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REPORT OF THE AD HOC COMMITTEE OF THE RETIREMENT BOARD

WEDNESDAY, FEBRUARY 1, 1995

ATTENDING: Ronald J.W. Smith, Actuary, Chair, of Gabriel,

Roeder & Smith

COMMITTEE MEMBERS: Debbie Kelly, Karen Lane, George

Frick, John DeIorio, Robert J. Doney

Staff attending: Grace Peters, Marie A. Crozier,

William C. Crouse, Carla S. Kneipp

Others Attending: Mrs. Daniel Kelley

1. SURVIVOR BENEFITS: Mr. Smith reported on the Town of Palm Beach Employees Retirement System Survivor Benefits, explaining that his memorandum of January 17, 1995, changed the optional forms of payment to a formula basis, and secondly, it offered some pre and post retirement survivor benefits, with the children first and spouse second. Mr. Crouse asked if this increased the benefit to 75%. Mr. Smith replied that this was correct. Mr. Crouse asked if this meant that at no time could this be reduced upon the remarriage of the spouse. Mr. Smith explained that there would be no remarriage termination. Mr. Frick stated that the committee had discussed the issue of children, and had increased the age to 25 if there was no spouse. He stated that concerns had been discussed regarding children who were college students. Mr. Smith explained that there were benefits for children to age 18 if there was a surviving spouse. He further explained that this solved a problem the Town had experienced a few years ago regarding dependents. Mr. Doney asked if this regarded the situation that had occurred with Phil Riley. Mr. Crouse explained that this was different, explaining that if this option had been in effect, it would not have effected Mr. Riley's son. Mr. Smith explained that this should be more equitable now.

Mr. Smith then stated that if everyone was in agreement with this, it would be forwarded to the Retirement Board for their approval. Mr. Doney reminded everyone that with the upcoming Town

Council election, there could possibly be a new Election Board President. He asked if the Ad Hoc Committee members felt there should be another Ad Hoc meeting before the regular meeting of the Retirement Board. He asked Mr. Smith if he would be able to prepare the information to the Retirement Board in a way that would summarize the issues that had been discussed in the past few months. Mr. Smith explained that he would prepare a summary of the information that had been discussed and the outcomes of each of the issues, and have that and the appropriate attachments available to the Board for their meeting. Mr. Doney asked if the cost considerations would be included. Mr. Smith explained that an impact on the survivor benefit would be prepared, as well as the actuarial impact statement.

Mrs. Kelly explained that members of the Ad Hoc Committee were concerned because they had not had an opportunity to present this information to the employees. Mr. Doney explained that if an additional Retirement Board Meeting was necessary, one could be held in March. Mr. Doney asked Mrs. Peters if Mr. Callan would be able to attend the February meeting. Mrs. Peters explained that a representative from Callan would be attending, and that the numbers would be available at the February meeting. Mr. Doney explained that Ad Hoc Committee members would need to have time to get back to their employee groups. Mrs. Peters stated that information shouldn't go out to employees until the Retirement Board had an opportunity to review it. Mr. Frick asked if the Ad Hoc Committee had the authority to approve an issue for a vote. He asked if the Ad Hoc Committee should first come to an agreement, then present it to the Retirement Board to vote on before taking it to the employees for a vote. Mrs. Peters stated that the Ad Hoc Committee should report back to the Retirement Board. Mr. McCracken explained that the Retirement Board may simply rubber stamp the Ad Hoc Committee's recommendation, but it was necessary to go the Board. Mr. Doney stated that if Ad Hoc Committee members approached the employee groups at this point, it could create problems because the Retirement Board hadn't considered the issues yet. Mr. Frick asked if the Ad Hoc Committee was simply trying to reach their own goal, then make a recommendation to the Board. Mr. Doney explained that this would have to be in step with the Board, because after the meeting of the 16th, each representative would go back to their group of employees, and the Retirement Board would have to make a recommendation to the Town Council at some point. Mr. Doney stated that he thought the Ad Hoc Committee had accomplished a great deal, and that the issues should be fairly straightforward. Mr. Smith explained that this Committee's recommendation to the Retirement Board would include input from the employee groups.

2. EARLY RETIREMENT FOR GENERAL EMPLOYEES: Mr. Smith explained that there were several options that had been discussed regarding this issue, and referred to the memorandum dated January 17, 1995, from Gabriel, Roder, Smith & Company. Mrs. Kelly explained that she would like to discuss early retirement at age 50 or older with 20 or more years of service. Mr. Smith explained that the reduction for this option would be 3/10 of 1% for every month retired before the date normal retirement would have been available. He explained that the 3/10's was a multiplier applied to the number of months, not a subtraction from the base of accrual. Mrs. Kelly stated that she thought any of the options presented would be viable, but that this option was a good possibility because it had the least amount of reduction, and that it could be funded by the upcoming reduction in employee

contributions. Mr. DeIorio indicated that he thought it would be a good idea to present the employees with a couple different options. Mrs. Kelly agreed, stating that another option to present could be retirement at age 50 with 10 or more years of credited service. Mr. Doney asked Mr. Crouse if he had any comments regarding Mrs. Kelly's recommendations.

Mr. Crouse explained that this was simply an option for the employees to consider, and if the Retirement Board was willing to accept what the employees themselves agreed on, there should be no problems because the employees would be paying for it. He explained that there were drawbacks for the employees because the 3/10's reduction was significant. Mr. Doney asked Mr. Crouse if he thought this would encourage employees to retire early, stating that there were organizational implications to consider regarding turnover in the work force. Mr. Crouse stated that he did not think this plan would have a negative impact on the Town, because he felt that when people came to work for the Town, they were here to work throughout their career. He stated that the only reason that a person might leave early was if they had some other career options, but most people could not leave at age 50. He further explained that even if some experienced employees took early retirement, the Town would have lower costs with new employees as well as employees with new ideas. Mrs. Kelly stated that the cost would be a significant factor. She explained that some people would probably take advantage of this by leaving after 26 or 27 years, but not at 20 years. She stated that this would simply give individuals another alternative.

Mr. Doney asked Mr. Crouse if he saw any implications to the Town's subsidy for retiree's health insurance. Mr. Crouse explained that this subsidy was actuarially a significant liability for every employer who has it. Mr. Smith stated that the issue with this was that the Town had to decide that if an employee chose early retirement, would the Town continue to subsidize it at the time of early retirement, or if the subsidy would take effect at a later date. Mr. Crouse stated that a sliding scale could be used, and explained that State law does not require that this be subsidized. Mr. Doney explained that if someone elected an early retirement option, there shouldn't be an additional Town incentive for this course. Mr. Crouse explained that right now the Town subsidized all retirees the same, whether they worked here for ten years or for thirty years. He stated that in years past, this had been presented to the Town Council as an option. Mr. Doney explained that these potential cost implications should be considered when the information was presented to the Town Council so that the additional cost liability would be known up front. Mr. Crouse stated that he did not think this would be a problem, because there wouldn't be a lot of utilization of the option. Mr. Smith stated that he thought the people who would choose early retirement would be those individuals who were not disabled enough to get a disability pension but did not want to work anymore, and secondly, married females whose husbands were older and retired, so they would want to retire. Mr. Frick stated that there weren't even a lot of people using the 65 point plan.

Mr. Frick moved approval of the restructuring of the Survivor Benefits. Mrs. Lane seconded the motion. All voting aye, the motion carried.

