language.

Mr. Rogers read that not included were construction public utilities, structures, --was that what was meant?

Mr. Randolph replied they were exempt from the green space amendment.

Mr. Wearn said what he thought Mr. Randolph was saying, and he did not want to put words into his mouth, was that he was correct in saying that under this provision that now exists in the Charter, these park areas that are identified could be used for above ground public utility construction, such as a new water plant.

Mr. Randolph said that was correct.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mr. Rogers asked if everyone understood the thrust of this item that would be discussed later on its merits? He said that was a matter, if it were changed at all, that would be changed by Charter because it is in the Charter.

Mr. Rogers said the next item was number three.

Should the Mayor or the President of the Town Council preside over Town Council meetings? He stated that this would have to be done only by Charter.

Mr. Randolph agreed with that statement.

Mr. Rogers said that was self evident unless someone wanted to add a different interpretation.

Mr. Rogers read item four.

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

Mr. Rogers said this would also have to be done by Charter.

Mr. Randolph said that was correct.

Mr. Rogers read item five.

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

Mr. Rogers said that also would have to be done by Charter.

Mr. Randolph said that was correct.

Mr. Rogers read item six.

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

Mr. Keresey asked what the difference was between the President of the Town Council and the deputy presiding officer?

Mr. Guttman replied it was the President Pro Tem. Some communities have a voting mayor called the President Pro-Tem, a Deputy Mayor, or a Vice-Mayor or something like that.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mr. Rogers asked if there were any questions about the intent of that question? He said that must be a Charter item.

Mr. Randolph said the Mayor would have an additional power and he thought that would have to be enumerated under Mayor's Powers.

Mr. Rogers read item 7 (a).

Should the powers, duties, and functions (job description) of the Mayor be expanded, reduced, or left intact? He said that was clear--that would be Charter.

Mr. Randolph said that was correct.

Mr. Rogers read item 7 (b).

Should the presentation of an annual "state of the Town" message be added to the Mayor's list of Charter duties?

Mr. Randolph replied "yes" if that is required of the Mayor and listed as part of his duties and not want the Council to change it, but there is no reason that the Council, by resolution or by ordinance, could not ask that the Mayor present an annual state of the Town message. He said the difference of doing it by Charter and by doing it by ordinance or resolution would be if it were done by Charter, it would be a mandate that could not be changed by the Town Council.

Mr. Rogers said this could be done by either Charter or ordinance.

Mr. Randolph agreed, depending on what the Commission wants to do. It depends on the intent of the person who brought this up.

Mr. Rogers said he thought Mr. Guttman brought this up.

Mr. Guttman said it is obviously related to the present Charter requirement that calls for, in effect, monthly state of the town messages which in this modern telecommunications era really is not being practiced nor does it seem to be particularly necessary. In most large organizations, it is typical for someone to give a state of the organization at least once a year. In effect, the intent here is to substitute the idea of trying to do something monthly which may not make sense as we march into the twenty-first century and instead do it annually.

Mr. Fink asked if it would be appropriate for Mr. Randolph to enlarge just a bit for the benefit of everybody, upon ordinances per se--what their intent is--but how they could be



## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

used. Perhaps touch on ordinances and resolutions so the Commission can comprehend the whole picture.

Mr. Randolph said, speaking in general, and then he would give a specific, an ordinance is a decision of the Council relating to the adoption of a procedure or law which it wants to take effect on a somewhat permanent basis that it adopts on a first reading, then it is advertised, and then there is a second reading. An ordinance may be changed by the Council at any time. Six months after it adopts that ordinance, it could rescind that ordinance by another ordinance--which says we rescind and have another first and second reading.

A resolution is something of a more temporary nature which can be read and passed on first reading which usually simply reflects a procedure of the Town Council. Both of the ordinances and resolutions are defined in Chapter 166 of the State Statutes.

A charter provision is something, however, which is enacted by the electorate, and the electorate decides the issue. That cannot be changed by the Town Council unless the electorate, in fact, changes the charter.

Using the green space amendment as an example, if the Town Council had chosen not to amend the Charter in regard to green space and simply had adopted an ordinance which says that green spaces in the Town may not be sold by the Town, that would have been in effect as long as that ordinance was in effect. But a subsequent Council that decided it did not like that restriction on its ability to sell land, could have amended that ordinance and it would no longer be in effect. So it was put into the Charter and allowed the people to speak in regard to it. The people determined that they did not want the Town Council to be able to sell that green space without their approval.

Mr. Randolph said he thought that was the best distinction he could give.

Mr. Guttman said he wanted to refer to the specific section, it is section 3.05(d) which he examined at great length in his letter to the Charter Commission dated October 31st. It presently requires the Mayor to report to the Town Council in writing at each regular meeting in all matters of public interest with his recommendations and so on and so forth. This is an example in which environmental changes, namely the advent of the telecommunications revolution, have probably made this particular section of the Town Charter an anachronism. As he said before, most organizations operate to realistically give some sort of strategic or long term input and ideas--that essentially cannot be done more than once a year.

Mrs. Marix said she disagreed with Mr. Guttman on that matter. She thought for the Mayor to have the obligation of addressing matters of importance every month is extremely



## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

important and wait until the end of the year is doing a disservice to the public. She thought it was much more important that the Mayor has to report to the Town Council every month. If the concern is for the Mayor to have to do it in writing, it could be done verbally. She said that to wait until the end of the year is taking away from the Mayor one of his very important jobs.

Mr. Guttman said that was an example of where he might tend to agree with Mrs. Marix that what the Commission ought to consider is constitutionalizing an annual long term message and, by ordinance, adopting a requirement that monthly the Mayor do that if the Mayor thinks it is appropriate. That is an example where one could argue the provision more properly belongs in an ordinance or resolution than in the Charter.

Mr. Rogers said he noted that in the same paragraph (d) that Mr. Guttman referred to, it was mandatory. It said, "Such reports shall include the status of projects of any kind that have been authorized by the Town Council." Mr. Rogers said if it were mandatory and it was not done, then the Charter is being violated. He said that perhaps this type of thing should be amended in some way to provide that it does not necessarily have to be in writing as Mrs. Marix suggested, because the fact that it is recorded, if they do it verbally, it is recorded and becomes part of the minutes. Perhaps, the Mayor should not be required to give the status of all of the projects. He did not know if that was a function the Mayor would normally do.

Mr. Rogers asked Mrs. Marix if she did that when she was Mayor?

Mrs. Marix replied that normally the Town Manager kept the Council pretty up to date, and she did not go into the status of every project, because the Council only met for one day, and that might take a week. Mr. Doney normally kept the Council up to date on those kinds of things, and it is part of the discussions that go on. As a matter of interest to the public, she did try—even if it was specific things like the subject of no casino gambling. That is a matter of interest to the public, although she did think, that until it was brought up, that the public realized how important it was.

Mr. Rogers said it was not part of the Charter.

Mrs. Marix replied it was and that was done by amendment and a couple of things that Mr. Wearn brought up, by rewording, could certainly be done by amendment without altering too much to the Charter.

Mr. Fink said it might be interesting to comment that currently the Mayor sends out his periodic newsletter, and would that not encompass the spirit of what is being talked about?

Mrs. Marix said that this particular Mayor does send it out quarterly and he pays for it.

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Maybe sometime some Mayor would not have the finances to pay for it, in which case the Commission is saying if every Mayor is made to do that, then the Town will have to pay for it, and more Taxpayer's money would be spent. That seemed to be a big deal lately.

Mr. Rogers recognized Adrian Winterfield.

Mr. Winterfield said he would concentrate on the status, and he agreed with Mayor Marix that this is something certainly within the purview of the Town Manager. If there are nineteen projects, there may be, after an original report, a notation, "no change". There is such a volume of paper generated for each Town Council meeting which provides the basis for Council action, but is unknown to the public. A simple report which would in effect be a summary of not only past projects, but matters coming before council would be something that is entirely within the purview of the Town Manager. In any event, even if the task were given to the Mayor, he would have to rely for the information upon staff.

