

TOWN COUNCIL MINUTES OF SPECIAL MEETING HELD ON

AUGUST 27, 1992

Roll Call

I. CALL TO ORDER AND ROLL CALL: President Heeke called the special meeting of the Town Council to order at 9:30 AM on August 27, 1992 in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwoman Douthitt, Councilman Ilyinsky, Councilwoman Wiener. Also attending were Mr. Doney, Mr. Randolph, Mr. Dusey, Mr. Bowser, Mr. Moore, Mrs. Peters, Mr. Frank, Chief Elmore and Mr. Elwell.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE. Invocation was given by Mrs. Peters. Pledge of Allegiance was led by President Pro Tem Weinberg.

Appr. of
Agenda

III. APPROVAL OF AGENDA: Agenda was approved on motion of Mrs. Wiener, seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Water
Conservation
Study

IV. CONSIDERATION OF THE WATER CONSERVATION STUDY BY JAMES M. MONTGOMERY, CONSULTING ENGINEERS, INC. Mr. Sundstrom addressed the Council stating there is before the Council today consideration of the water conservation study done by James M. Montgomery, Inc, consulting engineers, and of the Interlocal Agreement as well as consideration on the Aquifer Storage program and he suggested for purposes of clarity, each item be dealt with separately.

Mr. Sundstrom suggested the consultant's report be received in total and open up for questions by the Council and staff and then from the audience and then whatever action is necessary be taken.

Mr. Heeke suggested the public be heard from first and then the comments of the Council which will go into Executive Session and be free to ask questions of anyone who has spoken up to that time.

Dan Burden of James M. Montgomery addressed the Council indicating in June of 1991, his firm was contacted by the Town to determine the overall feasibility of various conservation measures that could be implemented to reduce potable water demand. He advised this study was directed towards evaluating those conservation efforts which would have the most significant benefit for both residential and nonresidential users. He noted the study had several objectives and one way to identify those conservation measures that could allow the Town to comply with the goals specified in the State Comprehensive Plan, which were to reduce potable water consumption in the Town by 25% by the year 1995 and 30% by the year 1998.

He commented that in addition to those measures, the Comprehensive Plan also required the Town to focus on identifying specific non-potable water sources that the Town may have available for its use, either presently or in the future.

He indicated that based on identifiable conservation measures, they would then provide a cost analysis for each measure, develop an implementation plan and schedule, which the Town could utilize in implementing its own conservation water program to reduce potable water uses.

He thought it was important for everyone to understand what the definition of water conservation was all about. He found the definition most useful for this study is one presented by the U. S. Water Resources Council, which reads: "Activities designed to reduce the demand for water; improve efficiency in use and reduce losses and waste of water; or improve land management practices to conserve water." Dr. Burden advised the water conservation measure has always been considered as a short term measure, mainly to impact the water shortages which have resulted from drought. He informed the Mayor and Council that the growth and development in the State have put increased demands on the State's water resources, and water conservation has evolved into a long term effort.

Dr. Burden pointed out the Comprehensive Plan does state the Town will reduce its' potable water demand by 25% in the year 1995 and 30% in the year 1998, which means in terms of total reduction, the potable water usage in 1995 would have to be reduced by 2.3 million gallons per day and in 1998, it would have to be reduced by 2.7 million gallons per day. He believed the Town's conservation plan needed to be implemented to achieve these stated reductions through implementing identifiable measures on a short-term or long-term basis.

Dr. Burden thought it was important to look at where the Town is using its water in order to identify where conservation can be most effective. He exhibited a chart which showed that water usage in the Town is basically divided into two categories, one being residential and nonresidential which includes the municipal, commercial and private usages.

He analyzed billing records from June 1990 through June 1991, which showed the nonresidential uses account for approximately 22% of the potable water usage, while the total demand accounts for approximately 78%. He noted this does break down into percentages in the various categories and compares readily with what is seen in other urban areas for residential and nonresidential usages.

Dr. Burden evaluated which method the Town could utilize to improve upon its efficiency of potable water use and a large number of water conservation measures which have been used across the country were looked at, as well as giving thought to innovative ideas and techniques, which the Town might like to implement for reducing water usage. He has termed this conservation measures "BMP" or Best Management Programs which are based on their applicability to the Town, documented results around the country and their experience with other projects, as well as input from the Town's staff. He noted there were eight BMP's in terms of what the Town should focus on for reducing potable water usages.

He noted the first is Public Education and he felt that was the most important as public education has been proven to be a very essential element of any Water Conservation Program and they needed to focus on reaching the customers, so they are informed. He noted the Town does not

currently have a continuing Public Education Program for Water Conservation, and it would be essential to any water conservation plan the Town decides to implement. He felt that to obtain this support, the residents must be informed on the importance of conservation and its advantages. He felt that the cooperation from the homeowners was a "must" to implement the other BMP's.

He felt that for public education to be truly effective, the Town had to have established educational goals which it wants to achieve; and also staff available to implement those goals and materials available for the public information program. He noted staffing requires a Town Water Conservation Coordinator which would be employed on a part-time basis, whose role would be developing and implementing a public education program as well as conducting other elements of the conservation program.

He stated once the Coordinator is in place, other steps would be implemented, such as development of a program purpose to convey the importance of water conservation to the public; developing a theme that the Town could readily identify with in terms of water conservation; identify the target audience in terms of maximizing the effectiveness of reducing potable water usage; selecting appropriate methods of communicating with the public; and establishing an Advisory Committee who can interact with the Town's Coordinator.

He related the benefits of the Public Education Program will be all encompassing and it is important to remember the Public Education Program is going to have to be conducted at the onset of any program they decide to implement and should be carried out throughout the program. He noted without this, they would not be able to achieve the reduction they want to achieve with the other measures.

Dr. Burden stated the second BMP is a xeriscaping ordinance. He knew the Town had its own Ordinance for xeriscaping but it applies only to new development. He stated the reason they have included this item is because they would like to see the Town modify its current Xeriscaping Code and Ordinance whereby single family residences are included. He believed this would allow the Town's residents to have a better understanding of xeriscaping and its' benefits and it is directed to implementing a demonstration project with initial focus on roadway medians. He felt the benefits of this type of program would give the Town a high degree of visibility for xeriscaping and educate the residents toward this, so long term benefits will be in evidence coupled with the re-landscaping project.

Dr. Burden believed the key to implementing a xeriscaping demonstration project will be documenting whatever results and monitoring water savings there will be achieved through this demonstration.

Dr. Burden stated another BMP is landscape certification, and this would be taking the concept of xeriscape and taking it one step further by establishing a landscape certification program for the Town. He indicated this program would provide for specialized training for those who do the landscaping work in the Town and this would include landscape architects, grounds maintenance personnel, contractors and any interested resident. He advised the specialized training is directed towards increasing each of these groups' understanding of water conservation, such as xeriscaping, plant selection, grounds maintenance, irrigation scheduling, water auditing and re-landscaping. He stated there are several important steps required to implement this BMP.

Dr. Burden advised the fourth BMP is Water Conservation Rate Structures and they have seen that appropriate price structuring in water usage can have some potential reduction on the potable water demand for any municipality. He asked them to realize the benefits of this reduction will be somewhat small, ranging from two to four per cent and it will depend on the customer's response to any change in rates, so it may be difficult to determine how effective this BMP would be. He knew it has been targeted as an effective measure around the country.

Dr. Burden explained the fifth BMP is Water Audits, which involve small scale efforts for individual homeowners which are monitored for efficient water use practices, both indoors and outdoors and large scale uses, such as golf courses, can be evaluated for usage. He believed individual homeowners can be targeted for indoor and outdoor audits, which can prove to be effective in verifying proper irrigation rate schedules. He said the use of large scale audits on turf such as the golf courses, can also be effective.

Dr. Burden asked to take a look at the water usage on the Town's four golf courses, as compared to other courses in Palm Beach County which currently implement state-of-the-art water conservation measures. He noted out of the four courses in the Town, only one course exceeds the average application rate of two feet per year of potable water usage, while the other courses may have higher application rates, their irrigation water is supplemented with storm water received on the course itself.

Dr. Burden commented JMM was asked to evaluate as a part of this study, several non-potable water sources that the Town may consider implementing to offset its' current potable demand. He reported they looked at four alternatives and of the four, two showed potential and they were the use of the sufficual aquifer as a non-potable water source and the indirect use of storm water to recharge the sufficual aquifer. He thought the benefits in terms of savings are widespread ranging from less than one per cent to seven per cent and it really depends on the extent and location of the Aquifer's fresh water. He stated the hydrological information needed for them to quantify how much water is there to determine what would be available for non-potable usage.

Dr. Burden stated another BMP is an Irrigation Ordinance. He recalled the current irrigation practices in the Town adhere to the guidelines set forth by the Water Management District for residential, commercial and municipal properties are typically short-term measures in terms of conserving water in periods of drought and presently the Town does not have its own irrigation ordinance in place. He recommended they move toward implementing an Irrigation Ordinance which will limit lawn irrigation between the hours of 5 PM and 9 AM daily. He stated they could be more restrictive by limiting irrigation to three days a week, which has been shown to be effective in other areas of South Florida, which could result in more savings on the potable water usage.

