**MINUTES FROM THE SPECIAL JOINT TOWN COUNCIL RETIREMENT BOARD MEETING HELD ON SEPTEMBER 29, 1999**

## I. CALL TO ORDER AND ROLL CALL

The joint Town Council Retirement Board meeting was called to order at 1:05 p.m. by Town Council President Lesly Smith. On roll call, the following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky; President Lesly Smith; President Pro-Tem Allen Wyett and Councilman Sam McLendon (both via telephone hookup); Councilman Jack McDonald; and Councilman Leslie Shaw. Retirement Board members present were: Chairman Robert Harvey; Vice Chairman James McC. Wearn; Mayor Paul Ilyinsky; Town Council President Lesly Smith; Town Manager Robert Doney; Trustees George Frick, John DeIorio, Charles Boggs, and Karen Lane. Others attending the meeting were: Attorney John Randolph; Attorney John McCracken; Fire-Rescue Chief Vincent Elmore; Police Chief Frank Croft; Assistant Police Chief Michael Reiter; Human Resources Director William Crouse; Human Resources Analyst Carla Kniepp; Finance Director Jane Skittone; Assistant Finance Director Cheryl Somers; and Town Clerk Mary Pollitt.

## II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. President Smith led the pledge of allegiance.

## III. APPROVAL OF AGENDA

Mr. McDonald made a motion to approve the agenda. The motion was seconded by Mr. Shaw and carried 3-0 as Councilmen McLendon and Wyett were not on the telephone hookup at this time.

## IV. JOINT PRESENTATION BY JOHN MCCRACKEN AND WILLIAM CROUSE REGARDING GENERAL AND LEGAL ISSUES CONCERNING HOUSE BILL 261, LEGISLATIVE CHANGES AFFECTING CHAPTERS 175 AND 185, FLORIDA STATUTES

President Smith announced Chairman Harvey would conduct the meeting first with everyone who wished to do so to speak for the record.

Councilman Shaw said he felt the record should stand for itself and thought that what had already been presented had due process, and he was in a position to move forward to affirm that this should be done.

Chairman Harvey said the purpose of the joint meeting was an attempt to bring together the information that the Retirement Board has pulled together to reach a decision that was necessitated by changes in the State law. Mr. Harvey said Attorney John McCracken would present the background on the issue and the various choices the Town has.

*The following is a verbatim transcript of Mr. McCracken's presentation.*

McCracken: Thank you, Mr. Harvey.

Mr. Crouse has some slides that will help follow along. The slides basically follow a handout which you have in your possession, or they are a handout that you have in your possession.

Smith: All right. Well let's find the handout before we start.

McCracken: The top says Chapters 175, 185.

Doney: From a procedural prospective, would it help if people could see if we put the lights down a little bit? See better.

McCracken: Good afternoon. Recognizing the comments that Mr. Shaw has made which are valid comments, I will try to move this along quite rapidly. Some of you may be more up to speed on these issues than others. But, as Mr. Harvey indicated, the pension board has been dealing with a change in the statutes which occurred this year, and the issues have gotten to a point where they require legislative decisions to be made by the Town Council, and that gives rise to this joint meeting so that the members of the Pension Board can be here to offer their comments and hopefully the Town Council can reach some resolution on these issues.

The Town of Palm Beach retirement system was established in 1947 and has been in effect continuously and I think I can say successfully since that time. Incorporated in to that plan are two State statutes–one is Chapter 175 of the Florida Statutes which relates to municipal firefighters pension trust funds and the other is Chapter 185 which relates to police officers pension trust funds. Basically, the statutes are alike. In their wording, a critical difference is that in Chapter 175 for the benefit of firefighters, the municipalities such as the Town of Palm Beach are allowed to assess a 1.85% tax on premiums which are paid on property insurance on property in Palm Beach.

Chapter 185 allows the Town to assess a .85% property tax on insurance premiums that are paid on casualty insurance that insures property in Palm Beach. So the critical first step is for the Town to adopt ordinances which it did long ago, and the ordinances assess those taxes. As a practical matter, once the taxes are assessed by the Town, the Department of Revenue implements the collection of the taxes. They collect the taxes directly from the insurance companies who do business with Town residents and Town businesses, and that revenue is then collected and eventually a portion of that revenue is transmitted back to the Town of Palm Beach for utilization in the pension plan. The monies are earmarked specifically for the benefit of firefighters in the one instance and police officers on the other.

During the last ten years, the amounts of those, what we call chapter monies, which have been realized by the Town of Palm Beach has varied. I have a schedule up on the board that shows what has happened in the last six years. You will notice that in the last six years there was very little change in the amount of money that was received by the Town. Although, in the past year, and when I say the past year, we received the checks for 1998 in June of 1999. So, your check is six months after the end of the calendar year. This past year, there was a fairly dramatic increase in the amount of money that was received by the Town. Don't know why, but it did, thankfully.

Now, during 1998 and then again in 1999, the Florida legislature worked on substantial amendments to Chapters 185 and 175. In 1999, House Bill 261 was passed by the legislature and eventually it was signed into law by Governor Bush and became Chapter 99.1 of the laws of Florida. Among the important issues that were presented by that statute are, and I would like to read actually from the introduction to the statute, because this is a critical issue in the statute which is that it is providing that monies must be placed in a police only or a firefighter only plan or a combined police and firefighter plan as opposed to placing monies in any type of plan that includes general employees.

In the Town of Palm Beach, we have one plan, one board, and the legislation contemplates those boards will split.

It is important to note that each of these boards will be a separate entity. It will have its own powers, responsibilities, be able to defend law suits and it includes all of the monies for the benefit of firefighters and policeman. Not just chapter monies, but all the monies that have been contributed over the years by the firefighters, by the policemen, and their pay withholding and by the Town will all be supervised by the new boards.

There was an exemption provided in the legislation. The exemption was available to plans which had "supplemental plans". We spent some time trying to determine whether, in fact, Palm Beach was an exempt plan because it had a supplemental plan. Arguments can be made that we have a supplemental plan. We invited the State to reconsider its position..when I say the State, I mean the Division of Retirement, and the Division of Retirement took a look at some action that had been taken by the Town Council and the Pension Board back in 1995 and opined that the action did not make our plan a supplemental plan so that we were not exempt. We have also been in touch with counsel in Tallahassee who has inquired into the legislative history. A reading of the legislative history makes it clear that the intention, although the statute is not particularly clear on this, that the intention of the scriveners of the statute, the legislative history of the testimony presented before the committees in Tallahassee was that the statute be drawn in a way that sixteen specific municipalities which do not include Palm Beach would receive this exemption. We reached the conclusion, although at first blush, the language of the statute makes it look as though the exemption is available, the exemption as a practical matter is not available. That could be contested, but it is our view that, when all is said and done, that we would not be able to sustain being an exempt plan.

Which means that we need to proceed to separate pension boards in my opinion. That raises a number of interesting questions. First, our current board has nine members. That board controls the pension funds of all employees. Under the new statute, there will be either two or three boards. That is a decision that is made by the police and fire officers after an election as to whether they will have a public safety board or separate boards so that the Town of Palm Beach, if we follow this course, will end up with three separate pension boards or two separate pension boards. In the first instance, it would be a general employee board, a police board, and a firefighters board. In the other instance, it would be a general employee board and a firefighter/police officer board.

Presently, the members of the board of trustees are the Mayor, the President of the Town Council, the Town Manager, two citizens of the Town who are appointed by the Town Council–they may not be officers or employees of the Town or beneficiaries of the retirement system–a firefighter who is elected by the firefighters, a police officer who is elected by the police officers and two members of the benefit group general, the general employees, or benefit group lifeguard which is a separate group under the pension plan which representatives are elected by them.

The new Public Safety Board of Trustees, by statute, will have two trustees who are elected by the firefighters and/or the police officers. The statute says and/or police officers because if there are two boards, there will be two firefighters on the firefighters board. If there is one board, there will be one firefighter and one police officer. So it is either one or two from the representative groups. There will be two trustees who are appointed by the Town Council and the statute specifies that they must be legal residents of the Town of Palm Beach. There will be a fifth trustee who is appointed by the other four trustees. The statute gives no qualifications for that trustee so that trustee may presumably be an employee or a member of the Town staff, or it may be a firefighter or it may be perhaps a lawyer. In light of this examination, the pension board was quite concerned that obviously there are going to be extra expenses that are going to be incurred by splitting the existing pension board from one board into three boards.

Mr. Crouse contacted the various providers of services to the pension board and obtained some estimates as to get an idea what additional costs to the Town will be by dividing. The first is the plan monitor. The plan monitor is presently Callan & Company. Callan & Company uses a flat fee basis a payment per plan, so you can see their prices will go up depending on the number of plans we have. The custody services are handled by First Union. First Union has come back with estimates of what the costs would be. The reason the costs go up are because presumably the funds are going to be split up. There will be more accounts for them to watch, etc. This is a quote from First Union.