Mr. DeIorio then moved that options 2.i and 3 of Mr. Smith's memorandum dated January 17, 1995, regarding early retirement for General Employees be advanced to the Retirement Board, those being: Retirement at age 50 or older with 10 or more years of credited service, with early retirement reduction in amount of pension, with reduction 3/10 of 1% (.003) for each month early retirement precedes the date of normal retirement would have been available with continued Town employment; and Retirement at age 50 or older with 20 or more years of credited service; with early retirement reduction in amount of pension, with reduction of 3/10 of 1% (.003) for each month early retirement precedes the date normal retirement would have been available with continued Town employment. Mr. Frick seconded the motion, and all voting aye, the motion carried.

A short break was taken. The meeting was called back to order by Mr. Smith.

3. CHAPTER 185 FLORIDA STATUTES TAX PREMIUM MONIES: Mr. Smith called the committee's attention to a memorandum dated January 31, 1995 from Jones, Foster, Johnston & Stubbs.

Mr. Doney asked Mr. McCracken to address this memorandum in order to highlight any particular issues to the committee members. Mr. McCracken explained that the problems arise out of the Statute, and quoted from the letter: "If a municipality.... meets the standards set forth in subsections (1) through (12)", and stated that the committee members were familiar with these standards, such as the 2% multiplier, minimum salary requirements. He stated that the Town does comply with these minimum standards for all employee groups. He again read from his memorandum, "the board of trustees of the pension fund, as approved by a majority of firefighters." Mr. McCracken explained that there is a corresponding statute in Chapter 185 for police officers that is essentially identical, and all of the issues are really the same. He then read from the memorandum, "may place the income from the premium tax in its existing pension fund for the sole and exclusive use of its firefighters, or may use such income to pay extra benefits to the firefighters". He stated that this short paragraph left a lot unsaid, and that there was a lot that was confusing. He explained that this language used the words "approved by a majority", but that it said nothing about a formal vote. He further stated that none of the cases talked about that, and that he thought that when legislature says "approved by a majority", that contemplates some sort of a formal vote, and does not contemplate a representative coming here on behalf of the employees. He stated that from a search of records of the Town, there was apparently no record of any formal vote taken by the firefighters or the police officers. Mr. McCracken stated that if approval contemplates a formal vote, which he thought it should, that has not occurred. He stated that if there had been a formal vote, the statute indicated that the income from the premium tax could be placed into the fund. He stated that the Town has placed the income from the tax into the premium fund. Mr. McCracken indicated that the next question that concerned him was the use of the words "income from the premium tax". He explained that the cases do not explain why this terminology is used, and that he had spoken with several lawyers with functions in this area, and no one seems to have really focused on why it says "income from the premium tax" rather than simply "the premium tax". He explained that the cases just deal with the premium tax, not with income from the premium tax. He stated that arguably, the income from the premium tax is what the premium tax earns, also, it is called income from the premium tax in the sense that the revenue that is sent to the fund is income, so that is another issue that has not been determined. He then referred to the section that states "or may use such income to pay extra benefits to the firefighters". He explained that "extra benefits" also has not been determined. He stated that there was one case referred to later in the letter where the First District Court of Appeals said that extra benefits are not determined by comparing the firefighters or police officers to the municipal employees, but they also don't say how the extra benefits are to be determined. He explained that it seemed to him that if extra benefits aren't determined by reference to other employees, then they must be determined by reference to subsections 1 through 12, which were referenced earlier, that is, the minimum plan. Mr. McCracken explained that he and his associates thought this was the better argument, although it was an issue that could also be argued. He stated that except for the one case in 1988, the cases really don't involve these fine points. He stated that they really involve whether the funds are used to the benefit of firefighters and police officers, and if they're not, it's wrong and has to be repaid, or if they are, it's okay. He stated that the cases never get down to these fine points that the committee was discussing. He stated that he and his associates concluded that there should be a formal vote of the firefighters and police officers, and that there is language in one District Court Appeal case which is persuasive that it's up to the police and/or firefighters to come to the Board. He stated that he does not read it that way, but thought that the Trustees should affirmatively say that an election was needed, and the firefighters and police officers should vote. He explained that the municipality should schedule and administer the election, and that the individual police officers and firefighters need to vote. He stated that there were several other issues involved, such as, how often should they vote, how often could they change their minds, would the vote be good for five years, and that none of the cases addressed these questions. Mr. Frick stated that perhaps something could be done by Ordinance so that whenever there was a change in the benefit that it would be reviewed at that time, but not necessarily needing to go to a vote. Mr. McCracken asked how often there were changes in benefits. Mr. Frick replied that major changes occurred approximately every five to eight years, with more minor changes occurring more frequently. He stated that one of his concerns was that in 1986 somebody should have known about the issues that were being discussed now. Mr. Frick stated that employees needed to be informed whenever there was a change that affected their retirement, and an Ordinance could possibly address that.

Mr. Doney asked Mr. Smith if he could recall any conversations regarding elections for Chapter 175 and 185 monies. Mr. Smith stated that he did not recall any. Mr. DeIorio stated that he had copies of memorandums that discussed the Chapter 175 and 185 monies, but that they did not address a vote. Mrs. Peters stated that one of the problems at that time was that

Marvin Clayton was writing the rules, but the rules were not going through as they were envisioned going through, so were never really finalized, and the vote issue was never really addressed. Mr. Smith stated that up until the last year the State Treasurer's office had jurisdiction over the 175/185, and that Clayton was under that office, as were his predecessors. He further stated that with that department being in place for so long, he thought that it was incredible that they hadn't brought up the referendum issue after the legislation passed because they were questioning other things about the plan. Mr. Frick asked if all municipalities' annual reports were audited. Mrs. Crozier stated that the auditors went over them very thoroughly. Mrs. Kelly explained that the state had a data base that tracked employees. Mr. Frick asked if the numbers were reviewed. Mr. Doney explained that it was a checklist of compliance.

Mr. McCracken explained that another question that had been brought up at the previous meeting was that if the Chapter 175 and 185 money was withheld from the system, did the Town need to make that up. He stated that he was fairly comfortable that the answer to that was no, the Town did not have to make that up, that it can reduce benefits. He stated that what that really meant was any kind of a benefit change, either up or down, at this stage was going to depend quite a bit on what the police officers and firefighters decide with reference to the Chapter money. Mr. DeIorio asked if there wasn't a clause regarding a municipality having to make up any actuarial differences. Mr. McCracken explained that the municipality had to fund whatever benefits were stated in their local ordinance, but they could change the ordinance.

Mr. Smith explained that if the initial election was held, then a change in the benefit occurred and another election was to be held, that as a practical matter, that subsequent election really couldn't change the application of the Chapter money that already has been applied. Mr. Smith explained that some of the extra benefit received applies to all the back service, which is being funded over thirty years, so in effect, when the initial election is done, some of that money has been committed for thirty years. He stated that this was why he felt more than one election would be unworkable. Mr. Doney stated that if every Town Council made wholesale changes to the funding of the retirement system, it would be chaotic, and the actuarial assumptions that are identified by Mr. Smith each year need to have stability. He stated that one of the things that the committee needed to address was what should be recommended to the Retirement Board regarding how the vote issue should be addressed as a one time occurrence.