Mr. Doney said that what happens, in practical application, everyone is aware there is a Mayor's comment item on the agenda. Most items of importance—that are timely important—are on the agenda if they require Town Council action. The Mayor from time to time will get letters from perhaps Congressman Shaw, as an example, had another update on his progress on trying to seek amended special drawbridge regulations for the Town. This would affect the Flagler Memorial, Royal Park, and the Southern Boulevard bridges as well as the Lake Worth Bridge, the Robert A. Harris bridge. That type of issue was brought up by the Mayor under his comments. There are other timely issues. Another one that came up at Tuesday's Council meeting this week was that the Town was advised by the Corps of Engineers that there would be an additional maintenance dredging at the north Inlet. The Mayor provided an update for the Town Council on that item. It was not an item on the agenda, but it provides the stated agenda item on each monthly agenda for the Mayor to do that. It is too onerous and not practical to think that any Mayor or any Town Manager is going to be able to provide a report on everything, because it is too unending.

He thought that another thing that was relevant was the duties and responsibilities of the Town Manager as listed on page 11, Section 2.04, item (g) of the Charter, which reads "submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year." That is done by way of the annual report and calendar which was sent out (to all Town residents) in December. Mr. Doney said a highlighted report is provided on all of the major projects. He did not think it would be of much interest that the Town is installing another pump replacement down at the 839 Sanitary Pump Station. Those types of things that are important are reported to the Town Council. Copies are sent to the Mayor and Town Council of items of importance. Mr. Doney cited the example of the North Fire-Rescue Station that would be tented this weekend and all of the Fire-Rescue services will be available. All of the

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

vehicles will be available from the Central Fire-Rescue Station. This item will be a news release and published in the Palm Beach Daily News, and the Mayor and Town Council were notified via a memorandum from Fire-Rescue Chief Ken Elmore.

Mr. Doney said that the Town Manager's responsibilities under Section 4.04(g) gave an overview of the fiscal year end update on the status of every item. Each monthly Town Council meeting provides more than ample opportunities to update each project or activity.

Mr. Rogers said that showed there was a valid reason to consider 7(b), because it requires it to be in writing, it requires a status report shall include the status of projects of any kind by the Mayor.

Mr. Wearn said during his personal experiences, he observed that the first Mayor, Mack Ritchie, who served under this Charter complied with this responsibility on a regular monthly basis—not creating a great deal of paper but doing it usually in one page, straight forward, concise report on items that were material. In order for the Charter Commission to be aware of that experience, he suggested that Mr. Doney provide an example or two and circulate them so the Commission could have the benefit of how the Charter was interpreted and applied.

Mr. Rogers said that Mr. Ritchie was a professional engineer, and it was probably easier for him to do that type of reporting.

Mr. Guttman said it might be helpful if Mr. Doney could also pull out all of the written reports that were given since the new Charter went into effect.

Mr. Doney said he would ask Mrs. Pollitt to do that. It was a major project which will be done.

Mrs. Marix said it was a major project, because she asked the Town Clerk when she left being Mayor, not Mrs. Pollitt, to please give her copies, and it took quite a long time, but she did.

Mr. Doney said that because Mrs. Pollitt had been given so many things to do, the Finance & Taxation Committee report from December was not ready for the January 13<sup>th</sup> Town Council meeting. He said the staff was behind with the Shore Protection Board, the Charter Review Commission, the Town Council meetings, and a number of things to do. Mr. Doney said he thought it would suffice for this Commission's purposes to provide examples of several reports that Mayor Ritchie had done for the Commission to see how it was done.

Mr. Doney said Mayor Ritchie's reports were done in concert with the Town Manager at the

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

time and perhaps input from the Public Works Director, Sam Hadley, and others so he had the latest information at hand reduced to written form. It was not done unilaterally and was an ongoing interaction process.

Mr. Rogers read item 8.

8. Is the Mayor's ceremonial role substantial?

Mr. Randolph said it would be Charter if the Commission is going to make his role more than it is in the Charter, and it would have to be included in the Charter.

Mr. Keresey said what if the Commission authorized a red velvet robe trimmed in ermine?

Mr. Randolph responded that could be done by resolution.

Mr. Rogers said the Council could do that. He said this item speaks for itself and was an item that the Commission will have to discuss.

Mr. Rogers read item 9.

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

Mr. Rogers said that had to be Charter.

Mr. Rogers read item 10.

Should the Mayor's Charter-mandated duty to enforce Town Laws be deleted?

Mr. Rogers said that would have to be Charter, because it referred to the Mayor's powers.

Mr. Rogers read item 11.

Is the Mayor's ombudsman role substantive?

Mr. Randolph said items 8 and 11 were pretty much the same thing.

Mr. Guttman said they were inter-related. They relate to the role of the Mayor and the comment that George Frost made about the Commission may want to address the question whether or not the Mayor ought to have or not have more clout, and that is what it is addressed to.

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mrs. Marix said the discussion about the different things is almost identical to one that occurred at the other meeting, but she wanted to include was the reason why these were put in. In other words, not like, "Is his ceremonial role substantial", but what is the reason it is being discussed? What is the problem? Why? A lot of these things have been brought up and discussed for three times anyway, but the person who submitted the item has never been asked "why"? The Commission goes through the items, and it would be very good for the people proposing these things to give the reasons why the Town ought to have it. What is the problem? Why is the Commission asking for this? Is his ombudsman list important or is it substantive? Why are they confirmed? What is the reason?

Mr. Guttman asked Mrs. Marix if she recalled that on October 31<sup>st</sup> he delivered a letter to the Commission. It was a twenty-three page letter setting out many of the agenda items that are now in the Synthesized Agenda Proposal. He tried the best he could to articulate the reasoning behind each and every idea.

Mrs. Marix said that was not like a meeting like this. The Commission was allowed to read that, but the public did not know why. The public is now here. They should be able to know why. The reason is a very important one. The only item I brought up that was actually on the list is whether future Town Managers or department heads ought to be residents of the Town, and she explained why. Mr. Frost addressed it very well, saying, he did not know how much Mr. Doney made, but when he was Town Manager, he started at \$20,000 a year and he could not have afforded it. Mrs. Marix said the why was very important as the Commission carried on.

Mr. Guttman said he agreed and rather than asking the Chairman to read a twenty-three page letter into the record, he asked Mr. Pryor from the Civic Association if the Civic Association would be willing to duplicate this, and he said to the Shiney Sheet that any resident in the Town who wants to know the reasoning behind the proposals can just call the Civic Association if Mr. Pryor agrees and get a copy of it.

Mrs. Marix said the public would not be in a position to have somebody rebutting it. They would get the recipe book.

Mr. Guttman said the Commission has not debated the merits of it yet, and when the Commission gets to these proposals, one by one, in a substantive sense, he assumed there would be a lively debate. If the question is why were the proposals raised, there is a comprehensive analysis of why those proposals were raised set out in that twenty-three page letter. Any resident who wants to understand that, he believed should understand why the proposal was made. That did not mean the resident would agree with it or not. He did not know if any of the other Commissioners agreed with it or not. At this juncture, he said they were raised in good faith. He could find himself voting against some idea that he proposed,

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

once it was talked through, and other people were heard from who have knowledge in this area.

Mr. Rogers read item 12.

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

Mr. Rogers said that would have to be Charter.

Mr. Rogers said the Commission would take a break in reading down the list of items to hear from former Councilman, Blitz Robinson, to hear his comments on any problems or address the Charter as he sees it.