The actuary has indicated similarly to Callan that they have a flat fee per plan, so their expenses go up depending upon the number of boards which we have. Legal services is merely an estimate that Mr. Crouse has indicated. Each board will have the ability to hire their own lawyers, their own actuaries, so prices may differ depending upon who is retained and how much work, obviously, the people who are retained are given to produce.

With reference to plan administration, presently the plan is being administered by the Personnel Department through Mr. Crouse. He has determined that through out sourcing, administration can be provided for the other boards on a per head basis–per member basis so that there would be an $11,000 charge for the administrative costs on all the firefighters and all the police officers. Whether there are two or three boards does not make any difference, and that would be perhaps not additional to the costs we have now because that cost is really being borne by the Personnel Department.

The hardest issue to analyze is money management, and to do that, Mr. Crouse has obtained the Callan & Associates investment management fee survey which is a survey done by our plan monitor to determine what plans actually pay for management services. This is not necessarily what the published fee schedules are. They found that with reference to large cap management which is more typically what plans like this are involved in, and fixed income management, the fees differ greatly, but essentially the savings come as the fund gets larger. The more money you give to an individual manager, the more he cuts his fee and therefore it is fair to conclude that where as now, we pay about $340,000 in management fees to money managers that it will be more than that when there are two or three boards. How much more is very difficult to determine. Using the Callan schedule, Mr. Crouse, together with the Callan people, have determined that if money managers follow the schedules, it will be about $525,000 instead of $340,000 if there are two boards, $530,000 if there are three boards. The reason it doesn't go up very much whether there are two or three boards, again, is because you get the discounts on the large funds, and there won't be large funds in these accounts to get the discounts. Therefore, it has been concluded that we are probably spending about $425,000 currently. If there are two boards, the cost will range somewhere between $500,000 to $685,000. If there are three boards, somewhere between $560,000 and $750,000.

Now, this information is basically presented to explain to the Town Council the additional costs that are going to be recognized by the Town by following the statute and staying involved in the program. There is an alternative. In my view, there is no alternative to proceeding with the separate boards. And by that, I say that if we stay in the program. By that, I mean if the police officers and the firefighters, they can't get together and say, "Hey, we want a vote to keep it the way it is now." That is not allowed under the statute. There has to be at least one other board, and it is up to them whether it is one other or two others. In other words, the statute makes it clear that even if the police officers and the firefighters were to so vote, they can't vote to stay together with the general employees. They have to separate.

There are other costs which will be recognized because of amendments to the statute. The first is in reference to minimum benefits. The statute requires not only that boards need separate, but that all participants in the plan, and when I say participants, I mean anyone who assesses the tax and takes the money from the state. If you assess the tax, you take the money from the state, you must comply with these provisions, including the provisions for minimum benefits. The one that might be most costly to the Town of Palm Beach is with reference to the definition of compensation. If a compensation, under the Department of Revenue rulings, is ruled to be all cash remuneration, which is contemplated, then the pensions would be based upon not only the amounts that we are presently basing pensions upon but all accumulated sick and vacation pay and overtime pay. That could add substantially to pension costs for the Town.

Presently, the extra benefits that are provided to the firefighters and police officers are being paid 27% by state money for the firefighters and 42% of state money by the police officers. The legislation specifically provides that the Town does not need to provide any further benefits until the minimum benefits, as provided in the statute, are paid for by increases in state money. Let me skip ahead here and show you what that means.

The statute uses a base year, and in the base of 1997, the Town received $367,000. In 1998, it received $403,000. That is the major increase that I was speaking about earlier. That was the first big increase we have had in ten years. So the difference is $36,000. Under the statutory scheme, that $36,000 is available now to purchase extra benefits if the minimum benefits have been met. In the future, if this chapter money goes up, the extra money that comes in is going to be available for that purpose once the minimum benefits of the statute are met, and they will be met fairly promptly if the definition of compensation is not changed. The extra money that comes in will be utilized for additional benefits for the firefighters and the police officers.

I want to go back to the elimination of Workers Comp offsets–The statute eliminates the offset to pensions from Workers Comp benefits which presently is in our plan. In other words, if someone is receiving a Workers Comp benefit, the amount of Workers Comp benefit he or she receives is set off against any pension entitlement. That set off is eliminated under the new statute. That's going to involve additional costs. It is anticipated that as the Department of Revenue moves along on this, they are going to be amending regulations to further liberalize these statutes.

Leaves a number of issues for determination for the Town. The first is the issue as to whether the Town desires to continue to participate in Chapter 175 and 185. That is whether the Town intends to continue to levy tax on premiums paid by Town residents and businesses for the benefit of Chapters 175 and 185 and that issue was considered by the Pension Board. The Pension Board felt that it was not its jurisdiction to consider that legislative issue which is an issue for the Town Council. If the Town Council were to choose to stop participating, Sections 114, 151, and 152 of the Town Code would have to be repealed.

The next issue to be considered is the elections for the separate boards. In your packet there is a sample ballot which is proposed for the Personnel Director as plan administrator to send out to the police officers and firefighters so that they may vote to consider whether they want to have a police board and a separate fire board or whether it's their choice to have a firefighter/police board. Again, they cannot vote to stay with the general board.

Next, the Town Council needs to consider how the general board will be made up, once the two new boards are composed. The two new boards will each have five members. The existing board has nine members which presently include a firefighter and a police officer who presumably would move to other boards. Should the present board be reduced to seven or should it be reduced back to five as are the other boards? That's a consideration for the Town Council.

There are other issues which eventually the Town Council will need to wrestle with. Presently, the plan is administered by the Personnel Department. Is it desired that the Personnel Department continue to administer all three plans? Or, as Mr. Crouse suggested in his pass outs, should there be some out-sourcing with reference to the Police Board and the Fire Board? Should there be uniform investment policy for these boards? As indicated earlier, each board has the ability to function independently, and an issue comes as to whether asset allocation should be Town policies applicable to all boards or whether each board should be left to determine its own asset allocation and investment policy, and for that matter, selection of money managers.

Budgeting procedure will have to be determined by the Town to be certain that the boards are treated equitably as far as their budgeting is concerned and how those budgets will be created for each of the three boards. There may be other ordinance provisions that we will be need to amend in the coming months in light of these changes.

In your packet there is a proposed resolution for the Town Council to adopt should the Town Council agree that it should continue to participate in the program which resolution authorizes the plan administrator, Mr. Crouse, to distribute the ballot that is also included in the package. That ballot, to be delivered to firefighters and police officers so they may elect what they want to do.

I would be happy to take any questions that you have or sit down and come back when you need me.

Mrs. Smith: Go ahead, Mr. Harvey.

Mr. Harvey: Mr. McCracken, that was a good thorough review. I think a lot of this information we have been pulling out over these past board meetings, but there did seem to be a couple of major, I would say, new items here.

In terms of the 175 and 185 monies, I had never been aware that–we knew it came from the state–but in reality it is just a tax here on the citizens of Palm Beach. Is that not correct? And that the money gets sent to Tallahassee and comes back. Does 100% come back or do they tax a certain amount and leave some up there and only a portion comes back?

McCracken: I don't know how much comes back. I have been....

Mr. Doney: The answer is "no".

McCracken: I know the answer is "no", but...

Mrs. Smith: Mr. McCracken, why don't you come back and sit at the table?

McCracken: Yes.

Mrs. Smith: Mr. Crouse, please. Thank you.

Mr. Crouse: You say no. All the money doesn't come back.

Mr. Doney: It does not, based upon past inquiry to the Department of Revenue.

Mr. Crouse: So in reality, now this doesn't show up on the millage rates. This is kind of a separate hidden, basically, tax, but essentially the Town's citizens are paying for it one way or another.

Mr. Doney: It's by participating in 175 and 185, and by the enabling legislation that Mr. McCracken spoke to earlier. It does allow for the participation of the Town in the overall programs. But I think similar to–as an analogy–the state sales tax program? The state sales tax program, even though there is a 6% state sales tax, the money doesn't go back to the point of origination of the sales tax money. It is equalized by the state over the sixty-seven counties and three hundred plus municipalities. So that is an equalizing formula.

Mr. Harvey: I would certainly like to know what percent comes back to the Town.

Board member: Mr. Harvey, I just want to clarify something as far as what the statute says. If you look on page 2 of the handouts, it clearly states, Chapter 175, "It may assess and impose on every insurance company in the business of property insurance an excise tax of 1.85% of the gross amount of premiums from policy holders." Indirectly, that is a tax upon the citizens as far as the insurance premium they pay, but as a tax on the insurance companies–on the premiums that they collect. It is not directly on the citizens. I don't believe there would be an adjustment that the citizen pays in their insurance premium due to tax. This is from the premium that the insurance company dictates. The tax is then placed on the insurance premiums that are collected. It is 1.85% of it.