Mr. Doney stated that he didn't think that would preclude the individual representatives going back to their respective members in their departments and saying that this was now a current pending proposal before the Retirement Board, and to voice their feelings about it. He explained that this information would then be reported back to the Retirement Board. Mr. Frick stated that he felt a signature vote should be done for this issue. Mr. DeIorio stated that he did not think another vote would have to be given to employees unless there was a major change to benefits that went unnoticed for a long period of time. He explained that this should not occur if a change to the Ordinance took place. Mr. McCracken stated that he felt this was a good proposal. He stated that the real problem was with the wording of the statute. Mr. Frick stated that a second vote wouldn't even have to be held, explaining that if the Ordinance stated that the 185/175 comparison to General Employees for an extra benefit would be reviewed at the time of any major benefit changes, using the word "reviewed" for "voted on" so this Board could review it and take responsibility for those actions taken. He stated that what the committee could do now was try to set up a procedure that should be followed. Mr. DeIorio agreed, and further stated that if in the future someone had a legitimate complaint about a difference in benefits, they should be allowed to vote.

Ms. Lane referred to page 6 of Mr. McCracken's memorandum dated January 31, 1995, and read "the measurement of benefits, whether extra or minimum should be made in terms of what is paid to other municipal employees. Hence, we find no authority for the Department to limit the meaning of that term to a comparison of such benefits." She stated that in other words, the General Fund is not a guideline for comparison. Mr. Frick stated that in this particular statement, that's what was being said. He stated that the minimum benefits required by 175/185 over and above the non-public safety, whatever the parties agree to, there is something that has not yet been espoused. Mr. DeIorio stated that in other words, the issue was wide open. Mr. Frick stated that this was a person's opinion. Mrs. Lane stated that if there was any disagreement on the statement she read, it would have to go to the Supreme Court for a final opinion. Mr. McCracken stated that what Mrs. Lane had read was the law of the Second Court. Mr. DeIorio stated that the law did not state anywhere that the fund had to be compared to general employees, but that it didn't have to be. He stated that many agencies do use general employees as a benchmark. Mr. Frick asked what the Town would use as a base benefit, and asked if the State's mandates were going to be used. He stated that he wanted to use a benchmark that was realistic to the police officers.

Mr. DeIorio reminded the committee that they were still discussing whether or not a vote of employees should be held. He stated that it seemed that everyone recognized that there should be a vote, and that a procedure should be set up. He explained that before the committee could proceed with what they wanted to do regarding a vote, they needed to hammer out the other issues, because that would sway the vote.

Mr. Frick asked Mr. Doney if it was his opinion, that even though there was no financial damage, the Town had absolutely no liability to the time when the vote should have been held. Mr. Doney stated that this was correct. Mr. DeIorio stated that he felt he would be hard pressed to say that there are no damages, especially since the actuary is comfortable with his decision that the difference is defined.

Mr. Frick stated that the committee knew that a vote was needed, and knew that one would be held. He asked if they should now determine the base benefit and extra benefit, or should they go in a different direction. Mr. DeIorio stated that before the people could say what they were going to vote on regarding extra benefits, the committee should decide what those extra benefits would be. Mr. Smith agreed, stating that what should be defined is the extra benefit they get for leaving the money in and have it continue to go in the fund. Mr. McCracken stated that one of the problems with this was the extra benefit being talked about. He explained that the use of this term caused a debate. He stated that the issues regarding the election were, a system that provides "X" to the public safety employees, or they could withdraw the Chapter monies into another plan for their individual benefit, and the Town would provide them with "Y". Mr. McCracken stated that he thought Ms. Lane was correct, explaining that this doesn't really relate to the other employees, and that as long as it is described in terms of "extra benefits", it clouds the issue and causes confusion. He stated that the package should clearly be defined. Mr. Smith stated that there were really two packages, one being this set of benefits where money is left in, and one set of benefits where money is taken out. Mr. McCracken stated that the Town had not been confronted with the situation of the Chapter money not being available to the system, and asked what could be given to police officers and firefighters in its place. Mr. Frick stated that another option was, not changing the benefit, not keeping the money, trying to reduce the benefit, and ending up in a lawsuit. He stated that the option isn't to put the money in and keep the same benefits. He said that discussion had been held in the past with any police and fire employee compared to any general employee, and the difference was a 1/10 of 1% difference in accrual, and a total difference of 2 1/2%. He stated that any police and fire retirement system is compared with general employees and that it had already been discussed that it was time for a 3% accrual for police and fire employees. Mr. Frick stated that this statement was not based on the 175/185, but based on the fact that it was simply time to increase the benefits. He indicated that the Town's general employees got 2.4%, and 2.5% was given to Police and Fire employees. He further stated that it was becoming more difficult to attract new police and fire employees, and the quality of people has gone down. Mr. Frick stated that he did not want to sit here and say that the options were to be leave the money in and keep the same benefit, or take the money out and lose a benefit.

Mr. McCracken stated that this was not what he had been suggesting. He stated that "Y" was a business decision which this committee needs to recommend to the Retirement Board, who will then recommend it to the Town Council. He stated that "Y" would depend upon whether the money was left in or out. Mr. Frick indicated that he understood. Ms. Lane explained that she did not think anybody would oppose the 3%, but that what was being addressed was the cost factor, and whether or not it would be retroactive, and how far back it would be retroactive. Mr. DeIorio stated that for "x" ; amount of years the system had existed as such, without a vote, and the vote hadn't been brought to light. He explained that now the committee was bringing to light that a vote should have been held, and that it was both sides responsibility to have taken care of it. He stated that if it was looked at from the employee's perspective, that they now realize there should have been a vote and extra benefits should have been paid for. He stated that he knew there was not a definition for the extra benefits, and there was nothing there that said it had to be compared to general employees, but the fact was, that as a general practice, that money usually paid for extra benefits. He stated that the perception was, and had been for a very long time, that there wasn't enough difference between the public safety employee's retirement and the general employee's retirement. He stated that if now it was to change to an option where the money would be taken out and benefits were reduced, there would be a big problem with that. He stated that now that it is realized that this money exists, and there needs to be a vote, a minimum benefit has to be established, and that this minimum benefit could not be any less than it is now. He stated that the perception of the employee was that this would be a major hit, as compared to the small amount of money that is coming in. He stated that he believed that the committee was going to have to look at defining a minimum benefit that would be significant enough that there is a major enough difference. Ms. Lane referred to retired individuals who were generating enough power to send Mr. DeIorio and Mr. Frick in to the Retirement Board meetings to represent them. Mr. DeIorio stated that there was no one behind him, and he was not representing any retirees. He stated that what he was talking about was a minimum benefit that the public safety retirees should have, that establishes a difference between public safety and general employees. He stated that this perception exists, and to substantiate that, the committee needed to discuss where they were going to go from here. Mrs. Kelly stated that she agreed that there is a minimum benefit package that is provided to public safety, but she did not necessarily believe that was based on what general employees receive, and that she did have a concern there. She stated that she believed they were two completely separate issues, two different benefit packages, and that there should not be any comparison. She stated that the committee should establish what the minimum benefit should be for the public safety employees, and that it may or may not be what currently exists, and then take into account Chapter monies.

Mr. DeIorio stated that unfortunately, everything that has been compared has been compared between public safety and general employees. He stated that Mr. Smith's comparison of the State benefits had compared public safety and general employees. He stated that the only way to get away from this comparison would be for the public safety employees to set up their own plan. Mrs. Kelly asked if it should not then be taken into consideration what each employee group has to pay, citing the general employee's calculator as an example. Mr. DeIorio stated that the public safety employee was contributing almost 3% more for a difference of 1/10 of 1%. He stated that he knew there was more to it than just this, but he was looking at it the way the public safety employees were looking at it. He stated that it had been this way for a period of time, and that it did not appear that there was much of a separation, and that no matter how much the matter was explained to the employees this is how they would see it. He stated that he was very happy that the general employees had such an excellent pension plan, and that he was proud of that fact, however, the public safety employees did not compare as well in the market system. Mrs. Kelly stated that this was her point. She explained that she did not think the committee should get so wrapped up in what the general employees were receiving, but should perhaps consider what Palm Beach County public safety employees were receiving. She stated that it may be time for changes based strictly on the comparison with other agencies, regardless of what general employees are receiving. Mr. DeIorio stated that this would be fine, except that historically, the comparison had been made to general employees. Mrs. Crozier stated that she didn't know if the comparison between public safety and general employees would be good for the employees or for the Town, explaining that when Mr. Frick speaks to attracting and retaining new hires, the competition comes in with respect to their peer groups, not to what's happening with general employees. She stated that this should really be the measuring stick. Mr. DeIorio stated that this was true as far as recruitment was concerned, but for those employees who had been here for awhile, the comparison still existed.