Mr. Robinson, who is Chaplain to the prison, said if the Commission wanted to have some real problems, he had 3,000 inmates. They really wake people up.

Mr. Robinson said it was really a pleasure to be back in Palm Beach, but for ways that some of the people understand. He spent hours sitting in the room and to look at the Commissioners—he served with some of the people sitting there. He remembered when Bob came there and Joe Terlizzese was hired. The spirit of unity in the Town for those years and when the Charter was revised—the tremendous thinking that went into it and the tremendous dedication that went into that lengthy Charter review—he remembered some of the things that were in the Charter before they started.

Mr. Robinson said he was not really much of a part of what happens in Palm Beach now. He thanked the Commission so much for including him. He thought with all of the respective members of the legal profession present that for him to go through section by section, line item by line item, made absolutely no sense. He wanted to speak from the heart for a second.

Mr. Rogers said that would be absolutely all right.

Mr. Robinson said he moved to Palm Beach as a little boy in 1945. Palm Beach was a village. In the summers, you could recognize everyone who went up and down the street. You would be walking down the street, and a friend would give you a ride just because he knew who your parents were. Palm Beach is still a town. It is never going to be a city. It is surrounded by water on four sides. To him, Palm Beach can never lose that personality. If it does, then everything is over. The Town fought for years and years on the term “town-serving”. The Town fought with people who tried to triple rent parking spaces so they could say they had enough parking spaces to open. He remembered when a national bank office was opened when the edge act came through. Changes took place in Palm Beach that were



## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

not town-serving. They were money serving. People were attracted to Palm Beach because of the tremendous amount of financial assets that were found in this city.

As he looked at the proposed recommendations, some of them are wonderful ideas for a city. The Mayor is an ambassador. Short term elections are wonderful. It assures that you are accountable to the people who elected you. The easiest election he ever ran for in his life was when Deedy Marix decided not to run, and he ran unopposed. When he ran for re-election, he had to go out and talk to the people of the Town to be accountable. Short terms are wonderful. Long terms insulate one from accountability. The Town Manager—we have been blessed with George Frost and Bob (Doney)—have never, never had a problem. The last thing the Town needs is bureaucracy. If someone wants longevity and tenure, they should go to work for the United States Congress. Citizens elect the congressmen and the senators but not the people who run the offices. That is a problem the nation is in today. There is no control over the federal employees.

Bob Doney has been able to maintain the checks and balances, the right to hire and fire, working with the Town Council—it has worked flawlessly. If there is not a problem, even though this looks good, why is there really a need for substantial change?

He thought back when Earl Smith who was an ambassador was Mayor. He went to Washington, Tallahassee, or wherever. The Mayor's function is beautiful. He goes out. He represents the Town with dignity, and he brings back something. He does not have to do what the Town Council has to do—which is to go out and kick the tires, make inspections, read the fine print, and sit here for fifteen hour days. That to him, was the system that is wonderful. The Mayor should be the ambassador for the Town. Should he be given the power of veto for resolutions and motions? Why would the Mayor usurp legislative powers? He is given an executive type, ambassador type role. To shift him to more of a legislative position, adds responsibilities to the Mayor that makes it harder for him to be an ombudsman. To him, all of the issues on the Mayor are moot.

When the Mayor is elected, Pauly, the job is to go out and put Palm Beach's best foot forward.

Mr. Robinson said he thought that everyone present remembered when Palm Beach County despised the Town of Palm Beach. No matter what Palm Beach did, the Town could not negotiate across the bridge. George Frost had an amazing relationship with people. He was able to develop friendships and partnerships, and that, to him, is a function of a mayor—to build those difficult relationships that the Town Council does not have the time to do.

The Town Council should be accountable, but half the work he hears about that the Town Council has to do today, the Town Manager should be able to delegate more of the approval

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

process to the department heads subject to checks and balances. That was all he would recommend. The meetings do not have to turn into endurance tests. To him, the Town is run beautifully. The only thing recently that made him sick was that he read in the paper that the Zoning Commission was looking at approving a 57,000 square foot, single tenant in the ocean block of Palm Beach. The proper location for a 57,000 square foot tenant of national credit is in a regional shopping center. When that is put in a Town, right by that action, the Town's nature is being taken away. That bothered him. If there is something that needs fixing, it is that relationship with the Zoning Commission and the accountability of the Town Council. Maybe the Zoning Commission needs to be made more accountable, because a 57,000 square foot building—there is no way in the world that is town-serving. How many years did the Town Council fight to keep Palm Beach town-serving? It is a Town where residents elect representatives. There is nothing that says you have to live here, but to vote here, you have to be a Town resident. To him, the commercial establishment serves those who live in Palm Beach and is a guest of the residential voters. That makes it the character of the Town. To him, any consideration that any on the Commission have should be to continue town nature. It is the nature that makes it—what we all grew up and love.

Mr. Robinson said he just wanted to share from the heart. He felt these are wonderful recommendations of a technical nature, but he did not see any problems—over at the County Jail, they say if it ain't broke, don't fix it. He did not see where it was broken. On the other hand, he wanted to commend and thank each and every member of the Charter Review Commission for the tremendous sacrifices. When one has been there, you understand it. Everyone of the Commission members are busy people, and he wanted to thank each one for what is being done for his children and his grandchildren.

Mr. Rogers asked if any Commission member had questions for Mr. Robinson?

Mr. Rogers thanked Mr. Robinson for coming to the meeting and expressing his sentiments concerning the Charter.

Mrs. Marix told Mr. Robinson to move back to Palm Beach—he was needed.

Mr. Robinson said he might.

Mr. Rogers said the Commission would return to reviewing the list of items.

Mr. Rogers read item 13.

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

Mr. Rogers said that would be a Charter change.



## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mr. Rogers read item 14.

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

Mr. Rogers asked if that were clear to everyone? The Commission had considerable discussion on this item. He asked Mr. Guttman if he wanted to clarify it in any way?

Mr. Guttman replied he did not think it was necessary. All the Commissioners understand it.

Mr. Rogers asked if part of the reason was if a representative was appointed it wouldn't violate the Sunshine Law?

Mr. Guttman said he believed the present Charter provision which allows the Town Council to override the Mayor's ambassadorial role to outside communities, forces the Sunshine Law to travel with whomever the Town Council were to designate. He thought that, therefore, the Commission should seriously consider allowing the Mayor, in his position as Mayor, to delegate another Town Council member to be a substitute for the Mayor in situations in which it makes sense. If the Commission follows that sort of procedure, then the Sunshine Law would not follow that particular person when they are engaged in negotiations with other communities. That is the thrust of it.

Mr. Rogers asked Mr. Randolph to confirm that?

Mr. Randolph said he guessed that this is one that the Commission will have to have some lengthy discussion on when the Commission gets to it, because he was not prepared at this point that to institute that will indeed accomplish the purpose of not having to comply with the Sunshine Law.

Mr. Rogers said if it would, that would be a very useful thing to do. Mr. Rogers asked if we could get the Attorney General's opinion on that?

Mr. Guttman said he discussed this idea with the principal staff attorney in the Attorney General's office, and if Mr. Randolph decides in his research that it is not clear, it might make some sense to ask the Attorney General to provide an opinion so at least the ramifications would be known.

Mr. Randolph said it would help him when the Commission does discuss the substance of these items to have any back up that anyone might have in regard to it, and he would like to see what anyone has. That is an area that he will have to research.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mr. Rogers read item 15.

Should the Charter provision dealing with the filling of vacancies on the Town Council be clarified?