Mr. Harvey: I would also like to know–we don't know what percent comes back to us.

Board member: If I pay State Farm "X" amount of dollars for my insurance, I'm not paying the State of Florida 1.85% of the state funds as a taxpayer.

Mr. Harvey: Well, but I mean who pays State Farm? You know. The person who is insuring their property.

Mr. Doney: It's like non-elective surgery.

Mr. Harvey: Yes, but who pays State Farm? If you trace it back, the bill is higher by 1.85% more and my guess is that it goes to Tallahassee. They take out a certain percent, and they ship back a percentage on this.

Board member: I wanted to make sure it was clear that it was not a tax directly on the taxpayer but maybe an indirect tax that they pay through their premium.

Mr. Harvey: All right. I would just take it a step further. Somebody in this Town pays the insurance companies who in turn–they are the conduit. They are the collecting agent.

Mr. Shaw: I want to make it clear that this is something we have been doing for many years. This is not something that is going to change. We have been a part of this program, and when it was enacted back in 1982, that's when this started. So, it's not something that is new. You have been doing this for the last seventeen years, and the issue is if we don't do it – if for some reason we were to opt out of the program, all that would happen is the tax that was being charged for seventeen years wouldn't be charged and those dollars would then not be going into the pension fund. So really, it is not material to my way of thinking to what we are discussing today.

Mrs. Smith: All right. But let's get back on track. We're asking questions of Mr. McCracken and questions for Mr. Crouse from the Board and from the Council. Then we'll move in to public comment but let's keep it to questions, not policy statements.

Mr. Shaw: Just for clarification, the contribution by the Town of Palm Beach which comes from a combination of ad valorem fees from our tax base, goes into the retirement fund in what manner? How does it get into the retirement fund? Is it a per person ratio?

Mr. Crouse: The funds that are put into the retirement are set by the actuary each and every year, and it is not based on a per person. It's based on funding requirements set up by the actuary and the State of Florida.

Mr. Shaw: And the expenses that are incurred by the various boards are paid out of the ad valorem tax or out of the balance of the retirement fund?

Mr. Crouse: Balances of the retirement fund.

Mr. Shaw: Thank you.

Mrs. Smith: Mr. McDonald, any questions?

Mr. McD: None.

Mrs. Smith: All right. Mr. Mayor?

Mayor: No.

Mrs. Smith: Mr. Wearn?

Mr. Wearn: I wonder if we may have Mr. Harvey pursue the questions that he was pursuing in getting an answer.

Mrs. Smith: All right. Go ahead, Mr. Harvey, I thought you were done. Sorry.

Mr. Harvey: Well, I think the only relevance is–we have two choices it seems to come down to is whether we take the money or don't take the money. If we take the money, we're dictated by law to separate the boards. If we separate the boards, we've outlined here, in a more specific manner, the various costs of doing that. We can minimize the costs, but there are both costs and monetary time and efficiency times in terms of this Town in running three boards versus running one board. So, I go back to the issue of do we take the money or don't we take the money? If we didn't take the money, that doesn't mean we don't compensate people for it, in another way, but if the citizens are being taxed through their insurance companies for it, shift the tax. We're not getting 100% of the funds back from the State as it is, and run the retirement boards in a more efficient manner and avoid these additional costs. That's my train of thought–going back to the issue of: Is it worth getting these funds vis a vis the cost of running three boards and the fact that the citizens are getting taxed and we're not getting 100% of our money back as it is. We don't know, I don't think, what percent it is.

Board member: Right now, the insurance companies are paying this excise tax. To assume they will reduce their rates to the residents if we drop this tax as a Town, I doubt that is a reality. The residents will continue to pay their excise tax through their insurance premiums, because their insurance rates will not go down. As a result, they would then have to pick up the $400,000 that we get through ad valorem taxes. So, in fact, they would actually be paying it twice. Because the odds of the insurance company saying, "Here is 1.5% back" is probably not great.

Mr. Harvey: Well, you say they won't. You say the odds. There is a probability. We don't know where it is, and taking a step back, saying the insurance companies are paying this, you know, who pays the insurance companies? There is a source for the money. Jim?

Mr. Wearn: We have a Town of Palm Beach Code which has Sections 114-151 and 114-152, each of which separately assess a tax. That means the Town of Palm Beach is assessing a tax. Do we have any accounting or knowledge or information on the amount that is being assessed under the Town of Palm Beach Code?

Mr. McC: I do not. Perhaps the controller does.

Mrs. Smith: All right. Well, let's not make it a guessing game. Who would know?

Mr. Doney: I can't tell absolutely, but my past knowledge when this issue came up in 1995 when we investigated this matter, the State Division of Retirement–when this money is through the Chapters 175 and 185 Florida Statutes–when the money is collected through the enabling legislation, it goes in to the Division of Retirement and then, somehow through their internal formulas, then distributed back to each participating entity. But, it is not quantified.

Mr. Wearn: I appreciate your comments, but is "What if this were repealed, what would be the net effect in dollars?" Which conversely is the question "What dollars are being taxed directly by the Town of Palm Beach Code?"

Mr. Doney: I believe, based on the formula as we know it, and what Mr. McCracken and Mr. Crouse presented earlier that we would lose that equivalent amount of dollars, not coming back to the Town of Palm Beach to allow us to participate in those programs and have our Town retirement program funded.

Mr. Wearn: That's telling us what the benefit of having the tax is, but I am trying to determine what is the tax.

Mrs. Smith: How much money.

Mr. McC. In other words, Mr. Doney, he is wondering how much it would hurt the State if we repealed our tax. Would they lose $800,000 of money they are presently getting? That's the question, and I do not know the answer to that.

Mr. Doney: I don't know the answer either.

Mrs. Smith: Who would know?

Mr. McC: If your office, downstairs, doesn't know, I would think someone in the Department of Revenue must know that.

Mrs. Smith: Would the Finance Department know? Mrs. Skittone, please.

Mrs. Skittone: The only information we have is the money we actually receive from the State which was on the spread sheet Mr. Crouse presented.

Mrs. Smith: So, you don't actually know whether the $387,000 you receive is the full amount or a partial amount?

Mrs. Skittone: No.

Mr. Wearn: Can we find out even making an effort to do so during the course of this meeting?

Mr. McC: I would be happy to go try to make a phone call to the State Department of Revenue and see if they can tell us.

Mrs. Smith: Perhaps Mrs. Skittone could do that while we are in the course of the meeting. Mrs. Skittone, will you do that now please?

Board member: Council President? I have a question as to what is the relevance of that figure? I am confused.

Mrs. Smith: I don't know. He is just asking for the answer. You would have to ask (Mr. Wearn).

Mr. Harvey: Well, I'll give you the relevance. What if we are sending a million dollars to Tallahassee and they are sending back $400,000. For the Town residents here, we could shift the tax over somewhere else, avoid sending a million dollars to Tallahassee for them to support their employees up in Tallahassee. It is not inconceivable that we could get lower insurance rates. I don't dismiss that out of hand. Insurance rates are based on various locations and various factors whether you are in a hurricane sector and so on and so on. So, I am looking at it from the Town's standpoint. We could opt out and save sending a whole bunch of money to Tallahassee which they take their part out, redirect it here, figure out – the Town has a budget meeting here. They assess millage on employees– (inaudible) cover the same amount, save the lost money going to Tallahassee and save the cost of setting up all of these different three boards.

Board member: Does it not state though in the statute that the money is taken from A to B and it's turned back to the retirement system. That is, I believe, what the statute says. This is 1.85% or .85% depending upon which statute is on the gross premiums. It is provided for the municipality to use to supplement extra benefits. So, my interpretation of that is it's from A to B period.

Mr. Harvey: It's 100%. Yeah, well we're trying to find that out. But even without that, the question becomes – we're still looking at increased costs perhaps substantial, but costs that equal the amount of this benefit, potentially.

Board member: Potential, estimated cost, right.

Mrs. Smith: Want to go ahead, Mr. Harvey?

Mr. Harvey: No. I've finished that line until we find out how much goes up and how much comes back.

Mr. Shaw: The cost differential between the single board and take a position of just two boards–how do you feel that that dollar wise affects the Town's millage? Is that something that is coming back in whole to the Town or is it something that is being absorbed into the retirement system, and may not, as you said, if the money is going out, is a 100% coming back? Well, if the money being spent in the Retirement Board is a 100% of that cost coming into the ad valorem or is some of it being absorbed in the retirement system?