Mr. Smith stated that as long as the comparison was made to general employees, the problem would not be solved. He stated that the problem may be solved for one year or five years or ten years, but it would not solve it permanently as long as the general employees were linked to the public safely employees. He stated that he concurred with Mr. DeIorio in that historically, most of the comparisons were with general employees, but he thought this was flawed. He stated that when that linkage existed, one group was affecting the other group. He explained that it was a stand-alone, stating that you could not negotiate changes with a general employee group and then automatically have that apply to another group. He stated that labor law would have a problem with that. Mr. Smith stated that the police officers and firefighters had indicated rather clearly that they wanted a 3% accrual rate, and that if this was given to them it was almost guaranteed the employees would vote this in.

Mr. Frick stated that there were three different time frames that needed to be discussed, prior to 1990, from 1990 to 1995, and from 1995 on. He stated that if the time period of 1995 on was being discussed, he believed that his people would be willing to say if they were given the 3% accrual, they would give the Town the 185 money. He stated that the disparity was with the time period of 1990 to 1995. He further stated that issue with the time period prior to 1990 was not as clear. Mr. DeIorio asked Mr. Doney what his feeling was with reference to this issue. Mr. Doney stated that it was his understanding that there is not, based upon Mr. McCracken's interpretation of the law, an inequity prior to 1990, and based upon what Mr. Smith had computed before for the purpose of this committee, he did not think there was an issue prior to 1990. He stated that he thought that while there was no vote, the vote issue had to be addressed, but from a financial implication point of view, he did not think there was an issue that this committee needed to be concerned about with that time period. He stated that he thought this committee had several issues it had to discuss, and that some compromise would have to be reached. He explained that the Town Council would make the ultimate decision, after the Retirement Board considered the issue, and that what this committee would have to do is come up with something that is fiscally responsible. He stated that the committee had to come to some kind of balance. He referred to Mr. Frick's comment regarding the 3% accrual from 1995 forward as an average final compensation formula factor as one issue that needed to be discussed. In addition, he stated that he thought it was critical and crucial that the vote that eventually was to be taken, the whole premise of the Town-wide retirement system depended on the 175/185 monies staying in there. He stated that he thought this was crucial. Mr. Frick stated that he wanted to work towards that end as well. Mr. DeIorio agreed. Mr. Frick referred to Mr. Smith's memorandum dated January 30, 1995, and explained that there were three positions addressed. He stated that Position Three could be crossed out, because that indicated that the Town Employees would be compared to State employees. He explained that Position number one referred to $6.7 million because there had been no vote on the Chapter monies. He stated that he knew the employees had to show some leeway, as did the Town. He stated that he could not agree with Position Two unless it was to be modified to somewhere in the middle, because this was an absolute minimum, and he knew the police officers would not accept it. Mr. DeIorio asked for a clarification of who the Ad Hoc Committee members were. Mr. Frick replied that it was Mr. DeIorio, himself, Karen Lane, Debbie Kelly and Mr. Doney. Mr. DeIorio asked the Ad Hoc Committee members what they saw as common ground regarding this issue, stating that he would like to have their input. Mr. Doney explained that while Mr. DeIorio and Mr. Frick represented police and fire employees, and Ms. Lane and Mrs. Kelly represented the general employees, he did not have a group that he represented, but he did have a vested interest in this issue. He stated that he had to make sure that what he was voting for as a member of the Ad Hoc Committee should certainly be a responsibility he needed to be accountable for, and that he needed to make sure that, from a financial fiscally responsible perspective, the final outcome had to be reasonable.

Mr. Doney further explained that if the committee went to the Retirement Board then ultimately to the Town Council with something that was not justifiable, the committee was doing a disservice to itself, and all their energy and effort was down the drain. He stated that in the meantime, if the police and fire representatives went back to their employee groups, and the employees disagreed, nothing was gained. Mr. Doney explained that the committee had to keep in perspective that any decision would have to be a compromise. He went on to say that one thing he would like to make clear regarding the interpretation of the law, that anything that was discussed here and recommended to the Retirement Board would not be based on any legal issue. He stated that prior to 1990 he did not think there was any inequity. Mr. DeIorio stated that he personally did not feel differently, but there were employees who did, and that to reduce the amount of work involved in this, he wanted to reach some common ground. He stated that the 2.6% accrual rate for five years would be completely unacceptable. He further stated that the minimum would have to be 3% for each year, explaining that a 2.6% increase, even though the public safety employees shouldn't be compared to the general employees, the fact of the matter was that this had already been done, and public safety employees still considered the difference between them and general employees to be an issue. He stated that the public safety employees would not accept a 2.6%. Mr. Doney stated that he did not understand what Mr. DeIorio was basing the 3% on, saying that as he understood it, the differential between the amount for 175/185 from 1990 to now is what should be considered to come up with a percentage that can be presented to the Council. Mr. DeIorio stated that prior to 1990 everything was all right, but from 1990 on, there was a percent off for each year for Fire-Rescue, and one and one half percent off for police.

Mr. McCracken explained that there seemed to be a misunderstanding regarding parts of his letter dated January 31, 1995. He further explained that the indentations in the letter were quotes that referred to the First District Court of Appeals' decisions. He stated that this court interpreted all administrative rules for the State of Florida. Mr. McCracken explained that an administrative rule would first be heard by the hearing examiners, then eventually it would go to the First District Court of Appeals, and if there was a problem with their decision, it would go to the Florida Supreme Court, but if the Florida Supreme Court did not take it, which in this case happened, it is the law of the State of Florida. He explained that this was what Ms. Lane referred to earlier, and they specifically held that extra benefits were not based upon the comparison with other municipal employees. Mr. DeIorio stated that he was not saying that. Mr. McCracken stated that the proposition Mr. DeIorio and Mr. Frick were referring to in Mr. Smith's letter of January 30, 1995, was based on that. He stated that's where all of these numbers came from, that they compared the benefits that public safety employees got to the benefits received by general employees, and State Law said that comparison was not relevant. Mr. Smith referred to the case just cited by Mr. McCracken, and asked what significance would be attached to the word limited, and read the following, "we find no authority for the Department to limit the meaning of that term to a comparison of such benefits." Mr. McCracken explained that comparing general employees to public safety employees was an invalid regulation. Mr. Smith stated that the court said that it couldn't be limited to that definition, not that it couldn't be used. Mr. Frick and Mr. DeIorio indicated they agreed with Mr. Smith, stating that it simply said it couldn't be limited to that. Mr. Smith stated that this was really no definition whatsoever.

