MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON AUGUST 1, 1996

I. ALL TO ORDER AND ROLL CALL

The meeting was called to order by President Smith at 9:30 A.M. On roll call, the following Elected Officials were in attendance: Mayor Ilyinsky, President Smith, President Pro-Tem McDonald, Councilmen Shaw and Wyett. Councilman Sam McLendon was absent. Also in attendance were : Town Manager Robert Doney, Assistant Town Manager Peter Elwell, Assistant to the Town Manger David Jakubiak, Scott Hawkins representing Town Attorney John Randolph, Police Chief Joseph Terlizzese, Police Major Frank Croft, Personnel Director William Crouse, Director of Building and Zoning Robert Moore, Recreation Director Russell Bitzer, Finance Director Marie Crozier, Assistant to the Finance Director Cheryl Somers, Information Systems Manager Spencer Wilson, Assistant Director of Public Works Leonard Green, Town Engineer James Bowser, Purchasing Agent Charles Boggs, Police Planner Lisa Gorman, and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. President Smith led the Pledge of Allegiance.

III. COMMENTS OF THE MAYOR

Mayor Ilyinsky referred to a letter received from West Palm Beach Mayor Nancy Graham in reply to his letter, remarking that it was filled with possibilities.

The Mayor pointed out the upcoming Crime Watch Meeting, urging support for the Police Department.

In regard to the Port of Palm Beach, Mayor Ilyinsky expressed amazement at the speed with which accomplishments had been made in bringing together the various entities involved in its operation.

IV. APPROVAL OF THE AGENDA

Mrs. Smith suggested that it would be appropriate to move Item VIII to be heard immediately after the budget considerations.

Mr. Wyett made a motion to move Item VIII to be head immediately after the Item V. FY97 Proposed budgets; seconded by Mr. Shaw. On roll call, the motion carried 4/0.

Mr. Wyett made a motion to approve the Agenda; seconded by Mr. Shaw. On roll call, the motion carried 4/0.

V. FY97 PROPOSED BUDGETS

A. Percentage of Change in Millage over the Rolled-Back Rate Necessary to Fund the Budget and the Specific Purposes for which Ad Valorem Tax Revenues are being increased.

Mr. Doney mentioned that backup for this item had been provided via his memorandum of July 26, 1996. He noted that the millage recommended for consideration was 4.5800 mills, representing a 4.44% increase over the rolled-back millage rate, which was 4.3855 mills, and a .95% increase over the adopted FY96 operating millage rate of 4.5371 mills. These announcements were necessary in accordance with Chapter 200, Florida Statutes.

Mr. Doney drew attention to the package pointing out the specific reasons for the increase in Ad Valorem Tax Revenues--Exhibit F-2 (as required by Chapter 200, Florida Statutes) identified the specifics of the Ad Valorem Tax increases in the FY97 Budget. For the record and for the purposes of the hearing, Mr. Doney read the particular items:

The Advice and Litigation increased $25,000

The AS400 IBM Disc Expansion Unit for the Town Computer System increased $24,200

The Capital Improvement Funding increased $126,000

The Fire-Rescue Department salaries and related costs for three new positions - $145,565

The Police Department items:

Two new Jeep Cherokee vehicles - $44,000
Communication System increased $15,000
ID Contractual Employee - $15,000
Imaging System - $90,000
Cannon Fax Machine - $1,265
Call Tracker - $4,935
HTE Bar Coding System - $6,500
Doppler Radar Unit - $1,400
Ballistic Shields - $2,000
Patrol Bikes - $4,200
Vector Light Bars - $3,000
Patrol Car Video Recording Systems - $11,000
Twelve new positions (salaries and related costs) - $413,325

The Town Clerk's office, increase of half time person to full time position - $20,000

The Town Clerk's office - checkwriter upgrade - $4,000

Mr. Doney noted that the overall dollar change from was $1,052,898, or a 3.34% increase in the FY97 Proposed General Fund Budget.

Mr. Doney referred to a memorandum from the Director of Pubic Works, Al Dusey, concerning State Forester funding. The contribution being requested of the Town of Palm Beach was $1,000, which Mr. Doney recommended that the Town Council authorize.