Mr. Harvey: Well, I think that eventually, sooner or later, if there is a short fall, based upon performance, the Town makes up the difference.

Mr. Shaw: To 100%? I mean do you feel, if there is a $200,000 expense differential, that, on an annualized basis, 5 years, that's a million dollars. Do you feel that million dollars would actually come out of the ad valorem based over five years to the taxpayers or possibly 75%–50%, again, I'm not trying to pin you down, but..

Mr. Harvey: Well, incrementally, it's $9.00 more than it would be otherwise, so it has to come from somewhere.

Mr. Shaw: Well, if there is a difference, in my thinking, as to whether it is coming out of the retirement board and then back into the ad valorem or if the tax is staying–excuse me–if the fee is staying within the retirement system, then it is actually the members who are bearing the cost versus one of the funding sources because the members are funding sources. One of the funding sources which is the taxpayer which is making a contribution, and what percentage is coming out of their ad valorem tax? Because, obviously, what you are looking at is from this side of the table we are looking to create a system that is best suited for both the taxpayer and the employees. From the retirement board's position, my estimation, they are looking at producing the best product that makes the retirement system work. I don't want to short change the system because the people who are benefitting by it want something, and the people who are making –who are the taxpayers– are making an incremental contribution and not the whole thing. I need to know when I am making a decision, who am I voting for?

Mr. Harvey: I don't think you can allocate a dollar of expense from the employee versus the Town dollar. When the Town pays money into it, you can't say where that dollar goes. It goes to support the whole retirement process. Charlie?

Charlie Boggs: Mr. Harvey, the employees' contributions are fixed. So if there is any change in the funding requirement, the Town makes up any shortfall or where they benefit from a surplus. The employees' portion is fixed, though.

Mr. Harvey: So there's your answer. So it would come 100% from the Town.

Board Member: The fund is now 108% funded. Once we eclipsed 100%, the Town, as a percentage of salary, slowly gets to reduce what they put in. Over the past twenty years, the fund continues to grow, incrementally, 3 - 4% per year, on or off. Three years ago, when we eclipsed 100% funding, the Town began to reduce what they put in. Based on the diversification of the money, I don't anticipate anything going down. I don't think anyone here anticipates that. Could it happen? Absolutely. There could be a problem down the road. It could happen. However, because the percentage of funding continues to increase, the Town can continue to reduce the dollar and percentage they put in, and in effect the $200,000 we may be talking about can easily be absorbed by a $135,000,000 fund.

Mr. Harvey: Well, it goes right to your point though. If the Town could reduce the costs, the costs stay the same, they'll be able to reduce it that much more. We can't allocate dollars from one thing to another thing. If they spend $200,000 a year less, they would be able to reduce the amount of contributions even greater. Would they not? By $200,000.

Board Member: I'm not a budget person. But if it's 108% funded this year, you have to plan on it being 108% funded next year. If it's 110% funded next year, in fact, the Town did just earn 2% of funding and will get a little money back. Will they get a little less money back? Maybe. But the fact is they have allocated their money. Every time we grow, they get a little money back. I don't think $200,000 is about–.15% of this entire fund. It is a very small amount in the fund. I think we have to keep that in perspective.

Mrs. Smith: Mr. Wearn? Any other questions?

Mr. Wearn: No other questions on the presentation.

Mrs. Smith: Mr. Doney, any questions on the presentation?

Mr. Doney: I had several questions and I think—

Mrs. Smith: Well, let's try and stick to the presentation.

Mr. Doney: Yes. But I think without trying to over simplify what the Town Council has to wrestle with today and discuss and what the Retirement Board has to discuss–and we have gone through this in great detail with the Retirement Board with George, representing the police officers, and John, representing the fire-rescue employees. We know that's it's not a pure dollar and cents quantification that is involved here. We also have employee relations, and I, as Town Manager, as being one of the nine–an ex officio member of the Retirement Board, I would be remiss in not speaking up and saying that we need to look at that issue and also try to quantify to everyone's hopeful satisfaction as to the dollars and cents and impact to the Town taxpayer. I understand that as Town Manager. When we have a budget hearing tonight at 5:01 we know that we, through the Town Council, are appropriating so many dollars that are going into funding the retirement system at the recommended level by the actuary. One thing, I think George and John would agree, you have to realize that we have investment managers, and we do have a well funded plan and well operated plan and have enjoyed very good interest earnings and money to help the plan be very solvent beyond 108% as far as the unfunded accrued liabilities. It is very important that we keep all of that in mind, but also we keep the employee relations issues in mind.

I think it would be helpful if the Retirement Board and the Mayor and Town Council –if they fully understand that what we are trying to do is not anything punitive toward any employees, but we are trying to balance what is the best dollar impact us to the Town of Palm Beach, because we're going to continue to try from a management perspective to attract and retrain quality employees, and that is what our goal is–to attract and retrain quality employees–the Mayor and Town Council have long annunciated. What we want to do now is try to sort out –we have multiple attorneys, we have Mr. McCracken and Mr. Randolph and we have other attorneys who have spoken to this issue. What we are trying to do is to see what is the full impact to the Town of Palm Beach, but I don't think we can over simplify the issue that we are going to have to have the Town Council act upon today. I think that both George and John, if we go to two boards, there are unanswered questions that have to be worked through in order to make an intelligent and a very best interest to the Town decisions. I know that is not a question for John, but as Town Manager, I 've talked to George and I've talked to John and I've talked to Bill Crouse and I've talked to other people. We are trying to balance all of these competing needs to try to give us what is a well balanced, not only a well balanced–well, I would say, a well balanced benefit program for our retirement, but still it's not intended ever to be a windfall for the police officers or the fire fighters or the general employees, but we're trying to provide a very competitive retirement program to allow us to attract and retain the quality of employees that, I think, the Mayor and Town Council want. We're trying to do that the best we can.

I think the difficulty that we're wrestling with, Mrs. Smith, is that people want quick immediate answers to things that, I don't think, may ever be answered, because of legislation...

Mrs. Smith: Time out. Time out, Mr. Doney.

Mr. Doney: Ten four.

Mrs. Smith: I realize that having heard a lot of these discussions going on in the past several weeks, that many people sitting out in the audience today feel that the Town Council has not acted swiftly enough on this matter. I believe that it was only six months ago that it was approved, approximately six months ago, by the Governor. It came to the Retirement Board for the first time for discussion the end of June–I think it was the June 24th meeting–at which time a special Retirement Board meeting was called for the 29th of July that I was not at. It was on the agenda for the Town Council meeting in August. I think you all know that the Town Council operates, sometimes unfortunately, under the Sunshine Law. Except for the August meeting, where the Council moved ahead right away and said "Let's set a special meeting with the Retirement Board" That was the only discussion or exposure that the Council, as a body, had to this. I feel that we really are moving ahead with it. The Council is definitely going to take action on this today. That's the reason we're here. We're here for all of you to have your input if there is something more you have to add. It is an educational process. We want to see where the money is involved. I am chairman of the Finance & Tax Committee. I'm known as the fiscal conservative–cheap is another word. John and George will tell you that I keep saying, "We can't speculate with other people's money." I believe that. I will always believe that, and I think that we are going to do the best for our employees. We always have and, as an elected official, I have the right to represent the residents and the employees because, after all, we are all on one team. So that is what we are going to do today, and if there are more questions for Mr. McCracken from the other members of the Board, from members of the Council–let's hear them. Otherwise, we'll move ahead with the public comment and come back to the Board.

John? George? Do you have anything else?

Mr. DeIorio: I was going to ask you–if you are looking for action from the Board yet, or are we going to have public comment first?

Mrs. Smith: Well, I think we have to do public comment. But are there other questions from the Board for Mr. McCracken or Mr. Crouse? All right. Then we will do public comment.

Mr. Frick: I did have a presentation. However, in light of Mr. McCracken's presentation as well as the statements by yourself and Mr. Shaw, I don't feel that it is necessary. I would like to thank the Council for having this joint meeting and for the continued support of the Police Department throughout this long process, and hopefully we can finish it up.

Mrs. Smith: We will finish it up. That's a given.

Mr. Shaw: Mrs. Smith? In anticipation of the public coming forward and voicing their opinions as to how they feel this should go, I would like to just sort of circumvent that–not cut it off, but hold for a second, and say that I would like to move that Resolution 39-99 be approved by this Council and opened to discussion, if needed.

Mrs. Smith: Is there a second?

Mr. McDonald: Second.

Mrs. Smith: Thank you. We'll leave that on the table while we do public comment.

Mr. Shaw: I's ask you to read it, and if need be, if there is a question, then we can explain it.

Mr. Randolph: So everyone present understands what the resolution is that has been moved, may I read it?

Mrs. Smith: Yes, Mr. Randolph, please.