Dr. Burden estimated they could save anywhere from four to eight per cent in potable water demand, by implementing an Irrigation Ordinance. He believed while implementing this Ordinance may result in a large reduction when comparing it with the other BMP's, the savings will not be realized unless it is coupled with other water conservation BMP's mentioned previously on the education and landscape certification and water audits.

Water
Conserva-
tion Study
(cont'd)

Dr. Burden stated the last BMP is Low Volume Fixtures noting the Town does have an Ordinance on the books which mandates the use of water saving devices and this is on new construction and reconstruction projects in the Town. He advised there have been implementation of rebate programs in other municipalities and he felt the Town was best suited to stick with the ordinances in place as they will achieve a savings just through the annual replacement of water saving devices.

He summarized by stating the implementation of each of these water conservation best management practices can be expected to result in a total water savings ranging from thirteen to thirty-one per cent. He cautioned that it was important for the Council to realize that this is the best savings they can achieve by the implementation of all of these programs. He could not estimate the exact reduction at this point, until some measurable results are received and over a period of time, they can make the determination as to which measures are providing the best return.

Dr. Burden again expressed the importance of public education in the Town for conservation and if the Town is going to be effective in reducing potable water demands, public education will be the key. He felt the Town needed someone to coordinate a water conservation effort, along with that coordinator, there should be an Ad Hoc or Water Conservation Committee, being comprised of various individuals from all entities. He believed this Committee could provide information to the Town and to the Water Coordinator in terms of Special Projects being implemented and monitoring water savings, over a period of time.

Erik Olson of the City of West Palm Beach Water Department addressed the Council stating he has seen the report and it is good to be working in the same direction on a conservation plan and they are not at odds with each other, which he found comforting.

He wished to emphasize, not in opposition, but in basic agreement as to where they stand in terms of usage patterns. He exhibited a graph showing a comparison of what the usage is in the Town as they wished to implement a conservation program and they are all trying to accomplish the same goals. He stated the graph showed the monthly usage patterns throughout the year and it showed some months are higher than others, and that is not surprising. He wished to get a sense on how the per capita usage in the Town of Palm Beach is developed as they have to be in a position to compare usage patterns. He stated the conservation plan assumes the peak seasonal population, which is a little over 22,000 is here all year long and if they do assume that, they average approximately 369 gallons per day per capita, which can be used as a reference point.

Mr. Olson commented on his "bus" theory, assuming that all people arrived on a bus for the season and they all left the same day on a bus to go back north and then they could assume the per capita usage gets down to around 500 gallons per day during the season. He stated the graph shows the Town of Palm Beach is distinctly seasonal, and they could assume the population level being the annual level, the base line, which is difficult to assume, but if they do that, they are obviously over the 700 gallons per capita. He believed that no matter how this is calculated, the usage pattern on a per capita basis, and most cities in South Florida are like this, and take the total usage to arrive at the figure.

Mr. Olson then referred to another chart and re-emphasized the Town and the City of West Palm Beach are both heading in the same direction to develop a conservation mechanism to achieve the same goal to save a very valuable resource. He stated the Town of Palm Beach in comparison of per capita usage with other cities on a higher level and what this is doing is telling us we need to start developing a program to conserve. He cautioned this is a choice and the programs outlined by Montgomery are excellent with respect to options which could be chosen. He stated it is not one single option that will help but is the composite which would put them in a position of getting the usage down so they are in a position to say they are at what the Comprehensive Plan set as a goal, which was around 250 to 260 gallons a day per capita. He thought it was important to recognize they have a long way to go and it is a tough decision to make and they would have to put a strong program together. He noted if he had to choose one aspect of the Plan which was the most effective, he would choose public awareness. He stated they have a strong awareness program in the City of West Palm Beach and sometimes it is effective but sometimes they have to go out to the individual residents. He gave an example in the City where they went to the residents and the residents couldn't understand how they could use such large amounts of water. He stated they went as far to hire a private landscaper who made a recommendation of what their water patterns should be and the days of the week they should be watering and it was found that the gardeners and the landscape people were using the water all day long, seven days a week so he felt their best program would be the Public Awareness Program, so the citizens are aware of what they are using. He felt it was important to recognize the level of where their usage is and the Town of Palm Beach, no matter how it is calculated, if they assume a normal population curve on a seasonal basis, their usage is around 500 to 600 gallons per day per capita and they should examine where the Town of Palm Beach does stand with respect to other communities. He suggested the City of West Palm Beach work in conjunction with the Town of Palm Beach as this is a program which will help everybody as they are working with the South Florida Water Management District and other utilities to develop an overall plan and they shouldn't be at odds, and should work together on a Public Awareness Program which puts it altogether.

Dr. Sten Lilja addressed the Council and complimented Mr. Olson for the spirit of his presentation. He advised on the conservation report, there is one comment in that report which refers to ASR and it states very clearly that as far as conservation is concerned, the ASR would not give any credit against the per capita demand which they are forced to reduce and he wished to point that out. He wished to ask Mr. Olson a question something he read in the newspaper where Mr. Olson made the statement that West Palm Beach could supply as much water as they could ever dream of using for thirty years. Mr. Olson responded noting the City of West Palm Beach is serving now 8.5 million gallons and the question he believed was whether or not the City could provide nine or ten million gallons per day. He advised the Plant capability is about 47 mgd and they have an annual limitation average of about 31 coming out of Clear Lake and the capacity they have presently is in a position to supply the mgd which the Town of Palm Beach projects will be needed. He advised they do have the capacity to supply that, plus a reserve, so if the question was whether or not they could supply the needs of the Town of Palm Beach as outlined in the original report and the answer was "yes" based on what they are looking at and their plans, which are to use supplemental in other areas.

Ms. Pat Walker of the South Florida Water Management District addressed the Council, indicating they are in attendance in response to an invitation extended to the Executive and Deputy Directors, who have asked her to convey their apologies for not being here, but they do have Hurricane Andrew recovery responsibilities which have priority.

She advised her staff has reviewed the report extensively and they have provided their comments to Mr. Doney as of 8-18-92, noting the SSFWM does have a good relationship with Mr. Olson and with the Town's consultants and she wished to continue that good relationship. She noted there were some suggestions on improving the report and they basically support enthusiastically the Town adopting a water conservation program and incorporating it into the Comprehensive Plan.

Mr. Heeke asked Ms. Walker to give the public the benefit of the response she referred to of August 18, 1992. Ms. Walker stated the second paragraph summarized their view of the report which says: "The District strongly supports the Town of Palm Beach's efforts to meet the Comprehensive Plan requirements to reduce potable water demand by 25% by 1995. It has become very evident in the last few years that there are limitations to our water resources and that more efficient utilization of the resource is necessary. Your study indicates there are number of opportunities to reduce water usage in the Town of Palm Beach. District Staff has reviewed the study and you will find their comments attached."

Ms. Walker stated they did comment on the specific concerns which the Mayor brought out and there are a lot of ways to come up with the per capita day consumption rates. She recalled they had asked these consumption rates be expressed clearly so everyone would understand the consistency of the City, the Town and the District.

She mentioned that the Comprehensive Plan requirement does require the study identify and present some level of analysis and discussion on the measures and provides a list of recommended measures, which estimates the demand will be reduced by 12.8 to 30.6 per cent and in light of this broad range, it is difficult to judge whether the 24% reduction goal by 1995 will be reached.

She commented on the policy adopted by the SSFWM Board in July of 1990 which was a six point program, and she made specific suggestions on how the Town either is needing the program or could need the program, and the points were:

1. Limiting lawn irrigation to the hours of 5 PM and 9 AM, and an Irrigation Ordinance be adopted.
2. Minor changes be made to the Xeriscape Landscaping Ordinance.
3. Encourage installation of low volume plumbing fixtures on all new construction, which she believes the Town has adopted an Ordinance requiring same.
4. Require adoption of conservation rate structures by utilities.
5. Require implementation of leak protection programs and require the implementation of a Public Awareness Program.

Mr. Howard Osterman stated that although the report is Montgomery's report, they have watched it with great interest, due to the impact it will have on the overall water program. He believed logic and reasoning needed to be applied to this problem and he wished to quote a few numbers on how broad and wide the spectrum really is. He stated when they talked about computing the water usage in a system, it is just that. He believed if Mr. Olson was computing the water usage for the City of West Palm Beach system, it would include the entire system and what they are doing here is lifting out a segment of the system and they are analyzing that particular segment. He thought this was something that the Water Management District doesn't do, nor does Mr. Olson, and he doesn't mean to say it is wrong to do that, but merely they are dealing with a part of the whole and when they apply some broad brush standards and tests, they must recognize what they are doing.