Mrs. Smith pointed out the County had always supported the Town, and recommended that a motion be made to approve this contribution.

Mr. Wyett made a motion to approve the contribution of $1,000 from the Town of Palm Beach to the State Forester fund; seconded by Mr. Shaw. On roll call, the motion carried 4/0.

Mr. Doney referred to his memorandum of July 26, 1996, pointing out that he had recommended a millage rate that was intentionally high, because the Personnel Director was completing a review of the general pay increase issue, and specific recommendations would be reported at the September 5, 1996 meeting. Additionally, the Palm Beach Solid Waste Authority, was contemplating increased fees, as well as charges for the Sanitary Sewage Program, which would impact the Town Budget. An increase in the tentative operating millage rate was being recommended, at 4.5800 mills, or $4.58 per $1,000 of taxable value.

Mr. Doney reported that the Town's preliminary gross taxable value for 1996 (as of 7/1/96), as determined by the Palm Beach County Property Appraiser, increased by $175,244,777 (from $4,336,830,534 for FY 96 to $4,512,075,311 for FY 97); a 4.04% increase in taxable value.

Mr. Doney assured the Town Council that he and all departments in the Town would continue to look for ways to reduce the budget where possible.

Mr. Doney then referred to Exhibits A-M, attached to his memorandum of July 26, 1996, explaining Exhibit B (FY97 Proposed General Fund Budget and Taxable Value Review) in detail.

Mr. Wyett noted that the reports were very concise and clear, and suggested that the comments be confined to those that the general public should hear.

Mr. Doney referred to Exhibit C (FY97 Proposed General Fund and Other Fund Expenditures).

There were no questions or comments on Exhibit C.

Mr. Doney referred to Exhibit D (General Fund Revenue Report), which included all revenue line items for all funds.

Mr. Shaw referred to page 1, item 314, Exhibit D, questioning the increase in revenues from phone service charges paid to the town by re-sellers within the Town. Mrs. Crozier explained that it was not reflected in the FY97 budget because technically the revenues would be remitted as of June, 1996, and there was no history to base what the increase should be--it would be reflected in next year's budget, after a "season" would be completed as most revenues would be generated in that time period.

Mr. Shaw confirmed that there was an anticipation of additional revenue in that account.

Mrs. Crozier responded affirmatively.

Mr. Shaw then addressed the architectural fees and questioned if an adjustment would be made in that area?

Mr. Moore, Director of Planning, Zoning & Building, addressed the Town Council, stating that Mr. Shaw had raised this issue during the Finance & Taxation meetings, and it would be studied, with a proposed plan for major projects to continue at a $100 fee; minor projects at

Mr. Moore, Director of Planning, Zoning & Building, addressed the Town Council, stating that Mr. Shaw had raised this issue during the Finance & Taxation meetings, and it would be studied, with a proposed plan for major projects to continue at a $100 fee; minor projects at a $50 fee; and Landmarks Applications at $100 fee, which would yield another $5,000 of income.

Mr. Shaw stated that he understood that an agreement to increase the lien search fee had been reached, however, it was not noted in line item 341, item 45.

Mrs. Crozier responded that it was anticipated that the lien search fee would increase, however, the direction was that before the increase was placed in the budget it should be reviewed with the Town Attorney--as soon as he had reviewed the fee and concurred with the amount, the number would be changed.

Mr. Doney then referred to Exhibit E (Funding Requirements Capital Improvement Program), including all items addressed and discussed at the Finance & Taxation meetings. He drew attention to page 3 of Exhibit E, Coastal Protection Reserve, and remarked it was hoped that the reserve would be increased as soon as the results of the audit for the period ending September 30, 1996 were known. It was believed that a portion of the Undesignated General Fund Balance could be used to increase that reserve, which would be helpful for future beach projects

Mr. Doney then referred to Exhibit F-1 ("Revised" FY97 General Fund Proposed Expenditures as of July 26, 1996), based on the recommendations of the Finance & Taxation Committee. The total proposed decrease was $349,621, which resulted in an adjusted Proposed FY97 Budget of $32,535,486, and a total percent of change for the FY96 Budget of 3.34%.