Mr. Randolph: It's a resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, authorizing the plan administrator of the Town of Palm Beach Retirement System to conduct elections pursuant to the requirements of Chapter 99-1, Laws of Florida, and report the results of same to the Board of Trustees of the Town of Palm Beach retirement plan and the Town Attorney for the preparation of amendments to the Town Code as required by law.

Basically, it has two sections. The first says the Plan Administrator of the Town of Palm Beach Retirement System is hereby authorized to conduct the elections applicable to Palm Beach as required by Chapter 99-1, Laws of Florida. Section two: the plan administrator is hereby directed to report results of the required elections to the Board of Trustees of the Town of Palm Beach Retirement Plan and the Town Attorney for the preparation of amendments to the Town Code as required by Chapter 99-1, Laws of Florida.

Mrs. Smith: Everyone has seen that?

Mr. Wearn: Madame President?

Mrs. Smith: Mr. Wearn.

Mr. Wearn: Question of order. We approved a agenda which provides for discussion and comments. I don't see any action on the agenda at this stage–much less later.

Mrs. Smith: I know we approved an agenda, but I cannot cut off a member of the Town Council when they move a resolution, and it has been seconded. So, we are going to continue with the agenda. We are still open to public comment, and I am not calling the question until after public comment. Are there any members of the public who would like to speak at this time?

Mayor: Was there a second to that motion?

Mrs. Smith: Yes, he did get a second. No one? How nice. It's great.

Mr. DeIorio: I think that just from the shear numbers that are here, you can see the importance of the issue at hand.

Mrs. Smith: Oh, I know. We all realize the importance, and I am not demeaning the fact that no one is speaking, but usually at the Council meetings, people jump up to speak at a drop of a hat on really nothing. So, it is very, very nice that–I take it as a vote of confidence that you all are nodding and saying "fine" then and not speaking, and I thank you.

We are back on discussion with the Board and the Council.

Mr. Harvey: Okay. Let's just open up just do one last round of the Board Members to make any comments they want. Why don't we start at this end. Charlie?

Mr. Boggs: I have been the general employees' rep for almost three years now. We've piggy backed on some public safety issues that have benefitted the general employees. Hopefully, if the boards do split, we will still be able to do some of this. It's just a little concern of mine that it may not happen that way, and we have benefitted from having a combined board. I hope that our benefits will continue to improve along with the public safety guys.

Mrs. Smith: Mr. Harvey, can we ask as questions come along–if there were to be two separate boards–the Retirement Board as we are sitting here today, would be reduced by whatever number the Town Council determines whether they leave it at seven. Would not be sunshined with the other retirement public safety board if the Police and Fire elected to go together, so there would be no reason why you could not have an exchange of ideas and in concert, work together on the benefit packages for all of the employees. Is that true? Who can answer my question? Mr. McCracken?

Mr. McC: Yes, I believe that is true.

Mrs. Smith: When we are talking about the cost of the boards and the money managers are assessing their fees on the size of the investments and what they are doing, so if the money is taken out of the one large fund and the general fund or whatever we are going to call it is reduced by the amount of money that goes to the Public Safety Board. Would not the fees for the money managers go down?

Of course they would. So, I mean, they would go down. If they are not being paid the fees on $120 million, if they are being paid the fees on $80 million, the fees that the money managers are making would be reduced, so, in effect, some of the costs would go down.

Mr. Harvey: But you would have to multiply that by more money managers.

Mrs. Smith: I understand that, but one board fee would go down. I mean I'm trying to look at the overall picture. I know the costs are going up, but I think we have to look at how the Council is going to determine, whether or not, there should be the same money managers for the two boards or should the boards have autonomy? These are things that the Council, I believe, would like to know, and how the various members feel about it before they make the decision eventually and how the boards will be made up.

Mayor: Is there a history to this in other towns?

Mrs. Smith: I don't know. Who does that?

Mr. Boggs: I was under the impression from the last meeting that we wouldn't be splitting the monies up into different fund managers–that they were going to stay the same because you got the economy of scale. We've got $130 million retirement fund and we pay a certain amount of the first $15 million, then a lower amount of the next $15 million, then a lower amount.....

Mrs. Smith: I understand that, Charlie, but the Council is going to decide what the policy will be if there are separate boards. Is that not correct?

(Reply) Yes.

Mrs. Smith: It's not going to be the Pension Board who decides what is going to be the policy for the other Pension Board. So I would like to hear what everybody thinks.

Mr. Harvey: Well, I guess one question that comes up: Are you setting up independent boards? If you have multiple boards, are you going to vest them with any power, and if you are, you are essentially vesting them with the power to make those decisions. Isn't that the purpose of having separate boards?

Mrs. Smith: I don't know.

Mr. DeIorio: I believe the boards would operate as the board presently does, but no action can be taken without Town Council approval, regardless, so the board will still operate independently as the one board does now. The Town Council will have the final say in any appropriations or funding.

Mr. Harvey: In the past, the Retirement Board made the decision in who to hire. The Town, I don't believe, entered into an approval process on that. You're going to have to decide where the decision making capability exists. The purpose of setting up multiple boards is to provide -to empower them with multiple capabilities. Otherwise, all this work essentially will come back to the Town Council, and the one benefit of having the board was that this board did a lot of the leg work in preparation and running these decisions without having to run to the Town on every decision. If you end up – if the Town is going to usurp these decisions, then you're going to end up making all of them, and spending more time in your meetings.

Mrs. Smith: I don't think the Town is usurping them, but I would like the board to give some direction to the Council on how they feel. It should be handled ...

Mr. DeIorio: I believe Mr. McCracken in his presentation hit on that. Did you not state what the new legislation says as far as the boards being separated and who has the decision making authority?

Mr. McCracken: I believe that the legislation contemplates that each of these new boards would be a free standing, independent board just as the existing pension board is. I don't think that necessarily means that the Town Council can't adopt certain parameters for all of its boards, that are applicable to all boards, but if the Town Council doesn't, then each board will have the freedom to set its own asset allocation, hire its own money managers, etc.

Mr. Harvey: As a practical matter, if you did it that way, how would you get the various boards to agree on a manager? You would have to have...how would you then suddenly come to a determination, on say, an investment manager?

Mr. McCracken: I think that would be very difficult unless they had joint meetings like this or unless they were required to do that by the ordinance. As a practical matter I don't think it could be done unless the ordinance required it. And you have to back up and realize that the trustees of the three different boards are all fiduciaries. Their responsibility is much more than a particular employee group or whatever. They have liability and they need to exercise their decision making with that in mind.

Mr.DeIorio: I think the question maybe you are looking for is, at this point in time, I can tell you from my discussions with the police officers and some extent the fire fighters, that we anticipate having only two boards– a general board, and a police/fire combined public safety board. I think that was part of what you were asking.

The next statement is that at this time, this board has spent a lot of time determining what money manager we want to use, how we want to set up the accounts and there is nothing wrong with that. I do not foresee in the near future or even the distant future having to go out and find different money managers and separate again and spend extra money that way. That's not what this is all about. From a police perspective–from the officers I have spoken to which is all of them, I believe we will just go to two pensions. Here again, a public safety, and we will stick with the same money managers we currently have. They'll just be operating with two smaller funds within their own money managers.

Mrs. Smith: Thank you very much. Mrs. Skittone, you have the information?

Mrs. Skittone: Well, it was an informative conversation with Patricia Shoemaker with the Department of Retirement. It is a State-wide excise tax that's levied on all residents and businesses in the State, whether it is Palm Beach or not.

We fulfill the requirements of receiving the money by passing the ordinances, but it is a State-wide excise tax. If we were to opt out, it wouldn't change the residents' or businesses' premiums at all. The money, if we opted out, would just go back to the State of Florida and into the General Fund coffers of the State.

Mrs. Smith: There's a word for that. Thank you.

Mr. Doney: It's almost like when everybody has the privilege of paying school taxes, 46 cents out of every dollar. It's equalized.

Mr. McDonald: Mrs. Smith? I think I can support forming one additional board, but I would like to have the Council to be able to determine their enabling ordinances as to what responsibilities they want to retain. In terms of whether they want to select the money managers or whether the board should select the money managers.

Mrs. Smith: I think the Mayor asked the question, "Is there an historic precedent for this?" How was the policy determined when we established the pension board in the Town originally? Who determined how it would be done? Who knows?

Mr. DeIorio: Does it fall under the State statute?

Mrs. Smith: I don't know.

Mr. Harvey: I think perhaps that Mr. McCracken touched on that. When you become a trustee of pension accounts and boards, what goes along with that is the fiduciary responsibility and part of that fiduciary responsibility is making the decisions on who the money manager is. That's why I question whether you necessarily can continue to say these guys continue if they are not doing a good job. You have to make those decisions.