He recalled Mr. Olson stating that his numbers indicate that five to six hundred gallons per day are the Per Capital Usage and he agreed with that. He believed there were 9,195 living units in this community and the question is how much water do those people use? He believed of the historical total, about 6.6 million gallons is used by residential units, which brings up the question about how many per capita are using those units.

He stated if they take the seasonal total or apply a statistical level of about two or two and a quarter, which may or may not be accurate, they might come up with something like the engineers have done, or a 22,800 figure, and divide that by the 6.6 million gallons of residential usage, they would only come out with 290 gallons per day and Mr. Olson believes that that's where they ought to be. He stated if those same people were asked to respond to the average daily usage to the historical 8.4 million gallons per day, which includes the commercial, there would be 368 gallon a day users. He stated if they look at last year's total which was 7.8 million gallons and judge the 22,800 residents against that figure, there would be 342 gallon-a-day users.

Mr. Osterman commented if there were only 11,000 residents, and that is measured against 6.6 million gallons of residential usage, there would be 586 gallon-per-day users and using the 8.4 million gallons, the figure would be 746 gallon-a-day users.

He suggested the goal is to reduce the total usage and they ought to try and bring down the total demand of water on the island but when that is said, Mr. Olson informs us we use to 300 to 600 gallons-per-day and if this is residential, they have very little impact on what the Breakers' Hotel uses, as that is an entirely different matter and perhaps the population needs to be segmented and we should have single-family residential vs. multi-family residential, so that each segment of the population is demonstrated to be doing their fair share. He believed the message is he wouldn't want to think that there are such terrible people here but labels are different and be it at five or six or seven or eight hundred, or the 290 gallons-per-day figure, none of them may be truly correct.

Mr. Osterman believed the formula was faulty and he suggested to the South Florida Water Management people who are here, that concentration needs to be on residential usage and the reason being there is a small Par 3 Golf Course and if the use of the Golf Course was terminated and it were residential, there would be less usage in that particular area. He stated the question is what can we save and he wished to support that portion of the report which deals with Public Awareness. He advised water is saved through education and programs that talk about reducing the external uses for water. He commented this is based on logic, judgment, cooperation, and surveillance.

He felt the most progressive program of education be utilized and the concept involving certification of gardeners and landscapers is a good concept as are water audits which would tabulate those who are outside the statistical norm; also water schools which would be somewhat like the traffic schools; also, water sensors which would override the automatic time clocks that turn on sprinkler systems. He felt it was hard to compare with their fellow users in West Palm as

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there are a lot of well users there whereas the Town doesn't have wells and it relies on the potable water supply, which tells him that the characteristics of the consumer need to be looked at, and see where they can from there. He felt it needed to be recognized also that the Town should be entitled to credit for shipping its waste water to the west and there are programs underway to utilize the waste water where it would be more effective.

Mr. Osterman indicated he was not an advocate of rate structures in those programs, as he does not believe they work, but he recommends the Town concentrate their efforts on education, surveillance and those programs because the alternative is a fallback to the illogical premise that the more is charged, the more that they can compel the user to conserve. He supported the Report and would support any motion the Council would care to move for the implementation and planning stage.

Water Conservation
Study
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Mr. Woody Wodraska of Rose, Sundstrom and Bentley addressed the Council stated he started in the water management field in 1972 when the Water Resource Act was passed and the power of deciding who gets to use water was given to the Water Management District through consumptive use permitting. He stated everywhere else the municipalities were in control of that. He asked the question as to why that happened as there are 430 units of government throughout the State of Florida and in 1972, the example was given that during a drought in 1970-71, the Town of Palm Beach refused to comply with water restrictions and that is when it was decided the only way there could be assurance is to have a comprehensive approach and to create a Regional approach and one agency was given the power to coordinate with all the municipal local governments. He felt now was the time for Palm Beach to send out a message on how they embrace water conservation. He recalled in the early seventies, the whole philosophy of water management was supply augmentation, when they were figuring ways to raise Lake Okeechobee, when they were looking at reverse osmosis and desalinization and looking at ways to increase storage capacities. He recalled in 1976, through the Governor and the Cabinet, the message came back that this was not the way they wished to go and there would not be supply development mentality but they would focus on demand management. He recalled there were two sides of the equation and they could either increase their supply to whatever thirst Florida would have and destroy or adversely impact the environment, or they could focus on the demand side of the equation and ask themselves if they really needed to use the water and perhaps they didn't need to build the huge reservoir systems. He recalled what they found out, however, is no matter how much they came up with trying to cut back on water usage, with the growth patterns and all other considerations and when Mr. Olson tells you he can meet future demands, it is based on the supply augmentation and Mr. Olson is looking at ways to develop his future water supply. He stated as he sees it, they need to do both things, in his opinion as a water professional, they need a demand management program which has been outlined by Montgomery.

He recalled that Dr. Lilja stated this morning that Montgomery did not refer to ASR, and he read from the Montgomery report: "The study found that using the ASR, with treated potable water, could provide the Town with relief from potential water restriction and enhance water's availability during the dry seasons and drought and the net effect would result in a demand reduction from regional storage used by West Palm Beach at times, when the resource is in greatest demand and remove the need from the City to plan for peak demands." He believed this embraced ASR as a water conservation alternative and the key to resource management during March, April and May when the tourist season is at its height and the agricultural community demands the most water, and there is usually a deficit of rainfall - the highest demands in the system and the ASR can capture the water during the excess periods and make it available and would be a very effective water conservation technique.

Mr. Sundstrom believed they are now ready to wrap up this portion of the report and to go into the next phase and the request would be to instruct the staff with the consultants to proceed with the conservation programs, as outlined, if that is the Mayor and Council's pleasure.

Mr. Heeke announced the Council is now in Executive Session and questions may be asked of anyone who has spoken this morning.

Mayor Marix believed this Town was concerned about the water situation and that is how they got involved in having this study prepared. She was aware of the potential problems and she knew it would take cooperation from everyone, however, she believed the first thing to stop any real cooperation is if the citizens here feel they are being either maligned or mistreated or not understood.

Mayor Marix did not believe the way to go about this was the per capita question and she believed that matter should be forgotten and dropped, as all they would have to do is rezone the Town and loads of people put on one lot and they could get a lot of younger people here with lots of children and the Town would then be at the bottom of the list of users. She didn't think that was the point. She heard the statements about the nine or eleven thousand residents in this Town and twenty two thousand in the winter time, and she didn't believe there was anyone in their right mind would imagine at the height of the season, there are only twice as many people here as they have in the summertime. She believed they all know from the traffic, the hotels, etc., there are more than twice as many in the winter. She believed if during the Season they got up at 8 AM and then viewed the situation at 5 PM, they would see hundreds of people going over the bridge and these are people who work here and all of those people use water and she didn't think they were considered in the per capita figure.

Mayor Marix thought they had to forget that figure as it will cause bad will and they should go for a figure that will be constructive. She has read the report very thoroughly and quite a lot of the report is boiler plate. She recalled reading one of the ways to handle the public awareness was to put up posters and the engineers did not know this Town has a very strict sign code and posters just aren't allowed. She believed there were excellent points but what is not covered is the importance of allowing permeability back into the Aquifer and all of the roads here are thoroughly lined with asphalt.

Mayor Marix noted in the analysis of the conservation states there should be an assessment of the impact of reducing potable water on revenues collected by West Palm Beach and that statement does trouble her, although she realizes the Town is a good customer of the City of West Palm Beach, but she hoped the entire program would not be too much influenced by that.

Mayor Marix commented on the population of 11,000 and 22,000 with which she strongly disagreed

Mayor Marix was embarrassed about the water usage at Par 3 and she was glad they explained about not having a well as she didn't believe they could have wells here. She noticed the daily usage of Town of Palm Beach governmental service is 159,000 gallons per day and she thought that should be looked at.

Mayor Marix recalled recently she went by the Palm Beach Country Club on a Sunday at noon, and the sprinklers were on and they were watering the roadway and she thought they were supposed to water in the evening from 5 PM to 9 PM so they are being unfairly attacked that the Town is not trying hard enough to conserve water, as many of the residents, including herself, do comply with the regulations. She believed there were many people in this Town who drive around, including fire and police personnel, and notes could be made as to who is watering when they are not supposed to.

Mayor Marix advised she has spoken to the Town Manager about the sprinkling problem with people watering when they are not supposed to as well as the mulching program. She noted also in the report it states ten or twenty per cent of the water can be lost from the distribution system and apparently the Town would not get credit for that with regards to the percentage they are supposed to be reducing their water usage and she didn't understand why that problem couldn't be solved.

Mayor Marix referred to the statement made "The Town receives its present water supply from the City of West Palm Beach through which billing is done on an individual metered basis and because of the practice of metering as a conservation measure, it would have no direct application with respect to the Town." She requested an answer to that question.