Mr. Rogers referred to Section 3.06(c) and read:

A vacancy in the office of mayor or of a town council member shall be filled by a majority vote of the entire Town Council. In the case of a mayoral vacancy or by a majority vote of all of the remaining members of the Town Council in the case of a Town Council vacancy. In the case of a tie vote to fill a town council vacancy, the mayor shall have a right to vote to break the tie. A mayor or town council member so chosen shall serve only until the next regular Town election, at which time any unexpired term of the mayor or town council member whose vacancy was so filled shall be submitted to the electors for the election of a successor. Notwithstanding any quorum requirements established in this Charter. If at any time, the membership of the Town Council is reduced less than a quorum, the remaining members shall by majority vote appoint additional members in the manner provided above, and the mayor shall have a right to vote to break a tie.

Mr. Rogers asked where the clarification—what was (Mr. Wearn) specifically calling for as a clarification?

Mr. Wearn responded the observation he had over the past was that it takes a good deal of time for one who is not experienced in the Town of Palm Beach government which is particular in many of its aspects to become sufficiently knowledgeable to be an effective council-man. Occasionally, he observed, that if a past vacancy occurred, there appeared, from the outside, politics heavily involved in the selection of the filling of the vacancy. There was a policy that existed, unspoken, in the past that when a vacancy did occur, former councilmen were the pool from which selection was made for a vacancy and that pool was approached first and since he observed the change on the last vacancy, the suggestion for consideration is that perhaps this clause provide that there be consideration initially of the pool of former councilmen who are qualified electors still in town in order to avoid the politics and to secure that the vacancy be filled by somebody who is knowledgeable of the Town and Town government.

Mr. Rogers said that certainly seemed like a reasonable and logical suggestion.

Mr. Rogers read the next item.

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

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mr. Wearn explained that a roll call is required for a vote on all ordinances and resolutions. However, it's not required on motions.

Mr. Rogers asked if Mr. Wearn if he was suggesting that perhaps it should be on motions also?

Mr. Wearn responded no, but he was suggesting the consideration that voting not be required by roll call.

Mr. Guttman asked in any of them or just motions?

Mr. Wearn replied in the instance of motions—there is an alternative on voting for resolutions and ordinances. Some governments, from his observation, have a voice vote first on a motion to adopt and ordinance or resolution. That way, everyone who is in favor of an ordinance or resolution votes at the same time and every-body who is opposed votes at the same time, and it does not come down to politics of who has voted in what order and whether it has passed at this point or not passed at this point... and that voice vote is followed by the roll call. So, he was proposing for consideration the two aspects.

Mr. Rogers said he assumed the first vote by voice is at the same time.

Mr. Wearn replied that was correct.

Mr. Rogers said then, for the record, they declare. Good suggestion. And that, of course, has to be by Charter because it's in the Charter at 3.07(c).

Mr. Rogers read item 17.

17. Should the charter name the town manager the chief executive of the Town?

Mr. Rogers said he thought that was pretty clear what that means, and that would have to be by Charter.

Mr. Rogers read item 18.

18. Should the town manager serve for an indefinite period of years in contrast to the one year term now set out in the charter?

Mr. Rogers said that was also clear and that is a Charter item.

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mr. Rogers read item 19.

19. Does 402(b) need clarification or elaboration?

Mr. Rogers said 402(b) is removal. The Town Council may by majority vote of all Town Council members suspend or remove the Town Manager prior to the expiration of his term. During suspension, the Town Manager shall continue to receive his salary until the effective date of a final resolution of removal. In the event of removal, other than good cause shown, his salary shall continue until the end of the term. It should be the end of the year in that case. We won't discuss the merits right now.

Mr. Rogers asked what is the point of clarification?

Mr. Guttman said that Mr. Wearn had been very helpful in indicating what he had in mind in other instances. Mr. Guttman said if it is easy for him to do it, it would be helpful as well.

Mr. Wearn said that the comments in the second and third sentences of that section do not deal with all instances. It deals with suspension and it deals with the event of removal other than for good cause shown. It does not deal with the event of removal for good cause shown.

Mr. Rogers thanked Mr. Wearn, and said that will also be a Charter item. That seems to be a part that in fact was not set forth in the Charter-for good cause shown.

Mr. Rogers read item 20.

20. Consider whether the Town Manager should be required to establish and administer an appeal process for appeal of decisions of staff to department heads and then to the Town Manager before coming to the Town Council.

Mr. Wearn said he thought that was rather straight forward...

Mr. Rogers asked if any members of the commission had any questions? He said that obviously is a charter item.

Mr. Randolph said item 20 would be a charter item if it were something that you wanted to require to be done and never changed, but there would be nothing.. unless what is being proposed is contrary to what happens now, there would be nothing wrong with the Town Council, by ordinance requiring that, in addition to what exists.

Mr. Rogers said he would list Charter if required something to be done.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mr. Rogers read item 21.

Should the powers, duties and functions, that is, the job description, of the Town Manager be expanded, reduced or left in tact?

Mr. Rogers said he thought that was pretty clear. He asked for any questions?

Mr. Rogers asked if that would also be a charter, or could that be charter and ordinance?

Mr. Randolph responded that usually you would want to be specific in setting forth the duties of the Town Manager in your charter but, indeed, if there were other things that you wanted him to do in addition to those, that could be done by ordinance.

Mr. Rogers said that would be charter and ordinance

Mr. Randolph responded that as long as those powers fit within the powers that were described in the Charter.

Mr. Rogers read item 22(a).

Is the power to hire and fire central to the exercise of effective leadership of the Town Manager?

Mr. Rogers said he thought that was clearly stated, and it would have to be a Charter change.

Mr. Keresey said Mr. Rogers may want to mention for public consumption that there is a difference between the firing and hiring of the Town Manager and the Town Council, if he was not mistaken, concerning department heads.

Mr. Rogers asked Mr. Keresey if he meant that at the present time the Town Council has the authority to hire and fire department heads?

Mr. Keresey replied that was correct.

Mr. Rogers read item 22(b).

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

Mr. Rogers said that is exactly what was just mentioned. And that, of course, would have to come under the Charter.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mr. Rogers read 22(c).

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

Mr. Rogers said that would be a Charter amendment. He said the only items now that the Town Manager does not have would be the department heads and the town attorney and asked if that were correct?

Mr. Randolph said he was not sure that he understood the question.

Mr. Rogers repeated that now, our Town Manager does have authority to hire and fire all personnel other than department heads and the Town attorney.

Mr. Randolph replied that was correct.

Mr. Keresey told Mr. Rogers that this may be semantics, but he did not know that the word appointed is appropriate there when we're really talking about people who are hired.

Mr. Wearn said that Mr. Keresey is absolutely correct. (a) uses the term administrative officials when it discusses what officials are being addressed here, so perhaps the clarification of the insertion of the word administrative would be appropriate prior to the word appointed: Administrative appointed personnel

Mrs. Marix said she would ask the shining (sic) question. Is it a matter like Mr. Wearn said, suggesting that the word administrative be put in for clarification? Does that have to be done by Charter amendment?

Mr. Randolph replied it depends on the..again..the intent of the person proposing this, but if the charter specifically talks about appointed personnel and there's some distinction between administrative appointed personnel, then you'd have to change the Charter. If indeed, the words can be used interchangeably or there's an understanding of what the Charter provision means, then no, that clarification would not be necessary. But, if it's a substantive change, then we would have to make a change in the Charter

Mrs. Marix said so we have you understand the risk of.. authority you have to hire the Town appointed personnel. She asked Mr. Doney how he understood that?

Mr. Doney said, Really, Mayor, what needs to be done is to look first at section 4.04(a) and then 4.04(a) also refers to...you have to look at the Code of Ordinances because under section

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

2-2 of the code of ordinances it reads:

Pursuant to Section 4.04(a) of the Charter, the following shall constitute the appointive administrative officials of the Town subject to recommendations by the Town Manager and appointment by the Town Council.