Mr. Shaw: Yes, at this time and if things go on.

Mr. Harvey: Right, right. So, if you have independent boards, I think the President said, they have a fiduciary liability, responsibility, to make these decisions. Now to what extent the Town can overlay that, I'm not sure.

Mr. McCracken: Well, I think it would be like any other trust instrument, Mr. Harvey. For example, the trust instrument may name Chase Manhattan as the trustee, and under the terms of the trust instrument, you amend that naming–it may provide for a successor, etc.–but if it just says Chase Manhattan, you have to amend the trust instrument to change it. There is room for the Town Council to take control of some of these issues if it were so inclined leaving to the trustees the ability to exercise what is left –what is appointed to them under the trust instrument.

Mr. McDonald: That was my point. Mr. McCracken, you probably weren't here in 1946, but the background of our existing ordinance–was that when our existing ordinance was passed?

Mr. McCracken: Yes.

Mr. McDonald: '47? But do you have any idea why it was decided that the existing retirement board has the responsibilities that they do? Or what just a selection or choice the Council made at that time? Has it been amended since '47?

Mr. McCracken: It's been amended many times. I think that this is the ordinary procedure and is applicable in almost all instances where you set up a board of trustees and the trustees have this responsibility.

Mr. McDonald: But we have the authority to be able, in our ordinance, to allocate or apportion what we want.

Mr. McCracken: I think it may be a little bit unusual, though, if you did.

Mrs. Smith: I don't want to do that. No.

Mr. Doney.

Mr. Doney: I think that another issue the board wrestled with a lot was that, when we talked about this at the board level, we understood that, even if there were two boards or three boards, if it ultimately came to that after the legislative issues were spoken to and the Town Council acted on this request, from a policy prospective, that it's my understanding and I will stand corrected by anybody that has more accurate information, but it is my understanding that if we had two boards, for example for discussion purposes, each board is going to have to have its own actuarial impact statement. If there is going to be any change in the actual pension benefits for each of the respective groups, each of those issues is going to have to be independently studied by the actuary and there would have to be an actuarial impact statement sent off to the State and then you have to have that then passed on to the Town Council so it's quantified as to what will be the benefits and how much it would cost the Town of Palm Beach.

The bottom line is the Town Council, because the Town Council has to make sure that it is properly, through its retirement board, administering the program, and it is a competitive benefit.

Mrs. Smith: I understand that, Mr. Doney, and I agree, but so far the pension board has picked the money managers, and I believe that the existing board should pick the money managers, not the Town Council. However, I understand Mr. Wyett who is on the phone and would like to speak. Mr. Wyett?

Mr. Wyett: This is, I guess, an historic thing of which I am listening from a distance. I just urge the Town Council to vote affirmatively for 175 and 185.

Mrs. Smith: All right. Thank you, Mr. Wyett.
Is Mr. McLendon on the phone?

Mr. McLendon: I guess, I haven't been able to follow everything, but are we talking about having different investment policies for each board?

Mrs. Smith: No. We haven't gotten to the point where we are talking about investment policies. We're simply talking about what will probably be a separate board–public safety with the police and the firemen together.

Mr. McLendon: I basically feel that if the State statute, even though some might not agree with it, it is now the law that–I don't know that we have much choice but to do it. So, I guess I am in favor of doing it.

Mrs. Smith: Thank you, Mr. McLendon.

Mr. McDonald. Stay on the phone, gentlemen, please.

Mr. McDonald: Mrs. Smith, I am going to ask that we take a roll call, again, and then allow Councilman McLendon and Councilman Wyett to vote on this issue which they can do.

Mrs. Smith: We're voting on the resolution. Right?

Mr. Randolph: Well, the initial roll call did not include the two of them, and I think for the record we need to make sure.

Mrs. Smith: I didn't know they were on the phone when we did the initial roll call. I don't believe they were.

Mrs. Pollitt: They were on the phone after the initial roll call.

Mrs. Smith: All right. Then we will do an amended roll call. Mrs. Pollitt, please.

Roll Call: The following Elected Officials responded "here": Mayor Ilyinsky, President Smith, President Pro-Tem Wyett, Councilman McDonald, Councilman McLendon, and Councilman Shaw.

Mrs. Smith: Now, Mr. McDonald, what did you want?

Mr. McDonald: No, that's what I wanted.

Mrs. Smith: Further discussion?

Mr. McDonald: I move the question. (Approval of Resolution No. 30-99)

Roll Call: The motion passed 5-0.

Mayor Ilyinsky: Just so I don't get any extra tickets, I would have voted "yes" too.

Mrs. Smith: Mr. Doney.

Mr. Doney: I know there is a lot of omnipotence and knowledge in the various board members and the Mayor and Town Council, but somehow now we need to turn to the attorneys, Mr. McCracken and Mr. Randolph, with the retirement board to try to sort out how we will practically implement these changes and I know that just now that one of the things the retirement board has to do is try to, after we have this vote, correct me if I'm wrong, Bill, there has to be a vote. Is that correct?

Mr. Crouse: Right.

Mr. Doney: Step two.

Mrs. Smith: Mr. Doney, why don't we have Mr. McCracken lay out for us the next step and the accompanying time table so everybody will realize that we are moving ahead as swiftly as we can in a bureaucratic morass. Go ahead, Mr. McCracken.

Mr. McCracken: The resolution which has been approved contemplates that Mr. Crouse would immediately proceed with the ballot which is also included in your paperwork. Just as soon as he is able to finish the balloting among the police officers and firefighters, we would put before the Town Council a proposed amendment which essentially divides the existing pension plan into three separate plans. Under the statute, the makeup of the new board is set forth in the statute. That's a five member board. It would be if we only get one extra board, it would be one firefighter, one police officer, two individuals named by the Town Council who are legal residents of the Town and then those four would get together and they would pick a fifth member. Presently, we have nine members of the general employee board. Presumably, the two, well, there's nothing in the ordinance to require this, but presumably the police officer and firefighter representatives on the general board would resign from the general board, and if there positions were eliminated, that would leave seven members of the general board. I think the Council needs to advise whether we want to stay with seven members of the general board or whether that board should back down to five members as is the case of the other board.

There are some other issues that we can get into, but that certainly seems to be the first issue.

Mr. Shaw: Mr. McCracken? Would it be impractical to be the same members on both boards?

Mr. McCracken: I don't know if it would impractical. It is certainly legal.

Mr. Shaw: You talk about continuity and making things move smoothly. It may be a way of getting–you're obviously going to have the President of the Council and the Mayor on both boards–or not?

Mr. McCracken: No. Well, they could be if designated by the Town Council, because they are both legal residents of the Town. But that's the only way they would be there. If, for example, legal residents, Wearn and Harvey, as we've had in the past were to be designated, then you could not also designate the Mayor and the Town Council President.

Mr. McDonald: Mrs. Smith, is it our intent to deal with these issues today?

Mrs. Smith: Yes.

Mr. McDonald: All right. If it is, then I'll move that the Public Safety Board, as I will call it, is required to have five members. Correct, Mr. McCracken? So, I'll move that the other employees' retirement board also have five members.

Mr. Shaw: Second.

Mrs. Smith: Who would you take off?

Mr. McDonald: The police and the fireman are going off.

Mrs. Smith: All right. But, let me ask the question before you say who you are going to take off.

Mr. McCracken, with the Mayor and the President of the Council on the board as ex officio, are they legally members of the committee and entitled to vote?

Mr. McCracken: Yes. That was an issue that came up once before, and we were going to amend the ordinance to clarify that, but it was our opinion that they are full, voting members of the board and the ex officio language was utilized. It was also utilized in the case of the Town Manager to designate that the individual who serves in that position in the Town government will be a member of the board.

Mrs. Smith: So, then Mr. McDonald who would you take off?

Mr. McDonald: All right. We have the police and fire off and leaves us with seven members. Who are the seven?

Mr. McCracken: If you turn to page five of the handout, it lists them. The seven members are the individual who serves as mayor, the individual who serves as president of the Town Council, the individual who is the Town Manager, two citizens who are appointed by the Town Council, and two members of benefit group - general and benefit group-lifeguard who are elected.

Mr. McDonald: All right. Thank you, Mr. McCracken. Then I would suggest that we still have two members from the benefit group - general; we have two citizens of the Town; and then we would have either the mayor or the president of the Town Council or Town Manager, one of those three.

Mr. Shaw: I'm tending to sort of withdraw my second, because I am not sure that it is ...

Mrs. Smith: Wait, Mr. Shaw. If you are withdrawing or not withdrawing...

Mr. Shaw: I know, but you know my style.

Mrs. Smith: No, but they don't. You have to withdraw it or not withdraw it. He does this all of the time.

Mr. Shaw: I'm going to withdraw the second.