Mr. Frick asked Mr. Smith if the 2.6% accrual figure was figured for the time period of 1990 to the present time. Mr. Smith explained that the numbers he had calculated included costs for not only going back to 1990, but also for going forward from 1995. Mr. DeIorio indicated that he was referring to the shortage of a percent per year for Chapter 175, and 1.5% for Chapter 185. He explained that one percent per year for Chapter 175, would be 5% of payroll, which would mean it was 'x' number of dollars. He asked if that 'x' amount of dollars could purchase 'x' amount of benefit retroactively. Mr. Smith said that this would assume that the 175 money was used for no extra benefit whatsoever for the last five years. Mr. DeIorio explained that he was saying that part of the 175 money had been used for those five years, but not enough of it. Mr. Smith explained that it was about 1.4% of payroll for the last five years. Mr. DeIorio asked what this would equate as a dollar amount. Mr. Smith stated that this dollar amount was $344,486. Mr. DeIorio asked how far back in time this amount of money could be used for in order to bring the accrual up to 3%. Mr. Smith replied that it could go back maybe one year, or five years at 2.6%. Mr. DeIorio stated that he was under the assumption from previous information that it would buy more.

Mr. McCracken stated that paragraph 5 of the proposed rule defines the term extra benefits as used in Section 175.351.13 to mean "benefits in addition to or greater than those provided to other municipal employees, and excludes therefrom the term "early retirement at a reduced pension". While the statute obviously can be interpreted to allow extra benefits to be determined in terms of what is paid to other municipal employees where the plan involved covers such other employees as well as firefighters, we find nothing in Section 175.351 or any other provision of Chapter 175 to suggest that the measurement of benefits, whether or extra or minimum, should be made in terms of what is paid to other municipal employees." Mr. McCracken stated that he thought the wording was unequivacable. Mr. DeIorio stated that if this was the case, then he felt the committee had wasted three months time. Mr. McCracken asked if the committee needed to go to the Town Council and say that the Town needed to pay money back, how would it be justified to the Town Council when this was the law of the State of Florida.

Mr. DeIorio stated that unfortunately, the whole argument was based on the comparison to General Employees. Mrs. Crozier asked why the same type of comparison couldn't be done back to 1990 by comparing Town firefighters to their peer groups. Mr. Doney stated that one thing from the previous Ad Hoc Committee meeting, it was realized that the committee needed to get an opinion from the Town Attorney. He stated that opinion would have to go on to the Retirement Board and the Town Council. He explained that as a justification, the committee now had information they needed to reflect upon and decide where their middle ground was. Mr. Doney explained that they needed to come up with something that was financially and fiscally responsible that could be presented to the Retirement Board. He explained that the dollars that have been received have been calculated, and what those dollars could provide as extra benefits compared to General Employees. Mr. DeIorio stated that the comparison has now been totally invalidated. Mr. McCracken explained that if the Firefighter and Police groups voted to take away the Chapter money, then they would know that they would get all that money for their benefit because it would not be administered the same way, but they would know it was theirs. He stated that one of the equities to be considered, was that during the past several years, in the comparison between General Employees and Police Officers, money that came in because the Police Officers and Firefighters let them have the money, has not gone necessarily exclusively to their benefit in that comparison. He explained that there was nothing illegal about that, but the equities are, the money was only going into the system because Public Safety employees let the system have it. He stated that this would be a relevant consideration, because it was known that it could be taken away. Mr. DeIorio asked what the committee's position would be now since discussions had gone this far and employees were waiting for the outcome. He o general employees as an attempt to slow down the process. Mr. DeIorio stated that he realized this was not true, but he did not know how he could convince other employees of this. He asked if the committee could go with the comparison and remedy the situation, or if they would not go with the comparison. He stated that he did not want to go back to square one.

Mr. Frick referred to the information provided by Mr. Smith where General Employees were compared to Public Safety Employees, and asked Mr. Smith if he had seen this done on a fairly frequent basis. Mr. Smith replied that it was done with some frequency. Mr. Frick stated that regardless of the interpretation produced today on that law, he stated the committee had to decide to either go with it or not, and stated that he did not think they would be out of line to go with the comparison. He stated that if they had to compare themselves to peer groups, they would essentially have to start over. Mr. Frick stated that a decision had to be made regarding this. Mr. Doney explained that when this committee made a recommendation to the board, financially, it had to be a responsible recommendation.

Mr. Frick stated that one thing that concerned him was the jump to 3% accrual. He explained that this was one issue. Mr. Doney said that the 3% accrual had been in effect with the State since 1993. Mr. Doney further stated that the Town Council would ask what the Town Attorney's recommendation was. He explained that he felt there was a compromise that could be worked towards. He stated that he, as a Manager and as an employee, had to come up with something that was fiscally responsible. Mr. Doney indicated that the 3% accrual had to be attained, but he did not think fiscally it could be done all at once. He stated that he thought the committee needed to make an adjustment that has been calculated by Mr. Smith, and if the comparison to General Employees was used, then the amount of 175 and 195 money that was put into the fund, how much were Police Officers and Firefighters shortchanged for that five year period, and determine whether or not that was a valid question. Mr. Frick asked if Mr. Doney was referring to the State pension fund. Mr. Doney replied yes. Mr. Smith explained that the County Sheriff's employees did not get 3% on all of their service, but got amounts ranting from 1.8 or 2.0 all the way up to 3.0, depending on what year they were working. He stated that anybody with ten or more years, for their back time at the County, doesn't get anymore than Town employees get when accrual rates were averaged out. Mr. Smith stated that going forward, the County employees got 3%, but there were other things they did not get, such as the survivor benefit at 75%. He explained that they take a reduced pension in order to get that kind of benefit. He further stated that there were a lot of other variations in their retirement plan. Mr. Smith suggested that one thing that could be done was to figure out what it would cost to provide Town Public Safety employees with the same benefits the Sheriff employees get, and if the Town employees then wanted to take that difference and use it in this retirement plan, that would be one possibility. He explained that this would not be comparing anything to General Employees. He stated that the thing to keep in mind was that the 3% from present time going forward, which is roughly 5 1/2% of payroll, would not be able to be done all at once. Mr. Smith referred to Mr. Doney's statement that it would have to be phased in. He explained that the problem was with the way the State administered this. He explained that in any other state, a phase in could occur with the benefit increasing in increments, but in the State of Florida, if the phase-in schedule was put into the Ordinance, the Town would have to immediately fund for the ultimate rate. He stated that the only way around it was for everyone to agree to what should happen over the next five or ten years, with each year's piece put in the Ordinance. He explained that this was the only way to get the funding to track along with the benefit accruals, which required a certain amount of trust on everybody's part.