Mr. Doney referred to Exhibit F-2 (FY96 Adopted Budget vs. FY97 Proposed Budget - Major Items of Change), which had already been covered.

Mr. Doney referred to Exhibit F-3 (FY96 Adopted Budget vs. FY97 Proposed Budget - Major Items of Change Summary), giving categorical expenditures for FY97.

Mr. Doney referred to Exhibit G (Estimated Cost to a Town Taxpayer for each $100,000 of Expenditures funded by Ad Valorem Taxes), explaining that the impact to the Town budget and Town taxpayer was noted in this exhibit.

Mr. Doney referred to Exhibit H (FY96 Estimated Ad Valorem Taxes Paid by Town Property Owners Based Upon Final FY96 Taxable Value), noting that the largest impact to Town taxpayers was the Palm Beach County School System.

Mr. Wyett noted that the millage impact to the taxpayers was based on $200,000 assessments,and suggested that $100,000 be used, so that residents could more easily understand their assessments.

Mr. Doney replied that could be done.

Mr. Doney pointed out that the Town of Palm Beach contributed $100,000 annually to the Society of the Four Arts Library, and if the Town were required to participate in the Countywide Library Millage of .4838 mills, an additional $2,098,259 would be paid by Town taxpayers toward the County Library System.

Mr. Doney then referred to Exhibits I (Town and Overlapping Millage Tax Rates By Year FY87-FY96) and J [Town and Overlapping Tax Rates - Tax Rate as a Percent of Total (FY87-FY96 Adopted)], pointing out that in FY87 the Town's millage was 5.3896 mills, and in FY96 the adopted operating millage was 4.9960 mills.

Mr. Doney referred to Exhibit K (1996 "Preliminary" Certification of Taxable Value), noting that it was recommended that the first Public Budget Hearing be held on Thursday, September 5, 1996 at 5:01 P.M. in the Town Council Chambers.

Mr. Doney referred to Exhibit L [Proposed Total Town Taxes (Includes Operating and Debt Service Millages) Comparison Between FY96 and FY97)], which provided examples of the impact of the recommended budget on a Town taxpayer.

Mrs. Smith suggested that next year, due to the increasing property values in Palm Beach, the taxable value would include property over $1,000,000.

Mr. Doney agreed that could be done.

Mr. Doney referred to Exhibit M (Comparison of Town and County Taxable Value FY89 - FY97), noting that the County included over 2,000 square miles and the Town was slightly under 4 square miles, and contributed 8% of the total taxable value.

B. Comments from the Public

There were none.

C. Advise Property Appraiser of Town's Proposed "Tentative" Operating (General Fund) Millage Rate, Rolled-Back Millage Rate, and Debt Service Millage Rate

Mr. Doney stated that the "Tentative" Operating Millage Rate recommended for FY97 was 4.5800 mills; the Rolled-Back Millage

Millage Rate was 4.3855 mills; and the Debt Service Millage Rate was .4491 mills. The total FY97 recommended Millage Rate was 5.0291 mills, or approximately $5.03 per $1,000 of taxable value.

Mr. Shaw made a motion to approve the millage rates and so advise the Property Appraiser; seconded by Mr. Wyett. On roll call, the motion carried 4/0.

D. Set the Date, Time, and Place of Public Hearing when Town Council will consider and Act Upon Tentative Proposed Millage Rate and Tentative Budget for General Fund and Other Funds (Proposed Date: Thursday, September 5, 1996, at 5:01 P.M. in Town Council Chambers and for Final Adoption Public Hearing, Proposed Date: Tuesday, September 10, 1996, at 5:01 P.M. in Town Council Chambers)

Mr. Doney explained that Chapter 200, Florida Statutes, required that the upcoming budget hearings could not conflict with the School Board Hearings, which had been scheduled for July 31, and September 11, nor could conflict with the Palm Beach County Commission Public Hearings, which had been scheduled for September 9 and September 26. Therefore, the dates of September 5 and September 10 had been recommended for the Town of Palm Beach Public Hearings.

Mr. Wyett made a motion to approve the September 5 and September 10 dates for Public Hearings on the Millage Rate and Budget; seconded by Mr. Shaw. On roll call, the motion carried 4/0.