Then it lists the Town Clerk, Finance Director and Treasurer, Building Official, Town Attorney, Personnel Director/Information Officer, Recreation Director, Chief of Police and Director of Public Works. The last sentence reads: Unless otherwise specifically provided, all other personnel of the Town constitute employees within the meaning of 4.04(b) of the Charter, and, in practical application is, in September of each year, when the appointments are considered by the Town Council, for the Town Manager's position and the Town Manager's recommendations on the appointive officials, after those appointments are made, what he does is write a memorandum to each department head, delegating the authority that he has to those that are under their direct supervision, for example, to the Police Chief, he directs the Police Chief may hire, suspend, and whatever, subject to our own personnel rules and all the other requirements we have but he does not have the department head have that ability on day to day operations issues.

Mr. Rogers asked Mr. Doney to what code section he was referring to?

Mr. Doney said he was referring to section 2-2 and 2-3 of the Code of Ordinances.

Mr. Randolph said that apparently insertion of the word administrative appointive personnel was only to clarify the language as it exists in the Charter, so, he did not think the intention here is to make a change in regard to administrative appointive personnel, but the subject, should the Town Manager have unrestricted authority to hire and remove all Town appointed administrative personnel does need to be done by Charter for clarification of the language as it actually exists. Mr. Randolph said it was not a change in the Charter.

Mr. Doney said he thought it was a good point to interject and Mr. Randolph can elaborate on this. There are a number of changes you will be considering charterwise that would also cause, in his opinion, a number of other ordinances of the Town to need to be amended accordingly, because this is the whole package and the Code of Ordinances, so there are a lot of related amendments that would be to the Code of Ordinances should changes be made to the Charter. That would require a thorough review of this whole book, too—the Code of Ordinances and the Charter.

Mr. Winterfield said the list that Mr. Doney just read bears examination, he believed. The Town Engineer is currently an employee, not a department head. The Town Attorney, technically, is the law firm. He thought a distinction should be made between appointed



## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

administrative officials, that is, department heads and consultants.

Mr. Rogers read item 23.

Should the Charter require the Town Manager to present the Town Council with a written annual budget message?

Mr. Randolph said if the electorate wants to demand that be done, that would require a change in the Charter. However, there is nothing that would preclude the Town Council from, by either resolution or ordinance or direction to require that.

Mr. Guttman said he would like to note for the record that the requirement for a written annual budget message was considered to be a core Charter provision in the Florida Model Charter for Florida Municipalities, not an optional one. In other words, the submission of an annual written budget is considered to be so important in the operation of municipalities in the State of Florida that that condition was proposed to be constitutionalized.

Mrs. Marix said she would like Mr. Doney to answer that question because he mentioned earlier about the yearly calendar.

Mr. Doney said that on that issue, the first thing that you'd want to do is that the budget message that is referred to here, the annual budget message. In late May or early June because the Town is under the state law that concerns the Truth in Millage Law, Chapter 200, when we adopt the budget, so our budget calendar is dictated and controlled by this 100 day cycle that is within Chapter 200, Florida Statutes. As a practical matter, in late May or early June when he transmits to the Finance and Taxation Committee and to the Mayor and Town Council, the proposed budget for the ensuing year, fiscal year, he includes a memorandum with it of high points. Mr. Doney said he would not quite call it an annual--a really detailed budget message. As a practical matter, what we do is, after the budget is acted upon by the Finance and Taxation Committee's recommendations and then the Town Council and Mayor discuss the details of it. He includes further memoranda as the package is updated and transmitted for the tentative millage, for the final millage and then, after the whole matter is adopted in September by the Town Council, it is made into a report, the document. A letter identifies the highlights that are included in the budget. A copy of that is made available to the Mayor and Town Council, and it is available to the public.

Mr. Guttman said he thought that this is an issue that the Commission may want to explore more deeply. Mrs. Douthit referred to the fact that the Town annually receives an award granted by the Government Financial Executives Association?

Mr. Doney replied that, no, it was the Government Finance Officers' Association=GFOA.

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mr. Guttman said if that association has a set of criteria that a municipality's budget must meet, before that award is given, the budget document that is submitted for work purposes in both substance and form differs dramatically from the budget that is actually submitted as a preliminary budget in the first instance back in June or July and then becomes the tentative budget and ultimately becomes the adopted budget. The so called budget message does appear in the budget document that is submitted to the GFOA for the award. It also appears in the document that is released to the public many months after the adopted budget is approved. But that document which is considered to be one of the lynch pins of good budgetary processes is not submitted to the Town Council at any juncture—at least in the last budget season—during the budget process. He thought that it is the intent of the GOFA based upon the readings he did ....It is certainly considered to be good budgetary practice for the Town Council to receive a written message of that sort during the actual budgetary process and not after the fact.

Mr. Doney said that as a practical matter, the items that are highlighted, when we go through the Finance and Taxation Committee meetings, we go through every program, program by program, and then each program is departmentalized, and then we have all other funds and all other issues of the budget, so when we go through those with the Finance and Taxation Committee, and the Mayor and Town Council, we highlight. Mr. Doney said he did go along with the respective department head who has the responsibility for administering those programs within the budget, bringing forward all of our major items which the Mayor and Town Council need to be apprized of and, as a practical matter, all of the capital improvement program projects are contained within the capital improvement program~the five year plan. Mr. Doney thought that what Mr. Guttman was speaking to, was a matter of how it was packaged. Mr. Doney said it could be done in a different form, and it is a matter of what the Mayor and Town Council feel is appropriate, and what they would like to have by way of the annual budget message. Mr. Doney said he left that up to the discretion of the Town Council.

Mr. Rogers asked Mr. Doney if he asked them how they wanted it? Was that the way?

Mr. Doney responded that every year we have a lengthy report where we include substantial information, detailed information by budget and finance information.. And we go through these exhibits that supplement the annual budget process. If the Mayor and Town Council discuss these at the Finance and Taxation Committee Meetings and then subsequently at the Town Council meetings, they also want to see exhibit--whatever, we go through exhibits A-I up to Q or T and we show, for example, one of them that we show...it's very important to know the respective position of the Town's millage with respect to all other millages that have jurisdiction within the Town of Palm Beach. The Town's about 22 or 23 cents on every dollar, but it is important to know what the School Board and the County Commission and the other taxing authorities that have jurisdiction upon Town properties-- how those stand.

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

So we've given a ten year history on that issue, and there are many other exhibits that are part of the whole budget packet. It's a matter of what the Town Council's expectation is. So, I think the Council will be required to give some input on that too.

Mr. Guttman said he would just like to submit for the record and provide Mr. Doney with a copy of a document called GFOA's Distinguished Budget Award Evaluation Criteria.

Mr. Doney replied that he knew what that is. Mr. Doney said he had Mr. Demming prepared to come up and speak to this when the Commission wished to get into the substance of it.

Mr. Guttman said it was just that he did not think that his fellow Commissioners may know that. Another Document, also issued by the GFOA is the Certificate of Achievement Program. He referred to these specifically because Mrs. Douthit also referred to them, and finally he submitted a document issued by the National Advisory Council on State and Local Budgeting, September 1, 1997, "A Framework to Improve State and Local Budgeting and Recommended Budget Practices".

Mr. Doney said that if Mr. Guttman submitted those, he would give a copy to everyone and then he would make sure it is available in the next package. Mr. Doney said that Mr. Demming is prepared to be here whenever the Commission wished to discuss it in detail.

Mr. Rogers read item 24.

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

Mr. Rogers said that was Mrs. Marix' suggestion, and he thought that would have to be a Charter amendment.

Mr. Randolph replied it would be a Charter amendment only if it were made a requirement.

Mr. Rogers said it could then be either Charter or ordinance. When the Commission discusses the merits of this item, it would become an important factor for performance-almost like a church. They often get a home for their pastor and it's part of the compensation package.