Mr. Doney stated that he thought it was relevant to keep in mind that he did not see why the number calculations would go back to 1990. He explained that the committee needs to think of how to reach the 3% accrual rate, because he had to be able to explain to the Town Council that it was financially defensible, as well as addressing the Fire Safety employees concerns. Mr. DeIorio stated that the information contained in the hand out Mr. Frick had provided to them indicated that to increase the accrual to 3% would cost $326,669, and he had thought that this amount of money would buy the shortage. Mr. Smith explained that the $326,669 was one lump sum, and the $360,000 was per year. Mr. Frick asked if the 1.4 and 1.5% of payroll range was over the cost of 30 years. Mr. Smith explained that this was going back five years plus going forward forever. Mr. DeIorio asked if it was going forward forever at 2.6%. Mr. Smith replied yes, explaining that it was not all past service cost, but future cost as well. Mr. Frick asked if the amortization of $416,000 over 30 years was .2% of payroll, for the past five years. Mr. Smith replied yes. Mr. Frick stated that .2% of payroll was $15,000 to $16,000 per year, and asked how he could tell his employees that $416,000 would be paid over the next thirty years. He stated that according to the figures, $416,000 over the last five years had been misappropriated, and that in order to make up for that, only $16,000 would be paid per year. Mr. Smith stated that in terms of today's dollars, it would be more like $26,000 per year. Mr. Doney stated that for discussion purposes, when presented to the Town Council, the committee had to make sure that the 175 and 185 monies would stay in the plan, and would be giving consideration for the Chapter money for police and fire, and that there was a different benefit being provided for police and fire, and that by getting that amount of money, the police and fire are not being shortchanged. Mr. Frick agreed that this was what they were trying to do for the future. Mr. Doney stated that it had to say from 1990 to 1995 a calculation had to be made, so unrelated to the law, but out of equity and trying to deal with this fairly and objectively, a one time retroactive adjustment had to be made for this issue. Then the committee would have to talk about the average final compensation. Mr. Frick stated that he could work with 1995 forward easier, than with 1990 to 1995. He stated that in trying to go back and write the past five years figure, the $416,000 was not accounted for in the last five years. Mr. Frick stated that according to the figures provided by Mr. Smith, an increase of 1/10 of a percent, from 2.5 to 2.6, would then burn up that figure over a thirty year period. Mr. Frick stated that this meant $26,000 per year, and that this did not seem a fair and equitable solution. Mr. Smith stated that this number was in there for one purpose and one purpose only, and that was to show that under the State law, what would happen to the Town's contribution rate. He explained that the real statement was if the benefit accrual rate was increased for that five year period to 2.6, an unfunded obligation would be created in the pension plan of $416,000. Mr. Smith stated that how the Town would meet that obligation is governed by State law. Mr. DeIorio asked if that 1.4% per year could be made up in a lump sum to cover that five year period. Mr. Smith stated that this could be done. Mr. DeIorio asked if what those figures were saying was that this 2.6% accrual rate, a 1/10th percent increase in the accrual rate, from here on out, was the equivalent of what the difference was between General Employees and Public Safety employees between 1990 and 1995. Mr. Smith stated that was how it was derived. Mr. DeIorio asked if there was another way that this amount could be made up, instead of increasing the accrual rate 1/10 of a percent from here on out. He asked if there was something that could increase the accrual rate from 1990 to 1995, and what would that accrual rate be. He cited as an example, taking that same amount of money and applying it to those five years. Mr. Smith explained that was what it was used for. He explained that amount of money takes care of those five years at 2.6%. He further explained that for that five years, if the public safety employees wanted to go from 2.5% to 2.6%, and get rid of the whole obligation, would take care of the $416,000, and from here on out, the public safety employees would go to 2.5% again. Mr. Smith explained that the $416,000 figure equates to the five year period of time only, and does not address from the present time forward. Mr. Doney stated that this was the cumulative shortage. Mrs. Crozier asked if that number had been there with respect to the State monies from the beginning, wouldn't the public safety employees had ended up at 2.6%. Mr. Smith stated that if this had been looked at in 1990 and said that a comparison was going to be made to General Employee benefits, and the 5.5% from the State was used, 2.6% would have been the result. He explained that the real issue was the police officers and firefighters do not think that 2.6% is an adequate benefit. He stated that the real issue has nothing to do with Chapter money. Mr. DeIorio stated that he was talking about fair and equitable, because of the perception that the money was used improperly, and the perception that a vote wasn't held, and that there were plenty of people still out there who were saying it was not right. Mrs. Crozier asked if even putting back dollar for dollar what the difference was, the Public Safety employees would not find acceptable. Mr. DeIorio stated that this was what the perception was. Mr. Doney addressed the perception issue saying that the inaccuracies in people's perceptions had to be corrected by the committee. He stated that when something is offered to the Retirement Board and then to the Town Council, he has to be able to say that it has credibility, and there is justification for them to do it. He stated that he can't say it's because 85 police officers and 70 firefighters think it is wrong, and the committee needs to look at the State Retirement Fund historically, to make sure they understand what happened. He stated that people talk as though this 3% average final compensation has been since way back, and it hasn't. Mr. DeIorio explained that there had been a period of time where it had been 3%, then went down again. Mr. Doney explained that whenever people's retirements are calculated, it wasn't gone back retroactively so that person's final retirement was calculated it was based upon the various average final compensation formulas at that time, and it was important to keep this in mind. He stated that it was necessary for the committee to arrive at a compromise, and that he did not want anyone to think they were getting shortchanged. Mr. Frick stated that he had a different perspective on this. He stated that a vote should have been held in 1990, and that from 1990 on, the right thing to do would be to adjust to a 3% accrual rate. Mr. Doney stated that this was premised upon the assumption that 3.0 was an accurate average final compensation in 1990. Mr. Frick stated that 3% is more widespread now than it was in 1990, but if the committee is looking for a fair and amiable solution to a problem that stems back to 1986, it would be fair. Mr. Doney asked if the members of the Ad Hoc Committee could agree that from 1986 to 1990 there was not an inequity financially, that there was not an underfunding of the benefits received for police and fire for that period of time. Mr. Frick stated that he would agree with the funding portion. Mr. DeIorio stated that he also agreed, but he took issue with the fact that because of the perception out there, he was trying to avoid lawsuits and litigation, and that even if he went back and told employees an exact dollar amount, the perception would be "what about all that money years ago?". He stated that what he was saying was that 2.6 may be the dollar figure, but if it was above that, at 3%, it would make it a lot more palatable. He stated that it would heal the wounds, and the committee could move on. He stated that he understood the dollar amount issue, and that it only cost so much, and that they also couldn't compare to General Employees, but the reality was personnel and their feelings. Mr. DeIorio stated that he knew the public safety employees were doing very well compared to the market place, but the reality was there was a better chance to move on smoothly if it was made more palatable, and a 3% accrual rate for those five years would make employees take it easier, and not have a problem with the 175 and 185 money. He stated that if the accrual rate went to 2.6%, then there would be resistance. Mr. Doney stated that the 2.6% versus the 3.0 for a five year period was almost $400,000 each year, which was almost two million dollars.

Mrs. Kelly stated that she thought that the letter from Mr. McCracken raised some very good points, and that it could be argued that everything is status quo, so the fact that the Board and possibly the Town were willing to consider going retroactive to five years is a good faith gesture. She explained that it appeared to her that the Chapter monies had been used appropriately, while she understood their point that historically the General Employees had been used as a basis of comparison. She further stated that since this comparison had been used up to this point, she did not think it would not be unfair to use this comparison for the last five years, and perhaps from this point on, establish a minimum benefit, whether it be General Employees or something else. She asked Mr. DeIorio if he thought this would be acceptable to the public safety employees. Mr. DeIorio explained that if it were put in dollar figures, it might be more apparent to the Public Safety Employees, except the perception was that it wasn't fair. Ms. Lane asked how the Town Council was going to compute 2.6 as opposed to 3.0 when Mr. Doney had to make a recommendation. Mr. Frick asked Mr. Crouse what the State has had since 1990 and before 1990.

Mr. Doney asked Mr. Crouse to address where the State or County were in their average final compensation. Mr. Crouse explained that the information he had showed that the rate fluctuated. He stated that people had to remember that changes continue to be made, so a flat percentage rate couldn't be established.

A short break was taken. The meeting was called back to order by Mr. Smith.