E. Authorize Town Manager to Execute 1996 Certification of Taxable Value with Details Directed Today

Mrs. Doney explained that this was Exhibit K in the Budget package.

Mr. Shaw made a motion to authorize the Town Manager to execute the Certification of Taxable Value and follow up with other actions as needed; seconded by Mr. Wyett. On roll call, the motion carried 4/0.

F. Any Other FY97 Proposed Budget Matters

Mr. Doney explained that the Finance & Taxation Committee had requested that the actuary be contacted regarding the funding requirements of the Group Health Insurance Program. That had been accomplished, and a memorandum dated July 19, 1996 from Mr. Crouse was included in the budget package confirming that the actuary had been contacted. A written recommendation from the actuary was provided in the budget package.

Mr. Doney noted that the Town Council and the Mayor had intentionally been conservative in establishing necessary health insurance reserves because of potential changes in Federal legislation controlling health insurance funding. The actuary had indicated that a lesser amount could be contributed for FY97, therefore a lesser amount would be projected for reserve. The letter from the actuary stated that: *"We already prepare, annually, an Actuarial Report covering the short-term funding needs for next year's expenses. However, the only way to know with an degree of certainty what should be the proper level of total funding, would be to prepare an Actuarial Valuation of your long-term obligations to retirees. Much like the annual pension Valuation we prepare, such a Valuation of your retiree health benefit program would accomplish two goals:*

1. Provides you with an assessment of the current financial solvency of the program, i.e., the funded status, and
2. Provides you with a reasonably level funding pattern for your budget purposes.

Unfortunately, such a study would take several weeks to complete, and you have indicated a need for our judgement on the '96-'97 budget amount within days. In light of that, one option you have is to set your '96-'97 budget at $3.0 million, perform the Actuarial Valuation and, if necessary, raise the budget amount for the '97-'98 year up to the recommended level.

On the other hand, possibly a better alternative would be to leave the stated budget amount for '96-'97 at $3,706,217 (last year's figure). Then, after the Actuarial Valuation Report is completed, if the recommended level of total funding were less than that, the lower figure could be contributed for the '96-'97 year. You can always contribute less than the budget amount if it turns out not necessary to contribute the higher amount. This would be our recommended approach."

Mr. Doney stated that Mr. Crouse was available for questioning.

Mr. Shaw commented that he respected the point of view of the actuary, however, with the historical position of the Town, as well as the high levels of reserves on hand, he recommended that the $3,706,217 be reduced to a lower amount in order to compromise between going to that, and possibly bring it down to $3,400,000. He stated that he believed that the Town was strong in reserves, and that it would be appropriate to authorize the long-term Actuarial Valuation.

Mayor Ilyinsky stated that he disagreed with Mr. Shaw, remarking that the Town Council had always erred on the safe side, and he would be very uncomfortable if the reserves were at a much lower level than they were presently.

Mr. Wyett asked what would happen to any money that would be saved?

Mr. Doney replied that it would stay in that Group Health Insurance Fund.

Mr. Wyett asked if the budget in the next year would be reduced by any overage?

Mr. Doney responded that the funding level could be reduced accordingly, and re-visited.

Mrs. Smith stated that she believed that no action should be taken until there was an actuarial study, and that she concurred with the Mayor in leaving the contributions as they were, and make the adjustment next year.

Mr. Shaw stated that this was not a question of under funding. The question was whether or not the current year contributions should be at an amount that had been calculated based on historical information that had proven to be excessive. Funds had been set aside, which were now up to $9 million, and Mr. Shaw questioned the need to set aside $3,706,217, and possibly make it $3.4 or $3.5 million. He explained that prudence in how the budget was structured was necessary, and he was not discussing eliminating a $3 million item; but was talking about $100,000-$200,000. He commented that he did not feel comfortable that adding $200,000 was a prudent approach, however, he felt very comfortable saying that if $3.4 or $3.5 million was funded towards the program there would be no jeopardizing of the security of employees.