Mrs. Smith: All right. The motion dies for lack of a second. We're under discussion.

Mr. Shaw: I am not sure that mix is beneficial and that five is the number. I am not sure that it would not be better to be seven.

Mr. McDonald: Well, make a motion.

Mr. Shaw: Therefore, I am going to make the motion that it be seven on each board...

Mrs. Smith: No, no. You can't do that.

Mr. Shaw: Why? It has to be five?

Mrs. Smith: It has to be five.

Mr. McDonald: This would be the only board that didn't have five members. That's why I did it that way.

Mrs. Smith: Don't try to redraft this, Mr. Shaw. It is a brand new thing.

Mr. Shaw: I'm sorry. I did not realize that it had to be five. I was just concerned that...

Mrs. Smith: The new board has to be five. Right.

Mr. McCracken: But if you believe it makes more sense to have the board that the Council can control be seven, it may certainly be seven.

Mr. McDonald: You can have seven...

Mr. Shaw: Well, then, I would like to see seven for the general and five for the Public Safety.

Mr. Boggs: I am not sure that I agree. As a matter of equity the Public Safety Board would have two employee members that would be 40% of the voting population of that board, and I would hope that you would give the general employees the same benefit.

Mrs. Smith: Equal ballot.

Mr. McDonald: I agree, I agree, Mr. Boggs. That's my motion.

Mr. Shaw: I didn't realize that it had to be the five.

Mr. McDonald: Is your second coming back?

Mr. Shaw: My second just came back and I guess we're serving breakfast and we are having waffles.

Mrs. Smith: Now you see what goes on in the Town Council meeting.

The motion had been withdrawn for lack of a second. Would the maker of the original motion like to restate the motion, and we'll start over.

Mr. McDonald: Yes, I move that all of the retirement boards have five members.

Mrs. Smith: And, do you want to stipulate who the five members would be, please?

Mr. McDonald: Well, they are stipulated by statute on the police, on fire, or public safety. So on the general board, it would be two employees, two citizens, and one either the President, Mayor, or Town Manager–one of those three.

Mr. Shaw: I would second that.

Mrs. Smith: Mr. Mayor?

Mayor Ilyinsky: Quite honestly, as much as I like Jack McDonald, he has never been to one of these retirement board meetings.

It started off under the form of government that Palm Beach presently has, and I hope it remains this way until the great revolution comes. I would not, although I would be proud to try, to take the manager's place on a board like this. I think the manager has to be on this retirement board. Whether or not, it is Mrs. Smith or myself–we are voting members of that board, are we not?

Mrs. Smith: Yes, we are.

Mayor Ilyinsky: We have managed to make those meetings often enough to suggest to all of you that we may do it again. I think that it is imperative that the Town Manager be part of that general board. I don't see how he can work, otherwise, Jack. It should be like the captain not going to the last dinner, you know.

Mr. McDonald: Then I will choose the Town Manager to be the fifth member of the general employee board.

Mr. Shaw: And there is nothing that precludes the ......

Mrs. Smith: Mr. Wearn. Mr. Shaw, shussh please. Mr. Wearn.

Mr. Wearn: May I make a suggestion that possibly may help, because at the Retirement Board meetings, it's not always possible for all members to be present. It certainly within the realm of possibility for there to be two alternates designated who might include those that were just removed.

Mr. McDonald: That is a good suggestion. I'll incorporate that in my motion.

Mr. Shaw: And I accept that. And I would ask that if it should be included that it be noted the legal residents can serve on both boards.

Mrs. Smith: What does that mean?

Mr. Doney: What does that mean?

Mr. Shaw: The individual as the legal resident on both boards.

Mrs. Smith: I think anybody can serve on the board if they're appointed.

Mr. Shaw: Some boards you cannot serve on two.

Mrs. Smith: We haven't said you couldn't. So now it's a board of five with the Mayor and the Council President serving as alternates. What did you say, Mr. Wearn?

Mr. Wearn: Yes.

Mrs. Smith: Mr. Doney.

Mr. Doney: Mrs. Smith, to try to help sort out the practical applications of this, I think Mr. Harvey and Mr. Wearn have added great expertise in their respective...as an investment manager and also as an attorney, in that both, I know, George and John would agree and understand too, and I think this is with due respect, I think Mr. Harvey realizes the time implications and so does Mr. Wearn of trying to serve on this board. Then you give them two unpaid positions, that's not going to be helpful, I don't think. I hope that...

Mrs. Smith: They were not eliminated, Mr. Doney. It was the Mayor and me who got the shaft.

Mr. Doney: I don't think it is going to help. If we can, and for the continuity and the interactions of the two respective boards, I think it would be very ideal, theoretically, to have the Town resident who is a voter and taxpayer to be on both boards, but I don't know that it is practical. Maybe Mr. Wearn or Mr. Harvey could speak to it.

Mrs. Smith: I think too, that would be up to the individual if they would give of their time, since everyone knows this is all volunteer-serving on the pension board and the Town Council is all volunteer. So, it's a matter of time. Mr. Harvey, would you like to speak to that?

Mr. Harvey: No, not really.

Mr. McDonald: I would like to move the question on this issue.

(Roll call: the motion passed unanimously 5-0)

Mrs. Smith: Mr. Wearn, would you like to speak to this?

Mr. Wearn: Not on that issue after the fact, but perhaps to suggest that the Town Council consider that the two boards have joint meetings.

Mr. McDonald: Let me ask–What are the issues we need to decide today, Mr. McCracken? We've got the size of the board now. What other issues would the Council need to decide today to get started?

Mr. McCracken: Unless there is an inclination to get into issues whether either or any of the boards should be constrained. For example: should all the boards be administered by the personnel department or should they be able to choose their own administration? As was suggested in the handout, it can be out sourced or it can be done by the Town personnel department.

Mr. McDonald: All right. Can we deal with that issue now? Any suggestions.

Mrs. Smith: All right. Go ahead, Mr. McDonald.

Mr. McDonald: Mr. Shaw, would you like to do it?

Mr. Shaw: No. I would like...

Mrs. Smith: Could we have some input before we have a motion?

Mr. Shaw: There is no motion. I would like not to do it because I don't believe, in this case, I have spent enough time, and I think that maybe these are decisions..

Mrs. Smith: No. I think we have to deal with it today. Absolutely, but I would like to have some input from members of the pension board that have dealt with it. Just a minute Mr. Doney. Mr. Wearn?

Mr. Wearn: I would suggest that for continuity of treatment and to ensure it, that it be the same for both boards. That the same administrator for both boards or all three boards, as the case may be, because the issues are complex and you do wish to have all employees treated equally where they can legally be treated equally. I would compliment the Human Resources Department of the Town as having done an excellent job and would commend their consideration.

Mrs. Smith: All right. Any further discussion? Mr. Harvey?

Mr. Harvey: No. I don't have anything. Not on that subject. No.

Mr. Shaw: How about the investment policy, since that...

Mrs. Smith: Let's finish this. Don't skip around now. Let's stick to this.

Mr. McDonald: If there is no other...yes, Mr. Doney?

Mr. Doney: I would like to agree with Mr. Wearn, that I think for the continuity and the administration, the management of the two boards and the information that is going to be shared with the actuaries, the investment manager, everyone, the performance monitor, it would be very beneficial if we had the personnel, the Human Resources Department, be that focal point.

Mrs. Smith: All right. Thank you, Mr. Doney. May I have a motion, please?

Mr. McDonald: That sounds reasonable, Mr. Doney, so I'm going to move that the administration be handled by the Personnel Department for all the boards.

Mrs. Smith: Is there a second?

Mr. Wyett: Yes.

Mrs. Smith: Mr. Wyett seconded. All right. Mrs. Pollitt.

(On roll call, the motion carried 5-0)

Mr. McDonald: Mr. McCracken, what would be our next one?

Mr. McCracken: The next issue would be in reference to investment policy. There is an existing investment policy set forth by the existing pension board, and the issue would be whether both boards or all boards should utilize the same investment policy or whether they should be able to independently establish their own investment policies?

Mrs. Smith: Right. Mr. Harvey, please.

Mr. Harvey: Well, I guess I push it a little bit back to you, John. Do you think the Town can empower, in terms of the fiduciary responsibility of each of these boards, can that be so mandated-that they have standard investment policies?

Mr. McCracken: Yes sir, I think so. If there was a desire for a change, the boards would make recommendations to the Town Council which could then make changes.

Mr. Harvey: I think in terms of streamlining the costs, because the deficiency of one board was just that and now we're dealing with trying to develop the efficiencies of multiple boards so the more you can standardize, I think, the better off you'll be in terms of trying to make the...

Mr. Doney: In record keeping and reporting.

Mrs. Smith: All right. George?

Mr. Frick: The investment policy is approved now by the Town Council. Correct?

