MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON OCTOBER 17, 2000

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting of October 17, 2000, was called to order at 10:00 a.m. in the Town Council Chambers by President Jack McDonald. On roll call the following elected officials were found to be present:

President Jack McDonald
President Pro-Tem Samuel McLendon
Councilman William Brooks
Councilman Norman Goldblum
Mayor Smith was absent from the meeting
Councilman Wyett was absent from the meeting

Also in attendance for all or a portion of the meeting were:

Acting Town Manager Thomas Bradford
Assistant Finance Director Cheryl Somers
Fire-Rescue Chief Vincent Elmore
Assistant Fire-Rescue Chief Kent Koelz
Human Resources Director William Crouse
Deputy Town Clerk Susan Eichhorn

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Eichhorn gave the invocation. President McDonald led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Councilman Brooks moved approval of the Agenda. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried 4/0, as Councilman Wyett was absent from the meeting.

IV. INTRACOASTAL HEALTH SYSTEMS ISSUE - REQUEST BY FLORIDIANS FOR HEALTH CARE FOR FUNDING AND OTHER ASSISTANCE

Dr. David Prensky addressed the Town Council, speaking as a representative of Floridians for Health Care, which was a local group that served as a citizens' watchdog group on health problems in the community. He noted that he had appeared at a listening session in the Town Council Chambers in May, representing the group, and speaking about what was being done in light of the shocking news regarding the situation of the two local hospitals that brought about the unexpected proposal to close one of them down. He had reminded all of a similar situation four years ago that had taken place in Boca Raton with the Boca Raton Community Hospital, which ultimately had been saved through the support of citizen groups and the Attorney General.

Dr. Prensky explained that petitions had been signed at the meeting in May, which he had forwarded to the Attorney General, requesting intervention to stop the process; the Attorney General had begun an investigation, which was ongoing. Dr. Prensky noted that an attorney had been found to represent the group, and a case involving the IRS had been filed in Federal Court, maintaining that the organization now in control of the situation at the two hospitals, Catholic Health East, was a very powerful, highly profitable $5.6 billion real estate empire, and therefore not entitled to the 501(c)(3) tax exempt status. Another case had been started on the legal principle of cy-pres, meaning that if a not-for profit organization merges with another not-for profit or a for profit hospital, that merger must be carefully scrutinized, because it must be determined that the original purposes for which those hospitals received their public funding and their private donations were being carried out after the merger. This case was based on a precedent case carried out in New Hampshire several years ago, when it was determined that two hospitals that had merged under situations quite similar to the case in question, could not possibly carry out their originally intended purposes, and the Attorney General of the State of New Hampshire nullified the merger. There were two other precedents, one in New York, and one in Connecticut.

Dr. Prensky pointed out that the first hearing regarding the Floridians for Health Care suit had been held approximately ten days ago in the State Circuit Court, and the defendants were capable of causing enormous delays; the defendants consisted of five corporations and over 60 individuals. He advised that the organization now needed help in the form of funds in order to continue the fight and achieve victory. He requested the sum of $50,000 from the Town of Palm Beach.

President Pro-Tem McLendon asked whether the County Commission through the Health Care District offices, made any response to the possibility of extending their facilities to include St. Mary's Hospital?

Mr. Joe Martin, Palm Beach County lifetime resident, responded that he understood that the Health Care District was not allowed by their charter to get into the business of running a hospital; there seemed to be a fear of getting involved as a government entity in the direct delivery of health care facilities – elected officials may fear that they would not have the power to solicit contributions to voluntary support the continuing effort of these medical facilities. In addition there was a fear among several elected officials that health care delivery service was a deep hole – that the taxpayers could never fill.

Councilman Brooks referred to the forthcoming Quantum Foundation analysis and Attorney General opinion, and suggested that it may be prudent to wait for the results.

Dr. Prensky replied that he did not think it could wait; there was so much deterioration going on in the hospitals that fast legal action was required.

Councilman McLendon asked if legal efforts were being handled on any sort of a contingency basis?

Mr. Morgan explained that the board of Floridians for Health Care had decided that the path that was being taken, a wholly contingency agreement with Elliott Shaw, needed to be reinforced; Elliott Shaw was a single lawyer law firm, and did not have the depth to dedicate his entire time to the issue, and for that reason a co-counsel would be sought, and the time and costs associated with the case would require fees up front. The proposed attorney was currently reviewing the necessary paperwork.

Councilman Brooks commented that oftentimes when corporations find themselves as defendants they will prolong legal proceedings, with the ultimate hope that the plaintiffs will run out of money and just disappear; he cautioned that these were things that should be kept in mind.