Mr. Shaw made a motion that $3,400,000 be allocated towards the reserves; seconded by Mr. McDonald. On roll call, the motion failed 2/3, with Mayor Ilyinsky casting a negative vote to break the tie.

Mr. Wyett commented that the Town was over funded, but until hard figures were available, it was difficult for him to be fiscally responsible and still reduce the number. Mr. Wyett asked if there would be a cost attached to the Actuarial Valuation?

Mr. Doney replied that it would be a cost directly from the Self-Insurance Fund.

Mr. Crouse reported that the cost of the report would run between $15-$20,000.

Mr. Wyett remarked that it was not worthwhile to spend $15-20,000 of taxpayer money to find out what was going to happen anyway.

Mr. Crouse replied that the last report done was in 1991, which showed that the long-term liability for the retirees insurance was about $8.4 million. He noted that he would not expect that figure to be lower today, in fact, he would expect it to be higher--paying $15-20,000 would simply reveal that the liability was approximately $9-10 million. The whole idea of the reserve was not only to protect the current plan for catastrophic situations, but also to pick up and prepare, if at some point in time there was a need to finance the long-term liabilities for retirement.

In response to the query of the Mayor regarding lowering the reserves, Mr. Crouse explained that stabilizing the premiums and budget increases would alleviate large increases from year to year. He stated that there was nothing wrong with getting a report, and the only reason that it had not been done on a bi-annual basis was because the actuary recommended against it, however, at some point in time the Town may want to spend the money to see accurate figures. He added that the only way to know if the budget could be reduced would be to have the study done.

Mr. Shaw asked if the response would have been the same if the request had been to reduce from $3.7 million to $3.4 or $3.5 million?

Mr. Crouse responded affirmatively, because projections were $2.99 million as actual expenses. In addition to that, there was a liability of $700,000 over and above that under the aggregate. The other thing that it did not take into consideration was fluctuations in enrollment, and IBNR (the incurred, but not reported) from one year to the next, which always ran about $400,000. So, if the projections and costs were added, a figure of $3.4 million would be arrived at, and a few thousand was being put in for the potential of going over the projections.

Mrs. Smith remarked that this item would be looked at next year by the Finance & Taxation Committee, and that the study would not be done at this time.

Mr. Doney explained that the scope of the study would be more involved as far as the Federal requirements.

Mrs. Smith suggested that this matter be put on a regular Town Council Meeting agenda for further discussion, when the full Council would be sitting.

Mr. Doney noted that Mr. Crouse would follow through on what the experience was, and would report back.

F. Any Other FY97 Proposed Budget Matters

Mr. Doney stated that the audio visual improvements (Item X. On today's Agenda) could potentially impact the FY97 budget, and if it was desired to move forward quickly, an appropriation from the Undesignated General Fund Balance could be requested.

Mrs. Smith stated that the request could be made to the Council today, and there was no need to have a Finance & Taxation Committee Meeting tomorrow to do that, and there would not be a Finance & Taxation Committee meeting on August 2, 1996.

(*The following item was heard after item* VI. *as announced previously in the meeting.*)

VIII. CONSIDERATION OF PROPOSED LETTER TO CONGRESSIONAL DELEGATION REGARDING FEDERAL FUNDING OF 7.5 MILLION DOLLARS FOR WEST PALM BEACH WATER SUPPLY AND TOWN'S REQUEST THAT THIS GRANT INCLUDE A CONDITION PROHIBITING THE WATER SURCHARGE *(DEFERRED FROM JULY 9, 1996 COUNCIL MEETING)*

Mayor Ilyinsky noted that Mr. Wyett had suggested that the Mayor of Palm Beach and the Mayor of West Palm Beach correspond, and that had occurred, and on the basis of the letter from Mayor Graham, Mayor Ilyinsky suggested that the Council sit back and wait in order to hear the proposals of Mayor Graham.

Mr. Elwell updated the Town Council of new information obtained regarding the issue, as the Senate was scheduled to wrap up all action on appropriation bills approved by the House today and tomorrow before adjourning for the August recess, suggesting that if the Town Council wished to act on this issue, action would be needed immediately.

Mr. McDonald commented that he supported the Mayor's opinion, but serious consideration must be taken today.