Mrs. Marix responded that George Frost addressed the matter very adequately, but he did not have the figures to back it up. He started at twenty thousand (salary), but he did not know what Mr. Doney was getting now, or the Police Chief, or anyone. Mrs. Marix said she did not actually suggest that this is necessarily a Charter amendment. She thought it should be

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

considered by the Town, and she thought perfectly well that the Council can get all of these minutes, if they are ever caught up with, and the Council can address that perfectly happily to see what the average resident makes in money and what the Chief makes, and so on. Mrs. Marix said she thought that was a perfectly good occupation for the Town Council.

Mr. Rogers suggested that an allowance could be provided for....

Mr. Doney asked Mr. Rogers if the Commission would like to have this information with the next package of materials, with what Mr. Guttman had just given him, or would the Commission like to have it individually now?

Mr. Rogers replied with the package.

Mr. Rogers read item 25.

25. Should the charter provisions allowing designation of the form of ballot by ordinance be expanded to allow prescription of the ballot form by resolution?

Mr. Rogers said an ordinance takes two readings and a resolution can, of course, be done at one meeting. Mr. Rogers asked Mr. Randolph if that were correct?

Mr. Randolph replied that was correct.

Mr. Rogers said that would be something that could be done by Charter.

Mr. Rogers read item 26.

26. How can the Charter be amended to reduce the Town Council's excessive focus on minutiae and involvement in administrative details?

Mr. Rogers said he thought that could be done by Charter or ordinance.

Mr. Randolph said it could be unless, again, if the Commission wanted to require the Town Council without changing it to say not meet for in excess of eight hours in any one particular day, that would have to be included in the Charter, or it could be done by ordinance.

Mr. Guttman said he thought that question more accurately is .. people talk about problems we have in Town. He believed there is a widespread impression that there is too much micro managing going on. That's really the genesis of the question for this agenda proposal. He thought that a lot of the former elected officials that were heard from also referred to that as a problem. It is fair to say, however, they thought that problem could be fixed by simply

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

changing personalities. There is another school that would say perhaps it is a combination of both the current structure as well as personalities. He thought that this question is really the predicate for a lot of the structural ideas or proposals. It under girds them.

Mr. Rogers said there are a lot of people—now when you say bogged down in micro management—do you consider hearing variances and zoning matters as micro management?

Mr. Guttman said he would rather defer to Mr. Keresey and Mr. Fink.....

Mr. Rogers said they were the ones who proposed the question. Mr. Rogers said he had a question about that too, because he thought that a lot of the people who go before the Town Council do not think that it is minutiae when they are considering whether or not they can build a home they would like to build—if that is what the thrust of the question is.

Mr. Guttman said he would give an example of what he had heard about although he was not at the Town Council meeting when this happened. He said that Mr. Pryor may want to refer to it, since he was the one who related it to Mr. Guttman.

Mr. Guttman understood that at the last Town Council meeting, there was some discussion about giving various citizen advisory committees some discretion to expend monies for disbursement purposes up to a ceiling. The debate was apparently over whether that ceiling should be \$3,000 or \$5,000. In the event the Town Council could not reach agreement on something like that, and in his experience in corporate America, it would be just utterly unthinkable that a division head could not be trusted, and he thought this was comparable to an advisory commission that has some sort of authority up to a diminimus level to expend funds for legitimate purposes. Holding that back at the Town Council level seemed to him to be an example of minutiae.

Mr. Doney said that ought to be put into perspective. Mr. Doney said he was there, and that issue related to the Shore Protection Board. The Shore Protection Board was talking about a number of issues that they were requesting funding for from the Town Council.

Mr. Doney said his advice to the Town Council was that the reason the Town has a budget was so that department heads and the Town Manager can make requests of what is needed to have appropriations made and approved by the Town Council so the Town Council knows the substance of what is in the budget. Unexpectedly issues arise from time to time that relate to a particular commission or board. To put it into policy context is important so that the respective commission requests to the Town Council that they need funding for a particular project that was not, heretofore, budgeted. Otherwise the commission or board could be at cross purposes with what the Town Council thinks is the right thing to do. This could go very true because what could have happened is that on the Shore Protection Board,



## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

there was an issue about an educational/public-relations/marketing consultant that was related to the whole completion and implementation of the Comprehensive Coastal Management Plan update. That amount of funds that was authorized by Town Council for this woman, in this instance, Kate Gooderham was about \$9,000. The Council had originally talked about authorizing the Town Manager to have discretion up to \$15,000. Should a board or commission wish to have funding for a particular project or purpose, the manager would have authority to approve those and then report those items..approve those funds and then report those funding approvals to the Town Council. In his estimation, as Town Manager, he believed that the Town Council needs to be aware of any appropriations for funding that are outside of already outside previously appropriated funds within an annual budget. He thought that gives the proper controls that need to be in place. We also know, from experience, when the Landmarks Preservation Commission was created in 1979, that the Landmarks Preservation Commission members at the time respectfully wanted to spend money and did spend money but they didn't do it in accordance with policies and procedures that we have to comply with as a governmental agency. We have to do certain things with bids and quotes and everything else and if you have boards and commissions who believe that they're going to have ability to spend funds up to certain levels without going through these different checks and balances we are already obligated to comply with as a municipality, then I think that's a potential problem so I think that. I've advised the one or two Council members ..who talked to me about that after Tuesday's meeting, so I..maybe Mr. Guttman can clarify what it is that there that is being referred to...maybe I'm missing something.

Mr. Guttman replied that whether the appropriate level is \$15,000, \$5,000 or \$3,000, the Town Council goes through a very rigorous process of deciding who to appoint to these various advisory commissions. It seems to me to be preposterous to say that with an approval by you that an advisory commission couldn't expend some dollar amount-I'm not prepared to say what that dollar number is-that's a policy decision that ought to be decided by the Town Council, but it seems to me to be preposterous to say that up to a legitimate de minimis amount, the Town Council has to get involved and can't delegate that to the particular advisory commission with your input, as long as the expenditures fall within the mission or charter of that particular advisory commission, and I think that's overkill.

Mr. Doney responded that the Town Council then needs to discuss it, because this is what happened with the Shore Protection Board. In fact, the Shore Protection Board, Mr. Guttman, was very divided at one time as to whether they thought that certain things should be, you know, funds should be appropriated for it. Ultimately policy responsibility rests with the Town Council, which needs to be privy to funding appropriations for specific purposes. I think it's good structuring to do it that way and what it causes is a check and balance system so the Town Council knows where this commission or board feels that it's necessary to

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

appropriate funds and expend funds because what happens is that the-- a good example: the Architectural Commission, the Landmarks Preservation Commission, and the Code Enforcement Board in they're operating and fulfilling their duties and responsibilities as they are created within the code. The Planning, Zoning and Building department acts as staff. Mr. Moore and his staff act as staff to those boards and commissions. From time to time they will want to spend money to..for example, the Landmarks Commission, to do certain types of studies, and if it is outside of what's already included in the landmarks program within the annual budget, then Mr. Moore, in concert with the respective board or commission, has to make that request for additional funding back to the Town Council, so that the Town Council becomes aware of what project is contemplated to be undertaken. I think that's a better system and that's what I expressed Tuesday of this week, and the council did not approve that motion.

Mrs. Marix pointed out that she was glad to see the Finance & Tax Committee had now decided to meet more than just in the summer, but if they have, as they really should have, a monthly meeting, the committee could be approached on the subject of whatever this money is. Mr. Doney can represent to them what they need it for, and the committee would simply send it in with a recommendation. There's no reason (unless it is very controversial) at all that it would take any serious time out of Town Council at all. If it is controversial, then it should be discussed.