Mrs. Smith: Right.

Mr. Frick: So I would say that it has been approved, everyone on this board has agreed to it, and let's move forward with the current investment policy.

Mrs. Smith: I said right. I'm assuming that the investment policy was approved by the Town Council years ago when it was done. When we change the formula last year, did we take that change to the Council?

Mr. Doney: That's true. It is true. It's fact. But it was upon recommendation of the Retirement Board to the Town Council.

Mrs. Smith: Members of the Council, are we going to have a motion?

Mr. McDonald: I'll move that the investment policy be the same for all boards.

Mr. Shaw: Second.

Mrs. Smith: Any further discussion. Mr. Wyett or Mr. McLendon?

Mr. Wyett: No.

Mrs. Smith: All right. Mrs. Pollitt.

(Roll call vote carried 5-0)

Mr. McDonald: Mr. McCracken, what would be next?

Mr. McCracken: I think that is all we need for today. That gives us a package to go ahead with and come back. There may be other refinements in the coming months. Once we get the results of the election, we can come in with hopefully a relatively straight forward amendment to our existing ordinance to set up the additional board.

Mrs. Smith: And what exactly do you see as the timetable? How long for the election and how soon will it come it and how soon will the ordinance be ready and when will this go on the agenda for the Council?

Mr. Crouse.

Mr. Crouse: I plan to meet, right after this meeting, with the Police and Fire representatives and we will move this thing along ASAP, and I don't know if it is possible to have it on October but I don't see any reason why we can't. That's what we are going to aim for. The Council meeting in October – the 12th.

Mrs. Smith: I would anticipate that on the basis of what we have heard today that there will be one board that the Council would perhaps, today, want to instruct Mr. Randolph to draft an ordinance to be ready for the October Council meeting on first reading. Would that be appropriate, Mr. McCracken?

Mr. Randolph, you're here.

Mr. Randolph: Yes, but ask Mr. McCracken if he can do it by then.

Mrs. Smith: Mr. Randolph, since you are our Town Council attorney, would that be the appropriate way to go or do you think that would be too quick since it is two weeks from today.

Mr. Doney: October 12th.

Mr. McCracken: If I may. I think Mr. Crouse meant that he would be able to report back the results of the election by that meeting. I don't think he meant that he would be able to walk in with the proposed ordinance at that meeting.

Mrs. Smith: Why, I wasn't asking Mr. Crouse to walk in with it. I was asking Mr. Randolph to walk in with it. When do you anticipate holding the election?

(Reply) As soon as possible.

Mrs. Smith: How long does it take to hold an election?

(Reply) A couple of days to get with everybody.

Mrs. Smith: Well, I think practically everyone is here, give them a ballot. Mr. Randolph.

Mr. Randolph: We will aim towards trying to have an ordinance for first reading depending upon whether or not everything gets back to us in a timely fashion.

Mrs. Smith: All right. In anticipation of the fact that you will expedite the election and the results get back to the Council in time for Mr. Randolph to draft the ordinance, it will be on the October Town Council agenda which is two weeks from yesterday. All right, Mr. Randolph.

Mr. Randolph: Yes.

Mrs. Smith: Jack, do you want to make a motion? Don't you think we need to make a motion that Mr. Randolph do that?

Mr. Randolph: No.

Mr. Doney: With your permission, Council President, we will put it on the draft agenda and hopefully Mr. Randolph will have time to prepare it. I think, though, after you're through, I have a couple of questions.

Mr. McDonald: Through with this matter or something else?

Mr. Doney: No. On this issue.

Mrs. Smith: Go ahead, Mr. Doney.

Mr. Doney: I am trying to follow along in terms of the appointment process where the Town Council is going to have to appoint the two residents to the two respective boards. Assuming that the Town Council is going to do that at the October 12th Council meeting, I think we need to have discussion about that. Correct me if I am wrong, John, so that we then can have, in terms of the formation, an action plan. We have to figure out how this will happen.

Mrs. Smith: Do we have to nominate the people for the commissions before even second reading? It doesn't go into effect until second reading so that would be the November Council meeting. So would we have to make the appointments at the October meeting?

Mr. McDonald: No.

Mr. McCracken: No, I don't believe so.

Mrs. Smith: So maybe we wouldn't have to do it until November.

Mr. McCracken: Whenever it is effective–December 1st or January or whenever the effective date is. You would have to have them in place by then.

Mrs. Smith: All right. So, Mr. Doney, do you want to speak to that now.

Mr. Doney: At the November 9th meeting then to have the appointment of the respective citizen members by the Town Council for the two groups. Is it my understanding that Mr. Harvey and Mr. Wearn would continue to serve on the general employees?

Mr. McDonald: Yes. I don't think we have to make any changes.

Mr. Doney: You can't assume anything.

Mr. McDonald: When does their term end? They can serve until their term ends.

Mr. Harvey: Well, I think you are starting new boards here.

Mrs. Smith: I think we should let Mr. Harvey and Mr. Wearn speak for themselves.

Mr. Harvey, you were just appointed chairman, and I would think that the present members of the board, if the board is basically going to stay the same except for the exclusion of the police and fire, would be very disappointed not to have the lead of the chairman and vice-chairman. I mean, the elected officials get voted out, you all get voted in.

Mr. Harvey: I think that one of the problems we have is the time necessary to serve on all of these different boards, and frankly each year I come in here and we have this vote, and I've ended up in this position. I 'm leaving on Monday on a vacation, so let me think a little bit about what I am going to be doing when I get back.

Mrs. Smith: When is the next retirement board meeting?

Mr. McCracken: November 12th.

Mrs. Smith: Is that before or after the Council meeting?

Mr. Doney: After the November 9th Council meeting.

Mrs. Smith: It would be the new board with the exclusion of police and fire in November?

Mr. Wearn.

Mr. Wearn: It appears to me that what would be happening is that the current retirement board and ordinance would be amended only to delete some members and to provide for alternates such that the existing citizen member terms would be unaffected. I hadn't contemplated taking any contrary action.

Mrs. Smith: All right. Thank you, Mr. Wearn. Go ahead, Mr. Doney.

Mr. Doney: I'm trying to sort through to make sure that we do the right administrative things, and legally that the Town Council does what we need to do, but ...

Mrs. Smith: Well just figure the retirement board as it sits with the exclusion of John and George. We'll be there on the 12th of November with the Mayor and myself listed as alternates. The ordinance will have been changed, but the same characters, just under different headings. That's all.

Mr. Doney: It would be of great benefit if Mr. Harvey and Mr. Wearn would honor the board and the Mayor and Town Council by serving on the ...but if they do that...the other thing is if the Mayor and Town Council could be giving some thought as to who will be the resident, how did you say it, John?...

Mr. McCracken: Legal residents, under the statute.

Mr. Doney: Does that mean they are voters in the Town of Palm Beach?

Mr. McDonald: It means they are legal residents, Bob. That means they live here. They live in the Town.

Mrs. Smith: Legal residents. They live here.

Mr. Doney: We have in our other ordinances that you have to be a voter in the Town of Palm Beach.

Mr. McDonald: But you can be a resident without being a voter. So, this would seem to be greater than that.

Mr. McCracken: The statute doesn't seem to describe it . It's probably someone who resides here, on property, presumably that he owns.

Mrs. Smith: It could be a property owner but not a voter. Perhaps we will be swamped with people wanting to serve.

Mr. McCracken: I guess we will have to make inquiry and do some figuring to decide what a legal resident is.

Mr. Doney: But I'll ask then, Mrs. Smith, please if the Mayor and Town Council can give some thought as to who would be the individuals' legal residence or voters in the Town of Palm Beach who might be able to be appointed to this other board so we can try to then move the whole issue forward in a timely manner.

Mrs. Smith: I said, perhaps, Mr. Doney, we will be swamped with applications.

Mr. Doney: I don't think so. Even if the police officers arrested people that wouldn't help.

Mrs. Smith: I don't know though. Anything else, Mr. Doney.

Mr. Doney: No. Thank you and thank you, now I have two more jobs. I appreciate that. I am very glad. Thank you.

Mrs. Smith: Anything else? Charlie?

Mr. Boggs: I would like to remind the public safety guys that we've got Mr. Wearn and Mr. Harvey, so you're....

Mrs. Smith: Right. So you can't have them. Are there any further matters.

## V. DISCUSSION AND COMMENTS FROM MAYOR, TOWN COUNCIL MEMBERS, AND BOARD OF TRUSTEES

*(This was included in the above transcript.)*

## VI. COMMENTS FROM THE PUBLIC

There were none.

## VII. ANY OTHER MATTERS

There were none.

## VIII. ADJOURNMENT

The meeting was adjourned at 2.55 p.m.

Mary A. Pollitt, Town Clerk