Mrs. Smith expressed concern that the letter going with the request to West Palm Beach was tough and rude, and may totally terminate any negotiations on the Water Contract.

Mr. Wyett stated that the letter dated July 17, 1996, was timely but not strong enough. He noted that West Palm Beach had indicated that they were intending to create a monopoly by being the sole provider of water, and that the appropriations from the Federal government should not go unchallenged. He suggested that if the letter was sent, it be strengthened to point out that there was a monoply and additional towns and communities in the area would also be subject to the 25% surcharge eventually when they would be forced by practicality to join the water supply of West Palm Beach. He remarked that the letter was merely requesting that the $7.5 million federal funding be withheld if a surcharge was imposed. If the City of West Palm Beach would remove the surcharge, or comes to a mutual agreement with the Town, then an immediate correcting letter could be sent withdrawing objections. He pointed out that there was only one opportunity to make an objection.

Mr. Hawkins stated that the letter set forth certain facts, which may be of interest to those in the appropriation process and was clearly a matter of legal strategy, as he saw it, although he was not involved directly in the negotiations and could not comment as to the status of those negotiations with the City of West Palm Beach.

Mrs. Smith commented that if she were to read the resolution, she would wonder why the Town had not filed suit two years ago regarding the surcharge, rather than asking the government to withhold $7.5 million to West Palm Beach.

Mr. Adrian Winterfield addressed the Town Council, stating that he disagreed with the characterization as a legal maneuver, but considered this a political maneuver, and that it would be foolish to send the letter without getting some sort of sounding from legislators. He noted that there would be a great danger that reaction would be that this is a matter between municipalities under State law, and the Federal government could not become involved.

Mrs. Smith asked if anyone had spoken to Mark Foley, Clay Shaw, or Bob Graham?

Mr. Wyett responded that there was no authorization to speak individually, and that the Council should speak as one body.

Mrs. Smith pointed out that if the blistering letter went forth, and the three representatives refused to become involved, there could be negative effects.

Mr. Wyett remarked that Mayor Graham understood political maneuvers, and the Town had spent more than three years attempting to work out a contract with West Palm Beach, and in February of 1995 a Water Committee was formed, which had been totally frustrated by the inability to begin conversations with the City. He observed that the letter from Mayor Graham detailed that she was putting together a win/win proposal and that time was needed to put it in writing, however, the Town was still in the same position.

Mrs. Smith noted that Mayor Graham had brought her staff to the Town Council, asking to make a presentation three months ago, and the Water Committee had been appointed by the Town Council just before there was a change in administration at the senior level of the City of West Palm Beach; therefore the Town Council had started on a Water Contract, in effect, from scratch. She urged that the whole picture be looked at. She questioned what was to be gained from political maneuvering at this point, when there was no indication that representatives in Washington would support the position of the Town over the City of West Palm Beach.

Mr. Wyett reminded everyone that Mr. McLendon and he had been extremely frustrated in trying to get a response from Mayor Graham, and her presentation to the Town Council had been a technical presentation, with no questions or discussions about the 25% surcharge. He recommended that the Town Council move forward.

Mr. Shaw suggested that the amended letter to Mark Foley be sent, without the Resolution, and asked that wording in the first line be changed to add: The Town of Palm Beach was pleased to learn *and would endorse.* On the third paragraph, Mr. Shaw suggested eliminating the first sentence entirely: *Palm Beach has taken the position with the City that the surcharge to Palm Beach customer is neither fair nor appropriate*. Mr. Shaw suggested that in the highlighted section, the word "alternatively" be changed to *therefore*, and asked that wording be added at the end: *If you concur, we ask that the bill be so amended. If you do* *not, that you vote for it as is.* Mr. Shaw stated that he wanted to make it very clear that the Federal government was not being asked to intervene by withholding the monies.

Mr. Wyett suggested that the statement of dealing with a monopoly be included.

Mr. Shaw commented that the issue was not the relationship with the City of West Palm Beach and the Town of Palm Beach, but that the Federal funds should be allocated for the benefit of all those using the water system.