Mayor Marix referred to the idea of having a Water Coordinator and holding schools for landscape people, she wished to point out that a great number of people in this Town are not unbelievably rich and although they have people come in once a week or so, these people are landscapers and do not have high educations but they do an excellent job in keeping the Town lovely, however, she didn't believe a school could be run for all of these people, who are part time help. She believed the idea of having a coordinator will add another level of bureaucracy, although she did agree to have public awareness was a very important task, but how they get that word out as if they are not abiding by the notices sent out by the Water Company, education is important but not the way it is outlined in this report. She believed the report has some very good points in it, as they do have to make people aware, but she was not certain they were ready to do it as the report outlined. She thought perhaps they should take some of the good ideas and develop a program from that.

President Heeke agreed that education is very much needed recalling he has a small stream of water going down his street every morning from his neighbors who are watering and if it is watering the pavement, it certainly is not watering their lawn and perhaps they are not aware of it as he didn't believe anyone would deliberately waste water. He felt effective education is definitely needed and he believed that some of the comments which other members of the Council will be making on the figures of how many people are actually using water on the Island from time to time doesn't seem realistic to him. He recalled the family figure of 2.2 is one category, recalling when his children were there there were 2.6.

President Heeke also believed that many people who are here for most of the year are not picked up by the census here as they elect to vote elsewhere and use another address for their official residence, but they are in the Town for a longer period than the Season.

He felt the Mayor's comments on the people who work on the Island should also be taken into consideration, as they certainly do use water. He believed the Breakers was now open year-round and that should also be taken into consideration as well as other hotels in the Town which are open year round and if the occupancy rates are high, those people obviously would also be using water. He felt it needed to be in perspective and they needed to use real figures if they want to use the per capita figures. He felt they needed to look at what was being used totally and deal with that.

President Heeke called for a break and an eighteen minute break was taken and the meeting was then reconvened.

Councilwoman Douthit assumed the South Florida Water Management has publications which could handle the educational aspect as they are the regulatory group and have studied this matter quite thoroughly and she believed they could do the mailings to educate the public or give the Town the materials to do the mailing. She didn't wish to increase the level of employees we now have, although she recognized that education was important, however, believed the information could be gotten out to the public by other means than by hiring an additional employee.

Bruce Adams of South Florida Water Management District addressed the Council advised there is a very comprehensive public information program which is very much geared to water conservation and it is their position that they would like all of the municipalities to piggy-back on that program so the wheel would not have to be reinvented, pointing out the Broward County Utilities Co. has used their products by expanding upon them for their local distribution and provisions have been made for large quantity reprinting with the City's logo on the information. He advised they are very willing to work with each municipality in an effort to get the information out to the public. He pointed out in addition they do TV and radio advertising also which if the same theme was used within the Town would be of help.

Councilwoman Douthit stated she had another question on the 25 to 30 per cent reductions which the Town is going to be required to make, and they don't know what they are talking about per capita, and she knows water must be conserved, but she thought an 18 to 20 per cent range might be more realistic as she didn't believe the per capita figures in the report are accurate. She believed they needed to include the people who work here and the various hotel population.

She advised she has had a restrictive water program in effect on her property for several years and has worked this out with her gardener and it works out beautifully. She also has the low volume plumbing fixtures although there is a disadvantage as sometimes she has to flush two or three times, so that is not the sole answer either. She believed they needed to adjust the Comprehensive Plan to a figure that would be more realistic.

Water Conservation Study
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Water
Conservation
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Mayor Marix believed another area that needed to be looked into is the leakage figure of ten to twenty per cent. Mrs. Douthitt agreed stating that would be the Water Department's responsibility as they owned the distribution.

Councilman Ilyinsky asked the representatives from the South Florida Water Management District how many millions of gallons of fresh water do they pump into the ocean? Ms. Walker responded they don't have an exact figure and they are working on the problem and looking for ways to conserve and store that water. She believed under an average storm, there might be 650,000 gallons a day are discharged. Mayor Marix asked if they had a time limit within which to stop this wasting of water and does it compare to the Town's time limit? Ms. Walker responded they are required by October 1994 to have a Water Plan in place. Councilwoman Douthitt believed there were thousand of gallons going from Lake Okeechobee down the canals into the Intracoastal. Ms. Walker stated they are taking that into consideration also.

Councilman Weinberg advised there are approximately seven thousand residents in the south end of this Town and the per capita figures are being reduced and there may be some at two members per family, but that figure should be lower. Mayor Marix thought if there were only seven thousand people in the south end and there are nine thousand registered voters, that makes this per capita figure even crazier.

Councilwoman Wiener recalled there was a statement made earlier about logic and reasoning and it was her thought that in this water problem, there are certain things that are obvious which have been totally ignored in the Report, one is the zoning in this Town is what is being attacked. She recalled the Mayor stating if there are lots of people come into the Town and the zoning is changed and there should be no problem, but the fact of the matter is that this is being handled by the South Florida Water Management District in the same way that the State managed the Comprehensive Plan, which means that they take a formula and spread it right across. She stated the Town of Palm Beach has green space and limited numbers of people in certain areas and that is what this is all about. She felt if everyone left the Town, there would still be water being used by public facilities as if one person is on this island, he would be using so much water per day. She believed that because of the fact they had more green space per capita, and because of the fact they have more golfing facilities per capita than other small Towns, which has always been considered a great thing in this Town, but now suddenly those water uses become part of the total picture and that didn't make very much sense to her. She thought it was easy for the pencil pushers to state the people in the Town are using too much water. She felt the very premise was totally incorrect and even more than that, morally dishonest. She believed the figure of 24 or 25 per cent got there because of a compromise made between the Town and the State in the Comprehensive Plan. She believed the Town had a figure that they thought they could achieve, but someone in Tallahassee did not agree and gave another figure, which doesn't make sense, but because it was written down there are now a whole bunch of people running in circles trying to work with something unrealistic as the tax dollars go down the drain and she thought this was wrong.

Councilwoman Wiener touched on the subject of Public Awareness, stating that a good part of this report was done to please the powers that be, but she hoped they would all look at it realistically. She pointed out she has no problem with adopting an ordinance on irrigation but there is one on the County level with which the Town of Palm Beach must abide by. She stated they are talking about elementary things that already exist and this is a waste of the public's money and she is extremely angry about this since she did expect more. She felt if they are serious about conserving water in Florida and spending a lot of tax dollars on employees on something that is not realistic, this is crazy, especially in this day and age.

Councilwoman Wiener referred to the report, page E-2, which states: "Review of recent ASR projects in Florida, indicate the feasibility of utilizing ASR technology appears unlikely because of the U. S. Environmental Protection Agency's requirement for using an untreated non-potable water source, such as storm water" and she will leave that now, but wanted to bring it out for the Council's attention.

She referred to Section 1-1, second paragraph, where it refers to the requirement set out under the State's Comprehensive Plan, and she believed that the fact of the matter is if they are able to save five or ten per cent, what will happen? She asked if someone will come into Town and turn off all the taps? She knows the Town will do the best they can, but they are not going to agree to unreasonable terms.

She referred to Section 2-1 and she found some labeling which disturbed her, i. e., private clubs are now labeled "semi-public facility" and she wondered where they got that term.

She noted the Par 3 uses more water than the Breakers but it may be that the Par 3 is kept greener than the Breakers Golf Course.

Mrs. Wiener did not understand why "metering" was included as a conservation measure on Page 3-2, for as far as she knows, there is metering in the Town. Mayor Marix stated that is what she was talking about when she gave her comments, it is boiler-plate.

Councilwoman Wiener referred to Page 4-12 which had to do with ASR and she will ask the questions she has later.

She referred to page 6-2 which has a heading "Target Audience" and she had a problem with this label and referred to the last sentence: "Once the target audience has been identified, the education program can be developed to maximizing its effectiveness." She asked if they were dealing with a bunch of three year olds or a sophisticated community where some of the most successful people in this country have made their homes.

She referred to page 6-3 which talks about setting up a Water Conservation Committee indicating the committee should include "An elected official from jurisdictions impacted by the process." She pointed out the elected officials represent all the people.

She stated on page 7-2, it refers to the Water Coordinator and she could see no problem with these functions being handled by the present staff members and to suggest putting on additional personnel in these times is starting a whole new bureaucracy is beyond belief and is out of line.

She stated she cannot go along with most of the recommendations in this report.

Dr. Dan Burden addressed several issues which were raised. He recalled the Mayor had a concern over the government service usage number of 159,000 and she was correct as that is an error and they will issue an addendum correcting that figure to 18,000. He wished to clear up the unaccounted for water loss knowing they had a concern about that and its' impact on the Town. He thought they should understand the Town's usage of 8.4 million gallons per day is based on billed accounts and not on the amount of water transported from West Palm Beach to Palm Beach homes, as actually there is more water than the 8.4 million gallons.