Mr. DeIorio asked to discuss the situation hypothetically, explaining that he believed what everyone wanted to do was simply to rectify the situation in a manner that would be acceptable to all parties. He asked to speak to a hypothetical situation regarding a pension system with a situation similar to the Town's. He asked if the employee groups involved in these types of discussions, based on the information brought to a meeting, and it was determined there was no legal issues, just based on good faith negotiations, there unfortunately was a comparison between General and Public Safety employees. He stated that 1990 and 1993 appear to be issues in these discussions. He asked if a committee could make amends for things that are perceived to be a problem simply as a show of good faith by establishing at a certain percentage as an accrual rate, and then agree to recommend to a board a 3% multiplier from this time on. Mr. DeIorio indicated that 2.6% would not be palatable, but if it were brought up to 2.7 or 2.8, up until the time period where changes began to affect areas around Palm Beach, and then if it could go to 3% from this point on, it would be more acceptable to employees. Mrs. Kelly stated that the only other additional concern she could see was the issue of tying chapter monies to specific benefits, such as the calculator. She asked what would happen when the market continued to change, indicating that the calculators in five years could be 3.2, yet the Chapter monies would still be utilized at a calculator of 3. Mrs. Kelly explained that if the benefit was going to be tied to a calculator, then perhaps the calculator should fluctuate in connection with the Chapter monies.

Mr. Crouse stated that he thought Mr. DeIorio was keying on a few issues that should be addressed. He explained that number one, Mr. DeIorio was not tying the percentage to 1990. He stated that a benefit had never been tied to any kind of a clause or to an index. He explained that benefits had always been based on competitiveness. Mr. Crouse stated that hypothetically, that can change, and that what needed to be done was to change the benefit in order to attract and retain employees. He explained that this is not a legal issue anymore, and there was no misappropriation of funds. Mr. Crouse stated that if this were tied back to 1990, there were individuals who would say funds were misappropriated back to 1986. He suggested that this issue should be looked at from the standpoint of competitiveness. He explained that would tend to cause the Town to make a change in the benefits, regardless of the 175 and 185. He explained that this then kept the issues separated. Mr. Crouse stated that the public safety employees were more concerned with how they fared compared to their peers. He suggested that as a group, the committee should say that there are no legal issues, and each individual had to sell their perceptions to their constituents. Mr. Crouse stated that they had to be realistic in whatever they decided to do because Mr. Doney still had to go to the Town Council for approval because they were the policy makers. He asked what the committee could go to the Town Council with from a standpoint of competitiveness. Mr. Crouse stated that he believed that a 3% multiplier was extremely competitive, as well as being very expensive. Mr. Frick stated that he agreed that this was how he would have to sell the proposal to his constituents. Mr. Crouse explained that if the committee worked with the 2.75% accrual rate back to 1993, he thought they could come to some agreement. He further stated that his concern with taking it back to 1990 would have a negative impact on those retired public safety employees. Mr. Crouse reminded the committee members that what they were discussing was simply a recommendation to take to the Retirement Board, who would then have to make a recommendation to the Town Council. Mr. Doney indicated that Mr. DeIorio and Mr. Frick had an uphill battle in front of them because there was a perception that the 3% should have already been a part of the retirement system for a long time, because of times where the accrual had dropped.

Mr. DeIorio explained that it was obvious there was no liability on the Town's part, but that wouldn't preclude someone somewhere from taking issue with that. He stated that he was comfortable with the work Mr. Smith and Mr. McCracken had done, and that he believed that the committee could reach an agreement. Mr. DeIorio suggested that a 2.75% accrual rate for a period of time, with a 3.0% being reached should be acceptable. Mr. Frick stated that he was flexible working with percentage increases in increments. Mr. DeIorio stated that because the focus was on the time period, not on a legal issue, as an accepted practice, if 2.6% was the actuary's calculation, then possibly some agreement could be come to between that and 3.0%. Mr. Doney explained that the Town Council would ask the Retirement Board why any change had to be made, and the attorney would have to respond that there had been no inequity. He further explained that with this in mind, this committee had to realize they were addressing it in terms of competitiveness. Mr. Doney stated that the numbers had to be justified to the Town Council, and that it was being done in good faith. He explained that he would like Mr. Smith to work up the figures based on 2.75%, with retroactive adjustments. Mr. Doney explained that from 1995 on, he did not think an immediate 3.0% could be recommended, stating that the numbers had to be looked at. Mr. Doney stated that he would like to reach the 3.0% in at least two steps, because what they were talking about was funding the actuarial appropriation for FY96, beginning 10/1/95. He explained that the committee had to make sure that the Town's contribution would fully fund those changes. Mr. Doney asked Mr. Smith how he could make an actuarial adjustment for that five year period. Mr. Smith indicated that it could be factored in. Mr. Doney asked if it would be a one time adjustment, so that anyone who had been with the Town from 1990 to 1995 would be credited to their participation in the plan. Mr. Smith indicated that it could be. He explained that if 2.75% was credited starting with 10/1/90, it would be about 3.4% of payroll. Mr. Frick asked why it would be that high. Mr. Smith replied that this included going forward as well.

Mr. Doney explained that if this information was shown to the Firefighters and Police Officers, they may not agree with it, but the majority should agree to it. He stated that there would always be those individuals who would want to fight any decision, and that this couldn't be changed. Mr. DeIorio indicated that he agreed, stating that different retirement systems were very diverse, and employees would always compare what they had with what others were getting. He stated that the majority of the employees would understand what the Ad Hoc Committee was recommending, even though there would be others who would be convinced that there had to be something wrong. Mr. Frick stated that his only concern was with the future step up from 2.75% to 3.0%. He explained that he thought it would be better to start with 3.0% from FY96 on. Mr. Frick stated that breaking it into two steps wouldn't save that much money. Mr. DeIorio stated that it would be worth it just for the credibility factor. Mr. Doney explained that he was trying to look at it from the Town Council's point of view, since they had to be accountable to the taxpayers, and the Town Attorney was saying that the Town did not have to go back to 1990, but an adjustment was being made to 2.75%, which the committee agreed was a fair, one time only, retroactive adjustment. Mr. Doney stated that the Town Council then needs to be able to say to the taxpayer that the adjustment to 3% is a competitive average final compensation factor, and that it is important. He explained that this is an issue that is visited on an annual basis, and if the State of Florida Retirement System's contribution decreased, then the Town may have to consider lowering theirs as well, because they couldn't have a double standard. Mr. DeIorio indicated that he agreed. Mr. Doney stated that it would sound better from the Town Council's perspective regarding fiscal restraint if the 3.0% increase was reached in increments. Mr. Doney thought the committee could recommend going immediately to 3.0% if they did not go back to 1990 for the retroactive adjustment, which there really was no obligation to do. If the 3.0% was reached by starting with 2.75% and going up in increments, and addressed as a competitive issue, then the committee was giving something that counterbalanced the Council's statement to the public in their funding. Mr. DeIorio explained that he felt Mr. Doney could sell the 1.25% increase from 2.75% to 3.0%, as he felt he could approach individuals in his employee group. He stated that the extra step did not seem worth the time and the aggravation for the amount of money they were talking about. Mr. Frick asked if a straight comparison of the Town's Police and Fire retirement benefits to the State's public safety retirement benefits could be provided. Mr. Smith indicated that he could do this.

Mr. Crouse explained that the easiest sale would be going to 3.0% at the same time the State went to 3.0%, or going back a few years. He stated that he did not think going back would be popular with the Town Council, and whatever the committee decided to recommend, Mr. Frick and Mr. DeIorio still had to sell it to the employees. Mr. Crouse explained that he brought up 2.75% because that was half of the difference of 2.5% to 3.0%. He stated that the window of time was up to the committee to determine, but he was suggesting mid 1992. Mr. Doney stated that the expectations was that changes were being worked towards that would be implemented when the Council adopts the budget for FY96. Mr. DeIorio and Mr. Frick agreed. Mr. Doney stated that he wanted to reaffirm that what was being discussed was the funding requirement going back to 10/1/92 at 2.75%, and the 3.0% for 10/1/95. Mr. Smith replied yes. Mr. Doney asked what the dollars would be for this. Mr. Smith stated that it would be between 5.5% and 6.5% of payroll. Mr. Doney stated that the Council would want to know what the annual appropriations would be for this. Mr. Smith stated that the increase in the appropriation would be approximately $400,000 for the benefit change for going back to 1992 and going forward from 1995. Mrs. Kelly asked if this would increase all future years by at least that amount. Mr. Smith replied yes.