Mr. Fink referred to an example of the minutiae of things that come before the Council: At the last meeting, there were a group of residents-I think from La Puerta Way, and they want to develop at the end of the street a little-that area- to enhance it with landscaping, etc. and they went round and round at this particular meeting discussing the merits of it and I'm just wondering if there couldn't be some system where that could be taken care of without the Town Council devoting attention to that at a regular Town Council meeting. And that was my thinking of an illustration of where I think that there is a lot of time expended with items that don't have to occupy them.

Mrs. Marix said I think we're getting rather far off of what we are supposed to be doing because if the Town Council wanted, like they did for many years, to limit how long a presentation could take, let's say you get three minutes, they could do that if they want. Or they can listen to it. Or they can sit there all day. They can argue, they can not ask anyone's opinion ..that is their problem. I don't think it's got a thing to do with the charter.

Mr. Doney commented that to put the La Puerta issue into perspective, the current policy of the Town Council is any use of town property or town rights of way is subject to approval by the Town Council because it's very highly visible. In fact, we were in court about it. And we had beach access involved and we needed, and before usage of that right of way was



## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

going to be allocated, the matter went before Council. Is it the right thing to do? Administratively, I think it was. As to whether there should be this improvement or that improvement, that's a matter of subjectivity because Mr. Keresey and Mrs. Habicht would think that maybe there should be a beach umbrella and the other says, No. You're crazy" .. When it gets down to that level of detail, this is where the residents of that street and that association had a plan, and where the particular incidental improvements they thought were useful to them, they came and presented it to the Town Council. It was at their expense and they paid for everything. It's just a matter of use of public property rights of way. And I think that's where the Council's properly acting upon rights of way usage.

Mr. Fink said that perhaps there could be an intermediate presentation of that to the appropriate commission or committee, and then to the Town Council in its finalization. Do we or don't we?

Mr. Doney replied that if you want to talk about bureaucracy, that elevates it in bureaucracy, taking it through another advisory board and commission. I think that the matter was detailed through Mr. Dusey. Mr. Dusey met with the residents of the street, had the plan and the matter came to Town Council. Town Council then has to determine what it considers to be relevant to places by way of restrictions.

Mr. Rogers said that as far as that question I think we'll have quite a bit of discussion on this particular item when we come to discussing the merits, because a lot of people don't think hearing ordinances and going on to late in the evening is minutiae. Maybe some things are. Maybe some administrative things could be avoided but I think we're going to have quite a discussion on that. You haven't heard the Council people raise a great hue and cry about their spending their time on those items They devote one day a month to the council meeting but they have other committee meetings. But that's the only opportunity for citizens of this town to get redress or have their problems solved, and it seems to me that could be an important item for discussion when we get around to the merits.

Mr. Rogers said that the next item is item 27: How far have the Town Council's business and operations strayed from the Charter's original intent?

Mr. Guttman said that he did not want to put words into Mrs. Habicht's mouth, but it does seem to me that the question at bottom is addressed to how do the roles of the present participants in our governmental structure operate the way the authors of our current charter truly contemplated when they enacted it.

Mr. Rogers said that was pretty subjective.

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mr. Guttman said that it is subjective, but he thought it's a form of government question at heart.

Mrs. Habicht said that she did not have a concern, but she did have an interest in the fact that there probably are ordinances, resolutions or just practices that are now, after these many years varying from the intent of the original charter. For instance, I think most towns have ordinances on their books that are no longer enforceable and so the town charter says, the ordinance must be enforced by the Town Council or the appointed director. So, it is something of interest, yes.

Mrs. Marix pointed out that we do have an ordinance committee and it was up to them to eliminate, which they often do, irrelevant ordinances, but I don't think it's a charter matter. The ordinance committee should look at ordinances to see if they're not being enforced or are being enforced or stupid, or should be changed or whatever. That is a Council committee.

Mr. Rogers said that he thought that this is more of a discussion, maybe as a recommendation for an ordinance, but not specifically a charter change. It's really a general discussion, I would say.

The next item is 28A: Where does political leadership ordinarily dwell in the Council-Manager form of government? Mr. Guttman, you brought that up

Mr. Guttman said that is a general discussion question and the next one is, too.

Mr. Rogers said the next item is 28.B: And how does political leadership complement executive leadership in the Council-Manager system of government? That's also for general discussion.

Mr. Rogers said the next item is 29: Should the charter be amended to permit the adoption of tentative and final budget by resolution instead of by ordinance, as required by law

Mr. Doney said that currently the budget must be adopted by ordinance.

Mr. Randolph said that we used to adopt budgets by resolution which has always made sense, rather than have to have two readings, but recently, the legislature, in its infinite wisdom, made a change which said that a budget should be adopted by ordinance, as opposed to resolution, unless the charter allowed it to be adopted by resolution. So it was suggested that perhaps we should look at amending the charter to allow the budget to be adopted by resolution.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

Mrs. Marix said that her objection to that was that since the Mayor cannot veto a resolution he should be able to veto the ordinance, and then it would require the extra vote to get over the veto. So changing would be quite unnecessary, and probably extremely risky.

Mr. Guttman said that he agreed with Mrs. Marix on the merits, but not for those reasons. The reason he did not agree with her on her reasoning was that, as he understood it, the practice had been for the last decade to adopt budgets by resolution, and it was abundantly clear that since the Mayor does not have veto power right now over those budget resolutions the Mayor of Palm Beach could have never vetoed the annual budgets, even when Mrs. Marix was mayor. I do have some considerable problems with this, which I would like to address when we get to the merits of it.

Mrs. Marix said that she did not quite understand what Mr. Guttman has said, because the proposal was to have the charter permit the adoption by resolution instead of ordinance.

Mr. Guttman said that every year until this past budget season it was permissible under Florida law for a municipality to adopt a budget via a resolution.

Mrs. Marix said that she realized that, but as she remembered it had always been done by ordinance.

Mr. Doney said that it had been done by resolution. What had changed was the truth in millage, which required two public hearings after 5:00 p.m. to adopt the budget. The practical effect was the same public hearing process, but what it did not provide for, was should the Mayor have the authority to be able to veto the budget, and right now the budget had to be adopted by ordinance.

Mrs. Marix said he could then veto it, so we don't want to change it.

Mr. Winterfield identified something that may or may not be desirable: the line item veto for the Mayor.

Mr. Rogers thanked Mr. Winterfield.

Mr. Rogers said that items had been identified for discussion.

Mr. Doney said that Mr. Robinson did wish to appear. Mrs. Cousins in Mr. Doney's office had left a message again for Mrs. Royal, who had been out of town. Mr. Mettler was called, and he would not be attending, and Mayor Ritchie was here today. Former Councilman Burn had not been located, as there had been no address or phone found for him. Mr. Widener apparently was not doing well.

## **REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98**

### **VIII. DATE AND TIME FOR THE NEXT MEETING OF THE CHARTER REVIEW COMMISSION: FRIDAY, JANUARY 30, 1998, AT 9:00 A.M. (TENTATIVE)**

Mr. Rogers noted that the next meeting of the Charter Review Commission had been set for January 30, 1998, however, he was concerned that was not giving enough time for Mrs. Pollitt to prepare the minutes. According to past discussions and presentations, he believed that all of that material must be available to the commission before it could go forward, and certainly before any experts in the field were invited to give comment on these items.

Mr. Doney requested that Mr. Rogers keep in mind that the Town Council had a policy of not scheduling any meetings the week before a Town Council meeting. The Town Council meeting was the second Tuesday of every month.

Mr. Rogers asked Mrs. Pollitt if she was far enough along on the last minutes to be able to also transcribe the minutes from today by January 30, 1998?

Mrs. Pollitt replied that she had several other ongoing projects, as well as some other meetings coming up.

Mr. Wearn suggested that the date of February 20, 1998 be set aside for the next meeting, so that the minutes could be received beforehand and reviewed, and the items for consideration could be individually adjusted, so that when the next meeting was held the list of items for consideration could be finalized.