Water Con-
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Mayor Marix stated if all of this is true, why are they suggesting almost impossible things while ten to twenty per cent of the water is running out into a hole? She knows they are not paying for it but the idea here is to conserve water for South Florida so they can have more development. Dr. Dan Burden responded she is absolutely right and a recommendation has been made that the Town and the City work together on evaluating those law suits and determine what can be done to correct this. He referred to landscape certification, noting in his report they did not suggest the Town provide the educational services but that be required of the people who work in the Town. He believed the net effect would be better utilization of landscaping techniques which could conserve water for the residential areas. He isn't suggesting at all that they develop an educational program for the landscape people. Mayor Marix asked how they would be educated as many of these people do not read and they wouldn't understand anything if they went to a school. Dr. Burden responded he is not suggesting the Town pay for their education. Mr. Heeke was not sure the person who cuts his yard could read. Dr. Burden agreed the education is badly needed noting he has driven around the Town in the early morning hours and he has seen irrigation systems running with water running in the street. He stated sprinkler systems are not being properly implemented to maximize the use of the water. Mayor Marix stated sometimes the sprinkler heads get moved and all she wants is for the fire personnel or the police or the public works people radio in when they note a violation, they simply radio it in and the Town could get in touch with the person who has the broken sprinkler head.

Mrs. Wiener thought that most people do have their sprinkler systems on timers and as soon as there is a storm, there could be an outage and that could be for several hours and suddenly a water sprinkler that normally stops at 7 AM is still going on at 11 PM and it could be days and days until it is noticed, especially if the people are out of town.

Dr. Wetzel stated Dr. Burden can respond to all of the individual points but the question is whether or not the Council wants him to do that or do we want to put in some perspective as the Comprehensive Plan has required the Town develop a program and the Town hired Montgomery to help develop that program and to use their judgment as to how much water could be conserved with the use of water conservation measures. He stated in his judgment that number, if they instituted the entire program as outlined, would result on savings somewhere in the vicinity of 13 to 30 percent. He stated that is their best judgment as they didn't write the Comprehensive Plan and they are not the Department of Community Affairs, but are trying to respond to the Town Council's request to outline a program and that is what they have done.

He recalled Mrs. Wiener referred to the issue of ASR, and what that was referring to was storm water and not treated ASR. He reported the EPA is very specifically making it difficult to permit storm water ASR systems and that is what they were saying here. Mrs. Wiener responded she thought it was quite interesting that they commented on one and left the other one alone. Dr. Wetzel recalled this report started over a year ago and it was not designed to look at treated ASR water as a component and that is why a separate analysis was done of treated water ASR. He advised if there are specific questions on specific issues, they will be able to answer them.

President Heeke commented the criticisms raised on 6-2, 6-3 and 6-7 like the issue of metering, and he sees it is a different type of metering. Dr. Wetzel agreed stating it gets back to the water loss issues, as there are no meters on the five feeder lines coming across the Intracoastal to the Island, so they don't know how much water actually comes to Palm Beach, so therefore it is not known how much water is lost. He would encourage the City to meter these five crossings, but it would be costly. He knows there are individual customer meters so it is known how much water the customers use.

Mayor Marix noted they all wanted to do the right thing, but this report is not the one she was hoping to receive as it has a lot of boiler-plate in it and she thought a report should have been prepared tailor made for the Town of Palm Beach and not telling them about placards and things like that and not telling us we don't have ordinances for whatever, when we have to abide by the County's Ordinance. She personally did not think this report was helping at all.

Mr. Heeke knew there were printed materials available through the South Florida Water Management District and he believed that Mr. Olson should take advantage of some of the materials, particularly the TV and Radio market, which are public service type announcements and there is ample air time on which this would be permitted. He agreed they shouldn't reinvent the wheel. He too felt the coordinating effort could be a staff function which already exists and to make sure they are looking at where they want to be. He thought perhaps there should be flyers developed in conjunction with Mr. Olson to stick in mailing, reminding people of the County's Ordinance which outlines the 5 PM to 9 AM restriction and not washing cars on pavements; perhaps encouraging them to check their watering system and if they see water on the street they should know they are not watering their lawn but watering the street. He believed the Town can call these things to the attention of the individual owners when this does occur and this can be done politely as no-one wants to pay for water that is running down the street.

Mrs. Wiener asked where do they go with this particular report. Mr. Heeke responded he felt they were trying to educate our citizenry on water conservation matters and he thought they should look at some methods in conjunction with the City of West Palm Beach that would be effective for the Town of Palm Beach and also for the City of West Palm Beach and whether or not it could be a staff function, it is quite possible.

Mr. Osterman suggested that this report or any report on the subject is not to be viewed as the written law on how a program is being done, and what would normally be done is look at the principals embodied in the report and go to staff and have them write a definitive program that could be acted upon and then take those up, point by point, and reject those they wish to reject and include the ones they want to include, but then there would be a specific program as what was presented is quite general in this nature.

Water Con-
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President Heeke recommended someone make a motion to the effect that this matter be turned over to our staff to work with Mr. Adams and Mr. Olson in implementing some of these suggestions as they have heard the discussion today. Mrs. Wiener so moved.

Mayor Marix stated before anything is implemented, she would like to know what it is that is being implemented. Mrs. Wiener pointed out anything they do would have to come back before the Council.

The motion was seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

V. PROGRESS REPORT REGARDING ONGOING NEGOTIATIONS WITH THE CITY OF WEST PALM BEACH ON NEW INTERLOCAL AGREEMENT BY WILLIAM E. SUNDSTROM, ET AL. Mr. Osterman stated they have submitted a draft agreement, however Mr. Olson does not have a City Attorney nor has the draft been seen by the City of West Palm Beach's Mayor and Council, but in the interest of recognizing the Town's position, they have prepared the draft and worked it out at a staff level. Mayor Marix suggested this draft agreement be compared to the one we had with the City of West Palm Beach before. Attorney Sundstrom reminded all the instructions given were to work out the best arrangement between the City of West Palm Beach and Town of Palm Beach for a long term agreement for the supplying of water and he believed this draft does this and it incorporates the essential terms and conditions of the franchise which is about to expire and significantly strengthens them and puts in additional guidelines. He suggested the Council consider the fact that the folks from the South Florida Water Management District have stated the Palm Beach County Water Supply Committee will take up and consider the whole issue of ASR as it may relate to this at their October Meeting and it may be premature for the Council to take any action on this matter at all today until after that consideration is made. He advised on the draft Interlocal Agreement, this is the best effort they have made and it has not been responded to by the City of West Palm Beach.

Councilwoman Wiener noted if this was for ASR and any other project which the Town may wish to consider, she would have no problem, but she knows when something is written once, it appears again on another piece of paper and then everyone starts believing it. She stated the Town has made no decision on ASR and some of the Council members do have reservations about it and it should be deleted or they should add on other projects and that would be fine with her.

Mr. Sundstrom read the words from the contract: "The Town may in the future but shall not be obligated to construct within its borders one or more Capital Water availability projects." He believed that meant there was no requirement for the Town to implement ASR or Desalinization or anything else, but was simply to preserve the option as it is a thirty year contract.

Mrs. Wiener believed she had read something that ASR could happen. Mayor Marix stated she also saw that but she didn't believe they were going to be discussing ASR at this point. Mr. Heeke believed they didn't want to limit their technological options. Mrs. Wiener agreed and that would be to do anything or to do nothing. Mayor Marix believed that they were going to put the ASR subject off until October until after the meeting that the South Florida Water Management District will be having, but she won't be here in October. Mr. Sundstrom stated the Water Management District is having a meeting on this subject in October so they probably wouldn't be back before the Council until November.

Mr. Olson addressed the Council indicating he will not be able to come back to the meeting after lunch as he has a meeting at 2 PM but he wished to emphasize the draft agreement has not been reviewed by the City Attorney for the City of West Palm Beach, however, he believed in concept they were in agreement with some basic areas of the franchise agreement, but it needs to be reviewed by the staff attorney and the City Commission. He stated in general he believed there was some conceptual agreement but there will have to be some discussion on it.

Meeting was adjourned for lunch.

Meeting reconvened by President Heeke.

Mr. Sundstrom recalled the instruction from Council was to work with the staff in crafting the best Inter-Local Agreement that they could, which would be a long time requirement and supply contract between the City of West Palm Beach and the Town of Palm Beach and the process was rather straightforward. He took the Interlocal Agreement of January, 1965 and other type of franchise agreements filed with the Secretary of State and looked at the needs of the Town, the water characteristics of the Town, and the deficiencies in the existing system which have been noted in the past.