Mr. Morgan explained that the current administration was moving towards their ultimate plan of closing one of the facilities and doing something in the changing of the delivery network and structure of the facilities; each time an issue was brought forward publically, the management team came up with a public response that glossed over the issue – for instance, there was a retention problem keeping doctors and nurses at the facilities, who were leaving daily. He noted that he understood that management had an order not to change anything while they were under investigation by the Attorney General, and as soon as they were released from that order, the management consolidation and cutting of costs would be expedited at full speed.

Councilman Goldblum commented that he would like to see the Quantum report or the Attorney General report come out in order to see where things stood.

Dr. Prensky replied that important documents had still not been received by the Attorney General; it was his opinion that action could not be postponed.

President McDonald noted that the Town of Palm Beach had already paid for an injunction action (which was not filed because the hospital had made some changes), which was another alternative that could now be considered. In addition he noted that co-counsel still had not been retained, and moving forward may require a wait.

Dr. Prensky replied that the group had been meeting every day on the issue and would be meeting with co-counsel very shortly.

President McDonald explained that another Special Town Council meeting would be held near the end of the month, and the matter could be heard at that time as well.

Mr. Gil Messing, Town resident, commented that the community had given over $150 million over the last 12 years to support the hospitals, and the land for St. Mary's was donated by a family in Palm Beach; he suggested that the Town of Palm Beach should send a message that the community will not be pushed around. He explained that the Quantum report will not address the mismanagement; it would only quantify what services and facilities should be provided for the community.

Dr. Sanford Kuvin commented that he was a physician that had practiced in the Town for almost three decades, and knew both hospitals extraordinarily well; medical excellence had taken 50 years to develop in both hospitals, and now was being destroyed within a year or two – once it was dead it would remain dead. He urged that the Town Council rise above the politics of the situation and get into the realm of common sense and common reasoning – a public attempt could be made to save the hospitals by carrying out what Floridians For Health Care had requested. He emphasized that the community was headed toward a road of inferior medical care; if both hospitals did not survive, the area would become a third world area, and it would impact on the health of all. He urged that the Town of Palm Beach grant the funding

assistance in the amount of $50,000, as requested.

Former Mayor Yvelene deMarcellus Marix stated her utter and total support for the Floridians For Health Care group. She noted that she was an elected official for 18 years, and wanted to be sure that this meeting today had carried the proper notice to the public, so that any action taken today would not be used as an illegal action because of improper notice.

President McDonald clarified that the requirement for notice of pubic meetings was 12 hours.

Councilman Goldblum commented that the citizens of Palm Beach must be protected, and moved approval of the sum of $50,000 to the Floridians For Health Care to be used for legal needs.
The motion was seconded by President Pro-Tem McLendon.

Councilman Brooks commented that the money would be a drop in the bucket, and all should be aware of the fact that legal fees would be enormous as proceedings continued. He wished the group well in fund raising, but cautioned that everyone must be aware that legal fees would be enormous.

On roll call the motion carried 4/0, as Councilman Wyett was absent from the meeting.

President McDonald clarified that the funding would be issued form the General Fund Contingency.

Dr. Prensky thanked the Town Council on behalf of the Floridians for Health Care.

In response to President Pro-Tem McLendon concerning the status of the determination of class in the lawsuit, Dr. Prensky explained that Floridians for Health Care represented all citizens in the area serviced by the two hospitals, and it had been determined that was not really considered a class. He maintained that with the support of the Town Council, the position would be strengthened, and support from other groups could be requested, in order to get into a position of having standing.

Councilman Brooks suggested that the Floridians for Health Care group approach local cities, not necessarily for funding, but to gain status for a class action.

Mr. John Wymer, Jr., former CEO of Good Samaritan for 34 years, commented that many questionable mistakes had been made in the management of the hospitals; he stated that he believed that the Intracoastal System should be terminated and the hospitals should revert back to their individual status; with some tax support for St. Mary's Hospital, both of them could survive. He noted that without the gifts from Palm Beach residents Good Samaritan Hospital would never have reached its potential.

V. ANY OTHER MATTERS

Human Resources Director William Crouse addressed the Town Council, stating that the company doing the recruitment for the Town Manager position, DMG, was now reviewing 65 candidates to screen the number down to 15. They had requested a meeting with the Mayor and Town Council to review the top 15 candidates for consideration. Prior to the meeting the Mayor and Town Council would be supplied with information on each candidate; the goal would be for the Mayor and Town Council to determine approximately 7 candidates for interviewing purposes.

It was determined that the meeting to screen candidates would be held on October 31, 2000 at 11:00 a.m., with final interviews to be held in November 2000.

Councilman Brooks clarified that in-house staff members would receive an interview, regardless of whether or not they made the DMG list.

President McDonald indicated that staff members would also be considered on October 31, 2000.

VI. ADJOURNMENT

The meeting was adjourned at 11:25 a.m.

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Mary A. Pollitt, Town Clerk

SEAL OF THE TOWN OF PALM BEACH FLORIDA
INCORPORATED APRIL 17, 1911