Mr. Doney noted that the Retirement Board was meeting on that date at 9:00 a.m.

It was decided that the meeting would be held on Friday, February 27, 1998 at 9:00 a.m. in the Town Council Chambers.

Mr. Guttman hoped that the minutes of both meetings would be available at that time.

### **IX ANY OTHER MATTERS**

Mr. Winterfield requested the opportunity to make some comments:

He referred to Section 305(f), relative to emergency powers: He suggested that it could be looked at, because there was a possibility of a stalemate. He respectfully suggested that the manager be given the power in emergencies subject to convocation of the Town Council,

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

rather than having the manager, Town Council President and Mayor decide. Once you say that three people should make a decision, you're opening up a can of worms, especially when it's an emergency, and certainly if the manager is the person most likely to be available, he should in the first instance take the required action, and immediately request convocation of the Town Council.

Mr. Guttman said that he sympathized, to some extent, with Mr. Winterfield's comment, because that section illustrated the lack of a true political leader in the context of a crisis. He said that he believed if there was an emergency you don't want the Town Manager making the decisions by him/herself without input from the political leader in this community. He said that he believed that the leadership was now divided between the Town Council President and the Mayor, and was not clear. He suggested that if the question of unmistakable political leadership, the problem identified by Mr. Winterfield would go away.

Mr. Winterfield referred to Section 3.08 Compensation. I believe that everyone in this room shares the opinion that this should be maintained in substance. Nonetheless, he would suggest that it should be looked at the very least with an eye toward improving the language.

Mr. Winterfield then addressed the provisions relative to elections. He suggested that this be closely looked at with an eye toward considering the advisability of changing the system to eliminate the artificial designation of seats. There is no logical reason why Councilman A should occupy seat 1. He said that he would recommend that the system whereby a person is candidate, not for a seat, but for Council, be employed and that those receiving the highest number of votes be elected. Obviously, if there are three seats and five candidates, then the three receiving the largest number of votes would be elected. In addition, the Town Caucus is a matter of tradition but it could be characterized as a vestigial coda appendage. It really serves no purpose in view of the fact that it is not the determinant act that but only an intermediate one. Without the signed petitions, an individual ostensibly nominated at the caucus is not a candidate. I would suggest that this bears looking at to permit an alternative. For instance, if a person is not nominated at the caucus, he should, after a period of X days, during which a petition of the same number, or even a larger number, of electors be submitted to the Town Clerk in order to allow that person to run. Thank you.

Mrs. Marix said that she was going to be given a medal for popularity when she would like to say that you very aptly said that this was not a charter change commission. It is a charter review. We have all studied the charter. The public has. The people who have spoken here have. And every past elected official plus the past town manager and some of the people who spoke, are unanimously not in favor of changing the charter. We know it's taking a great deal of Mr. Doney's time, time he admits he doesn't have, and I would like this commission to consider that they have done what they were appointed to do, they have reviewed the charter; everyone who has spoken said, "Don't change it" and between now and the next

## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

meeting, whoever it is you may meet will be the person to draw up a report to the Council simply saying, "We do not want to really change this charter because in the general opinion of everyone who has worked with it, it shouldn't be changed. And, in that report, list a few items they might like to look at as an amendment, really. This will save the town a lot of money and I cannot see without quoting everybody again about not fixing what is not broken, but I do really believe that the people who have worked with this really know what they're doing and that we should take this time to..I don't know how people write or report it in a commission like this..if you can do it or with your minutes and then we make a report to the next meeting. .I don't know what..but I really think that we've done our job and that time and money that we would be spending to go on could be better used otherwise.

Mr. Rogers said that he believed the proposition of Mrs. Marix was premature at this time, because he thought there had been shown some valid questions for consideration—items to be considered in the charter.

Mrs. Marix said that we could go on considering indefinitely, and the people who have looked at this—.

Mr. Rogers said we're not going to do that, Mrs. Marix. We're not going to go on considering indefinitely, but we haven't discussed the merits of these items which we have now just reduced and have got them in order in which we can consider the merits, and perhaps hear from an expert in the field or several experts in the field.

Mrs. Marix replied "as opposed to the people who have been experienced in the field with our Charter."

Mr. Rogers responded that, personally, he did not think now was the time to cut the hearings off and cut off discussion before we've ever come to the merits of these items that have been brought up. He said that he knows the position of Mrs. Marix, because that had been her position all along. She had made it a matter of public record that she did not want any changes in the charter.

Mrs. Marix replied that was right, as had every other elected official who had spoken here, and the Town Manager who went through item by item by item.

Mr. Rogers responded that some of them had made suggestions.

Mrs. Marix said they did agree to leave it the way it was, because if you want to change something you might look at that, but they did not, as far as I remember—I did not hear one of them say that we should change the charter.



## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

Mr. Fink said that we would be remiss—the Mayor and Town Council approved—appointed this Commission to study it, and I think if we were to halt at this stage of the game, we would be doing a very incomplete job. I think we must address these things, and discuss them, and conclude properly.

Town Clerk Pollitt referred to the revised Synthesized Charter Agenda Proposal List to be developed before the next meeting asking if it was preferred that the Charter identification be separate in a column, or use a system of asterisks and notations by each one?

Mr. Rogers said just put it on a separate column on the right.

Mr. Rogers said that he should get back to the expert, Mr. Cassella, and tell him we're progressing on this matter, but we don't need him immediately, or we may talk to George Frost, and see if he has some suggestions of people. You know, I've heard a lot of people say "If it ain't broke, don't fix it", but I think that's a pretty lame excuse for doing a full review of the charter. There always could be some improvement.

Mrs. Marix replied that nothing was perfect in this world, but the ramifications of anything that was changed, except a couple of the wordings, more things like that. I don't necessarily like that expression, but on the other hand, we have very, very, serious things to be done in this Town. A great many bad things are going on, especially with regards to some of the lack of enforcement of different things, and I think that the time and the money that is being spent on this could be better spent on other things. Now we cannot manufacture time.

Mr. Rogers said that Mrs. Marix, like the rest of them, was not doing this just to be here. There were a lot better things to do, but when they were appointed, they undertook to do a thorough job, and he thought that they would not be carrying out their purpose if all of a sudden they decided to disband, because a few people had said that they don't see any reason.

Mrs. Marix replied that the few people were the experienced ones, so that was her opinion, and obviously, she could not change his.

Mr. Rogers said that all he wanted to do was listen, and hear through the items that they had agreed should be discussed, and then if we think there should be no change, then that's the time to vote on it.

Mrs. Marix said that the thing she wanted to know all along was, why? Today what we did, we really repeated nearly everything we did at the last meeting, with very little change, but the whys were never addressed. So that's why I'm really.



## REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 1/16/98

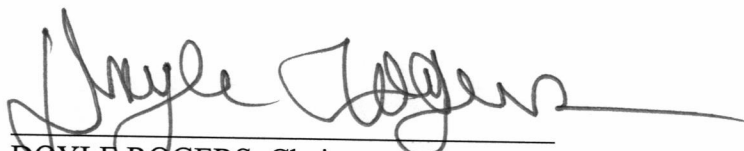
Mr. Rogers said that he thought they were.

Mrs. Marix said they really were not. From the very beginning people should have said I think we want to study this because so and so is wrong; it didn't work; or it's inefficient. Of course we can find, we can describe minutiae for the next three hours if we want, but it's not our parameter. That's the Council's problem. But, anyway, that's just the way I feel about it.

Mr. Rogers said that he understood.

### XIX. ADJOURNMENT

Mr. Fink moved that the meeting be adjourned, seconded by Mr. Guttman. The motion carried unanimously by voice vote.

  
DOYLE ROGERS, Chairman

Prepared by:

Mary A. Pollitt  
Town Clerk  
February 18, 1998