He believed Mr. Olson would agree with the statement that the City has delayed or deferred certain Capital Improvement projects and maintenance projects, which they all agree are necessary relative to water quality and quantity within the Town. He stated on the quantity side, both the northern and southern extremities of the system have a deficiency and additional backbone systems are needed. He stated the Interlocal Agreement is a contract and reflects very simply that the parties will enter into a thirty year supply agreement whereby the City of West Palm Beach would be the exclusive provider to the Town of Palm Beach providing the City provides with certain terms and conditions which essentially are:

- A. The City may own and operate the System within the Town but it must maintain that System, according to municipal standards, (refer to Exhibit B.)
- B. The City will conduct its business within the Town so as not to interfere with the normal day-to-day operations of the Town; utilization of sidewalks and work should be done in the off-season to the extent possible and always under the supervision of the Director of Public Works.
- C. The Town may but is not bound to engage in capital improvements in the future and in the event the Town does do so, the title to same would belong to the Town.
- D. The City will cooperate with the Town in seeking any declarations from the Water Management District concerning anything the Town would wish to do.
- E. Rates and Charges - The Florida Statutes grants certain latitudes to municipalities exercising their police power in legislative capacities in the setting of water rates and the Agreement provides the Town will be the customer responsible or aggregately all the

people in the Town who purchase water and the pro rata share of the hydraulic demand on the City system should equate to the financial participation in the City system.

- F. There is a statutory authorized tax, pursuant to Chapter 166, Florida Statutes, which a municipality may impose upon the sale of water from its citizens and the City may not impose that tax on the Town unless it imposes the tax on the residents of the City.
- G. There will be no surcharge imposed and there are remedies in the contract in the event someone does elect to do so in the future.
- H. Inverse or declining block rate structures which means that a rate can be charged for the first, for example 4000 gallons and the next 4000 gallons would be a higher rate, and it is a ratcheting up of rates and the contract specifically provides the bottom class of customers and the top half of customers will always have a floor.
- I. Any rates that would be adopted by the City would be done pursuant to a cost of service survey and the Town would have the right to participate in that survey.
- J. A dispute resolution is written into the Agreement calling for arbitration, mediation and the remedy to court, if necessary.
- K. There is a Hold Harmless clause in the Agreement.

He stated what he is now asking if the Town's support to get this matter before the City Commission of the City of West Palm Beach and then bring it back to the Town Council for their further action.

Mrs. Wiener pointed out the provision on Page 8 which refers to ASR. Mr. Sundstrom responded this is an error and that provision will be removed from the Agreement.

Mayor Marix suggested there be deleted from the entire Agreement any reference to ASR. Mr. Sundstrom stated if that is the pleasure of the Council, he will do so. Mr. Heeke asked if it would be beneficial to have it in with respect to their dealings with the South Florida Water Management District on the Town's conservation program. Mr. Sundstrom believed they could work within the confines of various capital improvement options as identified in the study and purge the words from the Agreement, if that is the Council's collective judgment. Mr. Weinberg suggested they speak in generalities. Mrs. Wiener suggested the language should state "any and all capital water improvement projects."

Dr. Sten Lilja addressed the Council believing there was some confusion as there were actually two agreements submitted, one on May 22, 1992 to Mr. Olson, one with ASR and one without. He recalled Mr. Olson pointed out before he left earlier that the staff of the City of West Palm Beach had not reviewed the agreement and also he wrote a letter to the Town Manager and he was adamant that the Mayor, the staff nor the City Attorney had not reviewed the agreement and Dr. Lilja felt that should have been done before it was presented here.

Dr. Lilja noticed the units of measure in this agreement are referred to by gallons instead of cubic feet, and he thought it would be easier if this was provided so they could compare apples to apples rather than apples to oranges.

He pointed out it appears that the City has somewhat of a designed veto over the ASR installation.

Mr. Sundstrom pointed out the document obligates the City of West Palm Beach to work with the Town of Palm Beach and it does not give them a veto but an obligation to work with the Town. He responded to the comment of gallons vs. cubic feet - that was their intent to bring this into the twentieth century as very few people use the feet measurement anymore and they have to think of the year 2010 and 2020 as opposed to now. He stated they can use any denominator the Council tells him to, but gallons is the accepted standard in the trade in the State of Florida. Mr. Heeke stated he would be comfortable to stay with what is standard in the industry so there are no problems in interpretation.

Mr. Moore advised one of the problems they have faced through the years is the issue of back flow prevention devices as the City enacted an Ordinance which required the installation of these devices, even on retro fits on existing buildings and he has had an ongoing dispute with the City and the Town's residents have been threatened to have their water turned off after thirty days in the event the devices were not installed. He asked if there was a provision as to the necessity or requirement of these back flow prevention devices on existing residential and commercial buildings. He stated the current personnel are insisting on retro fitting single family residences as well as multi-family and commercial and he thought this was an issue which should be resolved. He had no problem with new construction.

Mrs. Douthit asked if this back flow prevention devices contributed towards conserving water? Mr. Sundstrom stated it is simply a fancy word for a check valve and keeps the water from going back into the distribution system once it has entered the resident's side of the meter. Mrs. Wiener asked if they addressed that in the Agreement? Mr. Sundstrom responded he has not and he would put it in if the Council so desires.

Mayor Marix thought it should be worded in such a fashion that would include this and any other thing that would be coming along in the future. She asked if they were threatening to cut off water because it was not installed, she viewed this as a very serious matter and she knows they can negotiate and mediate and if that doesn't work, go to the Court, but that would be a long time for those who have no water in the house, especially if there are children in the household. She noticed in the Agreement there was no mention of how it can be cancelled, and perhaps if it cannot be cancelled, they should be looking at a shorter time than 30 years for the Agreement to be in existence.

Mayor Marix noted the City will assume the responsibility for all necessary maintenance and she thought that was in place already but the fact is there is not enough pressure in the south end or in the north end and all of these things drag on so if it is assumed the responsibility is theirs, the Town hasn't found a way of enforcing these other things which have been needed for some time.

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Mayor Marix wondered if a citizen had the right to have two meters if the pressure was low? Mr. Sundstrom stated one could buy an irrigation meter or they could call for a larger meter. Mayor Marix asked if they would continue to be able to that to which Mr. Sundstrom responded affirmatively. Mayor Marix stated she wished she could compare this contract to the one now existing so it could be seen where it has been made stronger, tougher and more effective. Mr. Sundstrom stated he could review that or else they can review them side-by-side as the old one is rather short. He guaranteed there is nothing in the old contract that is not in the new if it was beneficial to the Town.

Mayor Marix stated the contract states the Town and its residents have no real voice in City affairs and wondered if the Town should have a more voice if they are 35% of the business. Mr. Sundstrom stated the remainder of the section addresses that point. Mayor Marix asked what did they have to do as the City is limiting our exposure to improper rate making although the Town can participate. She stated she would like to be able to cancel the contract or not renew it at a certain time than to end up in Circuit Court.

She referred to the fact there is a section which states the Town should be able to recover its total investment on capital facilities by establishing a special surcharge to be assessed on water within the Town and this surcharge will be added to existing bills. She presumed they didn't have to pay for the increases that way and maybe the Town would like to have a bond to finance that. Mr. Sundstrom advised this simply gives them an option. Mayor Marix asked if he was saying the bond would be assessed through the water bill? Mr. Sundstrom explained if bonds are issued to build something, it may be decided to use General Obligation Bonds, but the way this is usually done is this is an enterprise and the revenue bonds against the cash flow from the beneficiaries, in this case the water customers. Mayor Marix stated this would then be a revenue bond, to which Mr. Sundstrom agreed. Mayor Marix asked if discussing one, eliminates the possibility of having another one? Mr. Sundstrom stated what this does is it guarantees that if ever the Town of Palm Beach elected to do that, the City who renders the bills would add it on, collect the money and reimburse the bond holder or the Trustee or the Town Manager.

Mayor Marix asked if that would be as beneficial taxwise as the General Revenue Bond. Mr. Sundstrom responded this type would be more beneficial since it does not require a referendum as it would not be a General Obligation Bond. Mayor Marix thought perhaps they should have a referendum bond, and she simply is trying to make a point so she doesn't want to paint them in a corner. President Heeke didn't believe they would be painting themselves in a corner as there is going to be a flexibility to go either way and they wouldn't have to revert to the surcharge unless they elected to utilize a revenue bond approach for payment.

Mayor Marix asked about the checking of fire hydrants. Chief Elmore responded the Town's employees check the hydrants on a yearly basis and they send a list to the City and indicate which ones are the troublesome ones and the City of West Palm Beach makes the repairs. He advised one of the reasons the Town tests them is to regulate the water flow for their own purposes and the program works out very well as the City has been very responsive.

Mayor Marix noted that as soon as the agreement is signed, it would take precedence over the old agreement. Mayor Marix stated she wanted to be sure they didn't pay out a lot of money for the people who have paid and by not knowing what the rates are, how would they know? Mr. Sundstrom responded there is a tariff and the City has a right to amend their rates and charges, when necessary and that is a right that cannot be contracted away.

Mayor Marix asked if this agreement is signed before the end of the old agreement, what will the drawback be? Mr. Sundstrom responded that really goes to the earlier questions dealing with the cancellation. He advised the benefit of signing the agreement is they know the Town has locked in as being a customer for the long term and in exchange for that, their legal rights are waived to impose surcharges and other revenue enhancement mechanisms which he has already explained.