Mr. Smith then explained that the Department of Administration had a bill amending Chapter 112 which governs how contribution rates are calculated. He stated that one of the changes was to Subsection 5 of 112.64, which was highly desirable to the Town's viewpoint. He explained that right now the Town's contribution rate was artificially high because of that section, and if it was amended, it would no longer be artificially high and the Town would save that piece of the contributions. Mr. Frick asked if it was based on the fluctuations in payroll. Mr. Smith explained that the Town's payroll hadn't grown much in recent years, so in effect, the Town was being forced to put in extra money now rather than putting it in down the road. Mr. Smith stated that if this proposed change passed, then the Town wouldn't have to do that anymore. Mr. McCracken asked how much this amount would be. Mr. Smith replied that it was approximately 2.4% of payroll for police and 2.0% of payroll for fire, which was approximately $100,000. Mr. McCracken asked who would oppose this. Mr. Smith replied that the big danger was that other parts of the bill might be opposed.

Mr. Frick stated that regarding the accrual rate, what was being discussed was a benefit that costs $400,000 a year for every year from now on for the next 30 years, he would be able to sell this to the employees. Mr. Doney stated he felt the committee could come to an agreement regarding this. He indicated that first Mr. Smith would have to deal with the actuarial end of it and confirm the numbers that had been discussed.

Mr. Doney stated that he felt the committee had made progress, but he did not want anyone to feel that something had been overlooked. He stated that unfortunately, they would never be able to overcome the perception that had been created by the retirees who thought there was a giant windfall. Mr. Frick indicated that he had been trying to convince the Town's retirees that there was not a windfall, and he thought they were catching onto that. Mr. Crouse indicated that he believed that Mr. Frick's and Mr. DeIorio's attitude and belief that what they were doing was right was a large step towards that. He stated that Mr. Doney still had to go to the Town Council with a dollar figure to try and sell the committee's recommendation, and that he wanted everyone to understand that while he would go with every motivation of trying to get it approved, there was still the outside chance that it would not be approved. Mr. Doney reminded everyone that at this point in time, they did not even know who would be on the Council because of the upcoming election.

A short break was taken. Mr. Smith called the meeting to order.

Mr. Frick asked if the minimum benefits had to be established, or if the money could be put in to offset Town contributions as is currently done, and as is legal. He stated that later on there may be a comparison of benefits. Mr. DeIorio asked if the Ordinance could include mention of how the State monies would be used, and that the minimum benefit was not compared to General Employees. Mr. Frick stated that it could read that the money could offset the Town's contribution or be used as an extra benefit, but base benefit and extra benefit really couldn't be defined, but the employees could vote the money back to offset Town contributions as long as they felt they were getting an extra benefit, explaining that the extra benefit didn't have to be specified. Mr. Crouse, Mrs. Crozier, Mr. DeIorio and Mr. Smith indicated they agreed. Mr. McCracken stated that the Ordinance would then provide, in order to protect the Board of Trustees, any time there is a major benefit change, it should go back for another election. Mr. Doney asked how a major benefit change would be defined. Mr. Crouse suggested that it could be any change more than 1%. Mr. McCracken stated that another way to handle it might be to, since notwithstanding what the Ordinance says, the police or fire employees could go to the board and say they want another election, and the Statute would give them the right to do that, perhaps it might be clearer to specific that on written petitions of 25% of the existing employees in the police and/or fire department, an election will be called, in order to leave it to the employees to determine whether or not it was time to have an election. Mr. Doney stated that the offset of the contribution from the 175 and 185 monies, that should a vote be taken by the fire or police employees saying that the didn't want to do that anymore, then this whole issue would have to be discussed again. Mr. DeIorio stated that he wanted to be careful with the terminology of offsetting Town contributions, because that's how municipalities get into this problem in the first place, because they can't offset the contribution because it would normally have to be there.

Mr. Crouse stated that since this wasn't binding, perhaps the Ad Hoc Committee members should go ahead and recommend something on to the Retirement Board. Mr. Doney asked if Mr. Smith could write this up as a recommendation. Mr. Smith stated that he would do a first draft. Mr. Doney asked if there would be something to pass on to the board at the next meeting. Mr. DeIorio asked if there needed to be another Ad Hoc Committee meeting before the next Retirement Board Meeting. Mrs. Peters read the motion from the previous meeting's minutes: "The scope of the issues that would be reviewed by the Ad Hoc Committee, Mr. Smith sitting as Chair, would include the issues discussed this morning, including the definition of minimum benefits, and to get to that definition, Mr. Smith be authorized to do a cost study from September 30, 1988, which would review the Town's pension plan, identify on a year by year basis, what were the benefits that were received, and what were the Chapter 175 and 185 monies received, what were the pension provisions for police, fire-rescue, general employees, and lifeguards year by year, with the intent of coming to a reconciliation that the cost for providing these benefits and the funding for these benefits were equitable, and if there is any inequitability, that it be determined through their actuarial studies so the Ad Hoc Committee can make a recommendation to the Board." Mr. Frick stated that the committee had eliminated the year by year study because that was redundant, as long as they could justify why they modified their mission. Mrs. Crozier stated that the committee had justified that there was no liability. Mrs. Peters stated that one issue was the definition of minimum benefit. Mr. Smith stated that after consulting with legal counsel, the committee was being advised not to try and define that. Mr. McCracken agreed.

Mr. Doney reiterated that what the committee was discussing was 2.75% from 10/1/92 to present, and from 10/1/95 going to 3%. Mr. DeIorio asked if this would affect people who were in the system but were no longer in the system at this time. Mr. Crouse replied yes. Mr. Doney agreed. He stated that one motion that needed to be done was to take the letter from Mr. McCracken dated January 13, 1995, and acknowledge the receipt of it and discussion if it, and that it be offered to the Board, and that the recommendation be made to the Board to transmit it to the Town Council that it had been properly considered. Mr. DeIorio stated that Mr. McCracken was on record as to speaking to his letter. Mr. Doney stated that it should be part of the package Mr. Smith was preparing, so it would show how this recommendation was arrived at. He explained that it should serve as a point of reference. Mr. Crouse stated that this was not a binding agreement, but an agreement to move this issue on to the Retirement Board. He explained that he would like to suggest that when the Police and Fire vote, they have a sufficient number so that those from 1993 on who would have been included in that wouldn't have changed the vote. Mr. Frick and Mr. DeIorio indicated that that would not be a problem since there were only five or six of these individuals. Mr. Doney asked Mr. Smith how this vote should take place. Mr. Frick stated that this should be held off on until the issue has the approval of the Board.

Mr. Doney moved that the Ad Hoc Committee recommend to the Retirement Board that there be a vote of the Fire-Rescue Department and Police Department members of Chapter

175 and 185 that a vote be conducted subject to the approval of the particulars as identified by Mr. McCracken as legal advisor to the Board, and by Mr. Crouse as Personnel Director, so that an accurate vote is established, and this issue does not have to be addressed again. Mr. Frick seconded the motion. All voting aye, the motion carried.

There being no further business, the meeting was adjourned.

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