Mrs. Wiener stated they obviously cannot charge the Town more than they charge their own residents and they obviously cannot escalate the rates for their people without a rate study. Mr. Sundstrom observed it gives the people in this Town vicarious voter status.

Mrs. Wiener pointed out the City of West Palm Beach is also under the South Florida Water Management District. Mayor Marix wondered if they could not charge us differently except for the amount of water we use, are they not charging other people tax or a surcharge and what surcharge are they waiving for the Town? Mr. Sundstrom responded Florida law authorizes the municipality that owns the water utility system to impose a surcharge which is navigation of the common law which provides that they should not discriminate. He explained there are several ways to have different rate structures, taxes in one place and not in another; surcharge in one place and not in another; an inclining block structure and not in another and it is totally a legislative function. He stated the whole nature of this document is a contract and it is legally binding. He heard the question as to why should they do this and the answer is basic - it protects the Town and the people who come after the Town and is part of the trade the Town is making for not building an autonomous system of its own.

Mr. Sundstrom summarized noting they have asked him to address backflow prevention devices; they have asked him to go generic with the ASR references; protect the Town from shut-offs, etc.; and there is a question as to the length of the agreement and if they want a shorter period, that is fine, but it would be his recommendation to go for the thirty years. Mayor Marix asked if there could be a renewal break, such as twenty, plus ten, as she viewed thirty years as a long time and there is no way of ever getting out of it. Mr. Sundstrom recommended the Council instruct him to go forward with this draft and present it to the City Commission and then bring it back to this Council in a wrap-up stage and if there is something they don't want, they can so instruct him and that is his recommendation. Mr. Heeke felt that was a good recommendation.

Mr. Doney stated the concern from staff's perspective with regards to the letter dated August 14, 1992 from Ed Wetzel to Mr. Sundstrom and during this negotiation process, he would like to get some definitive time lines as to the specific benefits which would accrue to the Town. Mr. Sundstrom responded the Town Manager is correct and the agreement provides they have one year from execution of the agreement to implement the program contained on Exhibit B and that is the timetable which is quite reasonable. He stated this exhibit is a document which is not yet ready and it is evolving and in progress. Mr. Heeke pointed out Mr. Sundstrom is coordinating this with staff. Mr. Sundstrom stated they are simply waiting for the instructions of the Town Council to move forward on this and he believed there was a serious jeopardy in regards the 24" Flagler Drive

crossing as the integrity of that pipeline is not known and this process needs to be moved to a conclusion, for a lot of reasons.

Mrs. Wiener thought it was not possible to do that at this time as he should go to the City of West Palm Beach with the instructions and then come back to this Council with whatever they have negotiated with the City and then they can move on with it. President Heeke asked if that was a motion to which Mrs. Wiener responded affirmatively and so moved. Mayor Marix believed they needed to authorize Mr. Sundstrom to continue with the negotiations because of the points raised. Mrs. Wiener felt this is the negotiation. Mr. Heeke stated what they want to do is to present this Agreement with the modifications made today to the City of West Palm Beach.

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Attorney Randolph asked Mr. Sundstrom in the miscellaneous provisions of the Agreement at Item A, talks about the fact the City grants the Town the right at the expiration of the agreement to purchase all or part of the systems, but it doesn't address any type of formula which might be implemented at that time. Mr. Sundstrom responded the Law has always provided when there is a franchise which was of unilateral consent, that should the grantor of the franchise state they want out, the grantee has to have a way to recover investments that he has in place, as they couldn't take the pipes and move them. He stated by the same token, the Town would have to know they would have the ability to get them as opposed to parallel and replacement. He believed they could try for a provision such as original cost less depreciation but there are so many theories of evaluation of utility lines. He stated if Attorney Randolph believes that formula should be set in advance, he would suggest that thirty years from now most of those pipes will be 75 years old and there may be some older and should have been replaced and he will try but they would have to increase their fees if they should get into that exercise.

Mayor Marix wanted to know how they would get these things done in a timely fashion? Mr. Sundstrom responded it is a legally enforceable contract and is not a franchise. Mr. Heeke stated what he is telling us is in the 25th year, there is foot dragging again and a remedy under the contract puts us in a stronger position than they would have been under the franchise. Mayor Marix stated that is what she wants to be sure of, since they are getting very little of anything at this time.

Mr. Weinberg seconded the motion made by Mrs. Wiener.

Mr. Doney believed it would take extra effort by JMM to work with the City of West Palm Beach to do certain calibrations and revisions to further define those projects which will be of direct benefit to the Town and those projects should be prioritized as every time he talks to the City they tell us they are going to get to those projects but there is no time stated. Mr. Sundstrom responded that he views the previous instructions collectively to get this thing done and didn't think they were talking about a material in the sense of costly or expensive or another engineering study but views this as wrap-up stuff and all of the data should be in-hand that they need and he doesn't see much more work in it.

Mrs. Wiener just wanted to be sure the meter doesn't keep running and running and they are going off on ASR when they stated they didn't want to talk about it at this time until after South Florida Water Management meets on that subject and she didn't want any work going on until this Council discusses this in November.

Mayor Marix asked if Mr. Doney was saying they wanted to have clarified what should be done and there will not be another book put out by JMM and what she gathers is they should identify what needs to be done so that West Palm Beach does it?

Mr. Doney responded what he is saying is that because of these identified projects, most of which are going to be on the mainland of West Palm Beach aren't going to be of any direct benefit to the pressure concerns and these things aren't yet done. Mr. Weinberg asked if they couldn't highlight the Town's concerns? Mr. Sundstrom advised Mr. Doney only wants the Council to be cognizant of the fact there is a little more time involved but it is something that should be eaten up fairly quickly with hourly rates and will not require a lot more time, unless he is underjudging the effort involved as he doesn't believe there is that much more to do.

Mrs. Wiener wondered why nothing has been done to date if there is such prime concern for a 35% customer. Mr. Sundstrom advised it has been very difficult to bring this project this far at this point and finally the City has given a list of their own projects to which they are to respond and that is what they are doing - defining which ones help and which ones don't help and which ones are material and which ones are not here that should be here.

Mr. Weinberg asked if the Town was going to be allowed to pick from the menu to take care of the Town's needs? Mr. Sundstrom believed that the Town's engineer needs to advise the Council on the contents of Exhibit B and he concurs with that recommendation.

Mayor Marix asked if he meant the Town Engineer or JMM? Mr. Sundstrom assumed this would be JMM in connection with Mr. Bowser, as they are the people who have done the pressure analysis and the flow per feet per minute.

Mrs. Wiener recalled this was back in June. President Heeke stated they were also working with the City of West Palm and the independent engineers the City hired on these studies. Mrs. Wiener believed they needed to move ahead to which Mr. Heeke agreed.

Mayor Marix pointed out that Mr. Doney is still worried about what the fee will be for JMM and she was too. Mrs. Wiener did not believe that had anything to do with the contract. Mr. Doney advised he didn't believe it would be a tremendous amount of work for JMM but his concern was that there be a commitment from the City. He referred to the letter from Ed Wetzel to Mr. Sundstrom which points out there are a lot of things the City needs to be done which JMM can assess and prioritize and an assessment made as to what direct benefit it will be to the Town and that is his concern. He didn't believe the City of West Palm Beach was going to commit on certain things because we are not giving them a commitment, and he believed there needed to be extracted some sincere commitments.

President Heeke commented that someone has to make the first move to get this off the table and this is a first move as he views this and it is not the final draft they are going to be looking at, nor is that Exhibit.

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Mr. Dusey stated his concern was on the pressure problem as if they come back with the list that is here, Dr. Wetzel is telling us that this isn't going to solve the problem and if this comes back on the same list, Mr. Dusey would recommend against executing the agreement. He believed West Palm Beach has to know they must do better than this if we are going to be entering into a long term agreement or we will have thirty years more of the same pressure problems.

President Heeke asked in light of the statements by Mr. Dusey, can the Town be protected in the Schedule B description? Mr. Sundstrom responded affirmatively, noting they are all aware of this and this is an effort by staff to ensure that Council is also aware of it.

On roll call, the motion carried unanimously.

VIA. AQUIFER STORAGE AND RECOVERY (ASR) TECHNICAL FEASIBILITY STUDY AND PILOT PROGRAM, STATUS REPORT AND RECOMMENDED COURSE OF ACTION. Mr. Sundstrom advised a meeting has been had with Tilford C. Creel, Executive Director of the South Florida Water Management District and his senior staff members and they discussed the plans of the Town, and furnished them the conservation study which the District had comments and input and also the ASR, and all of the myriad views were aired. He reported what Mr. Creel asked him to do was to present the study to the Palm Beach Water Advisory Committee which is made up of members of the District Governing Board in the County, Mayors from various municipalities and others. He advised this meeting has been set for October. He felt that because of that it would not be appropriate to have this Council debate this matter at this time and they should accept the invitation to attend the proposed meeting and present that matter to them and then he will return to the Town Council and perhaps have more information on the Interlocal agreement.

Mrs. Wiener stated she had a problem with that as she was not assured that this entire Council wanted to go down that particular path and wondered why they should empower their consultants to appear before a certain body when this Council is not underwriting that project and haven't discussed it and are not in agreement and she didn't understand that logic. She thought the Council may ought to be making a decision as to whether or not they want to go in the ASR direction and whether or not they wanted to pay for this presentation.

President Heeke asked Mr. Sundstrom if he was not seeking additional information to head down the path with South Florida Water Management District on commitments which might be obtained from them? Mr. Sundstrom responded that was correct and in the event, we have the items before the Council for action, the vote would be on whether or not to seek a declaration from the South Florida Water Management District that it would bind itself for a long term (30 years) to grant reasonable water relief from restrictions to the Town of Palm Beach, should it implement an Aquifer Storage and Retrieval System and to drill a test well at an approximate cost of \$150,000 to \$175,000 and make a determination if a reasonable confining layer exists. He was suggesting to them what the Water Management District had suggested to them that as they heard today, there are two sides of the equation - supply and demand - ASR does address both sides. He is not recommending at this point that they do or do not go forward but is recommending that the Executive Director of the Water Management District has invited the Town to present its findings to the regional Water Supply Advisory Board and he thought it would be a mistake to not accept that invitation. He stated this would not preclude them later, if they found they didn't wish to go forward with the project, to not go forward. He reminded them the whole nature of the Interlocal Agreement was to preserve their options down the road. He advised Mr. Creel and his senior staff members were invited to this meeting and they would have been here, but for the hurricane. He has met with them and then received the invitation to attend the meeting in October and he would recommend this be authorized.

Mayor Marx recalled that the whole idea of researching this was to try and get an extra supply of water and she thought part of this research was which procedure would relieve the Town of any control of the South Florida Water Management District and now they are going in many different directions. She was sure the District knows of ASR and Desalinization as well as Reverse Osmosis and it would seem to her that one could address a letter to them and ask them if ASR establishment would eliminate the control or do the others. She stated they all know that RO doesn't eliminate the control. Mr. Sundstrom recalled there is a letter of response from SFWMD in their file from Tom McVickers the Deputy Executive Director that they would allow for this. Mrs. Wiener did not agree stating it was a very iffy letter and stated "could" allow. Mr. Sundstrom read from the letter: "ASR, under our rules, allows for relief from restrictions." He stated he would not advise them to go build a system on the strength of that letter as SFWMD could always change their minds. Mayor Marx agreed that it may be a little iffy, but it is sort of there, and since they don't intend to go ahead with it at this point, why go to the meeting? Mr. Heeke stated he has not made up his mind on ASR and he thought they had decided to not discuss it at this time and he believed this is a question of the ongoing procedure to help the Council make a decision at the time they do elect to discuss this matter.

Mrs. Wiener pointed out they have decided not to discuss it, but they are sending a representative to the South Florida Water Management District meeting to say if they want it, will it help them and wondered what would the Town Council do if SFWMD decided it was the best thing that has come along in a long time and then the Council decided not to do it. She stated what they are doing is sending a representative to this Committee meeting and she viewed this as giving an indication of very strong interest. Mrs. Douthitt thought they should send them on the grounds that they might learn something. Mayor Marx wondered if they were trying to learn as they have written a letter which might do, but maybe it won't - and are we trying to learn that this is a positive definite thing that can be done. She thought they should be looking for long term help and obviously since they are all going to run out of water some day, she felt they should be getting together with West Palm Beach and take a long term look at what the long term solution can be for this County and what can be done to work on it. She felt this was a long term big picture and it may turn out that a solution is for our own ASR or Desalinization program.

Mr. Heeke commented they have no control over the County Commission or what they do and he thought it was pie in the sky to think they would cooperate unless it does benefit them. He thought not to send someone to this meeting would be a premature judgment against the ASR and he believed they should accept the invitation since it was officially issued to Mr. Sundstrom and find out what they have to say and then when the meeting is held on the Interlocal Agreement, at that time they can make a decision as to whether it should be discussed further or put it on the shelf.

Mrs. Wiener felt they should be discussion on this beforehand so a decision can be made whether or not and here they are saying they are not going to discuss it but will be sending our

representative to give an indication to the Committee that the Town of Palm has a great interest, as that is what she would read into it if she sends someone to talk on her behalf, obviously, she is showing interest.

Mr. Heeke felt it was an important feature which this Council has under consideration and it has not been disposed of and he did not think attending any meeting commits anything one way or the other. He believed it indicated the Town is still exploring the process.

Mayor Marix stated she has no problem with the meeting but has a problem with the fact that there still needs to be a lot of research on this.

President Heeke asked Mr. Sundstrom if he had any feel for what would be involved in attending the meeting. Mr. Sundstrom responded he would be taking a couple of the people who have spoken today who obviously would not need any prep time to attend the meeting, state the subject matter, state the technology and answer questions, get the feedback and incorporate it into their recommendations for this Council.

Mrs. Wiener asked Mr. Sundstrom referring to the statement made about "stating the subject matter" and asked how he would state it? Mr. Sundstrom responded he would assume that he would state this is what the Town has studied, and this is what the Town has found and ask them what they think of this idea. He didn't believe that was advocating it or not advocating it but accepting an invitation and he thought there were a lot of people very interested in what has been learned and would like to hear about it. Mr. Ilyinsky did not see anything wrong with that to which Mr. Heeke agreed.

Mayor Marix commented it is clear that the Town is interested in getting relief from some of the controls and they are in no particular hurry and we have looked at this and we realize there is some good and a lot of drawbacks with it, and they might look at other things down the road, so if it were quite clear that that is what they would be doing by simply going to a meeting, but if it was presented in such a way that they would like this is what the Town is trying to sell, that would be bad. She believed they could say they were interested in this and other things and want to start eliminating some and what would their reaction be to this, as this could be a fact finding mission. Mr. Heeke stated the Town Council has not spoken to this issue and there would be no representations made in that respect. Mr. Sundstrom advised that was absolutely correct and all he was asking for is the Council's direction to go or not to go. Mrs. Wiener stated her problem is they are going to be making a presentation and that is a whole different story as it sends a wrong signal.

Mr. Heeke stated this is a piece of information which is needed before their consultants can make a recommendation to this Council. Mrs. Douthitt thought it would be considered a conservation matter and it was her recommendation they go to the meeting and find out if this is a feasibility as we are going to have to get their approval to do it, if the Council should decide to go that way.

Dr. Lilja addressed the Council suggested the South Florida Water Management District has made two statements, one in their letter of 8-25-92 when they wrote: "Treated water Aquifer storage and recovery - the application of ASR technology may effectively store water during off-peak periods, however, in the context of this conservation study, it will have no effect on reducing the per capita demand for potable water, which is the goal of this study."

He stated another statement was made that they would make no allowance because the ASR would be mixed with other water. He felt they had already delivered two statements that they would not approve it.

Mr. Sundstrom stated he took issue with these statements as it is his feeling it is wrong as a matter of law and as a matter of fact. He stated all he wants is instructions from this Council to go or not to go.

Mayor Marix asked what exactly would be involved in this, presentation-wise - preparation-wise? Mr. Sundstrom responded he felt the preparation was completed and it would still be a matter of getting together for an hour or so before the meeting, and then advising the Committee what has been done and what the options are and advising them that this matter will come back to the Town Council at some time and advise it is an option or could be an option which the Town may want to utilize either now or sometime in the future. He advised that when they have an option, they shouldn't throw it away as five years down the line, there could be a drought and this option could be utilized in a period of long drought and he could envision a citizen addressing the Council asking them why they didn't exercise that option when it was before them in 1992.

Mayor Marix asked if they did go ahead with this, she understood they would have to dig a test well and then later dig five more and hope it would work and since the idea is to buy cheap water when people are not using it, she believed the time of the drought was not the time to go ahead as they should go ahead and use it long before a drought.

Mr. Heeke asked Mr. Sundstrom if he had the direction as outlined, he would then come back to the Town Council and they may or may not make an election at that time, and as Mr. Heeke saw it, that was all Mr. Sundstrom really needed to represent to them.

Mr. Sundstrom responded that was correct as that is all he has to represent to them.

Mr. Weinberg asked exactly what did Mr. Sundstrom want this Council to authorize? Mr. Sundstrom responded authorize and instruct him to accept the invitation of the Executive Director of the South Florida Water Management District to meet before the Water Supply Planning Board and to advise them as he has outlined earlier today. Mr. Weinberg so moved. Seconded by Mr. Ilyinsky.

On roll call, the motion carried 4-1 with Mrs. Wiener voting against it stating the reason is because she thought this would be misinterpreted and suddenly they will find they have it around their necks when this Council has not discussed it and made no decision.

VII. ANY OTHER MATTERS: None

VIII. ADJOURNMENT: Meeting was adjourned at 2:45 PM.

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Adjournment

Grace T. Peters
Town Clerk