Mr. Wyett remarked that the impact of the letter would be taken away with the suggested change in wording, and suggested that the Town send a positive message of support in the conversation of water, however, Federal funds should not support a monopoly which imposed a surcharge.

Mayor Ilyinsky asked Mr. Elwell what the Federal funding of $7.5 million would be used for?

Mr. Elwell replied that the City of West Palm Beach intended to use the funds for a project where re-used water would be taken from the regional sewage treatment plant, run through wetlands adjacent to the water catchment area, which would then re-charge a well field where the water would be pumped back out and into the water supply.

Mayor Ilyinsky commented that he got the feeling that there was a little bit more of a guarantee that there would be more water available in the future. He urged a careful understanding, since the funding would eventually benefit the Town.

Mr. Wyett pointed out that the project was an experimental way of using water, which he supported, but the outcome was not known for certain. He noted that he was in favor of the Federal government helping to support the experiment, and concurred with the Mayor that there were long term benefits to the region, however, he urged that the Town take a stand to let the City of West Palm Beach know that there was not support for federal expenditures when the Town was being asked to pay a 25% surcharge for water.

Mrs. Smith questioned whether the timing was appropriate in regard to sending a letter to government officials, and expecting Mayor Graham to respond in a timely fashion.

Mr. McDonald commented that he believed the surcharge rate was discriminatory compared to the residents of West Palm Beach, and suggested that a decision be made regarding whether the letter should be sent, and if so, how to word the letter. Mr. McDonald made a motion that the letter be written, giving emphasis to passing a Resolution; seconded by Mr. Shaw.

Mr. Wyett questioned the effect of having the Town pass a formal Resolution versus just sending the letter to members of Congress?

Mr. Doney responded that the Resolution would indicate that the Mayor and the Town Council took an official action, and suggested that, because of the timing involved, a letter could be faxed to congressional representatives.

Mr. Shaw suggested that the letter be signed with a closing that said *on behalf of myself and the Town Council,* and be signed by the Mayor.

Mr. McDonald revised his motion to recommend that a letter be sent, signed by the Mayor, and omit the Resolution; seconded by Mr. Shaw.

Mr. Wyett suggested adding a statement to the letter saying that the City of West Palm Beach, by the nature of its geographic position, and the Town's isolation as a reef island, provides an automatic monopoly, and there is no practical alternate water supply. He asserted that would bring attention of representatives to the problem. He also suggested that it also be stated that the federal monies should be provided only if agreements are reached with adjacent communities utilizing the facilities, or if the 25% surcharge is removed.

Mr. McDonald recommended sending the letter that had been written, removing the word "monopoly" from the July 26,1996 draft, as well as the changes recommended by Mr. Shaw.

(The proposed letter was typed during the break in the meeting)

When the meeting resumed the draft letter was presented.

Mr. Wyett appealed to the Council to add an additional paragraph: *We appeal to you because of an accident of geography in which West Palm Beach has a water monopoly to which we are subject.*

Mr. Shaw stated that he liked the letter as it stood, but suggested that the phrase "City's drinking water" be changed to "the drinking water".

Mr. Wyett explained his reason for wishing to add the additional paragraph, stating that the Federal government was concerned with monopoly, and the wording in the paragraph would give them a hook to realize that they were in a position to avoid or restrict a monopoly. He reminded the Council that the Federal appropriations would continue in the next fiscal year, and he wanted the letter to be strong enough to indicate that a very strong fight would be put up by the Town in the next fiscal year.

Mr. Shaw remarked that the bill was supported, and urged that the impression of violation of Federal Statutes or concepts may provide a negative reaction from Congress.

On roll call, the motion failed 2/3 with Mr. Shaw and Mr. McDonald casting affirmative votes, Mrs. Smith and Mr. Wyett casting negative votes, and Mayor Ilyinsky casting a negative vote.

VI. RECONSIDERATION OF RESOLUTION NO. 37-96 - REQUEST BY BELLSOUTH FOR UTILITY EASEMENT AT PALMO WAY NURSERY

Mr. Jim Bowser, Town Engineer, addressed the Town Council, stating that he had re-visited the north end of the island and had found an alternative location that BellSouth could use to construct a CEV cabinet located within Town road right-of-way, west of Ocean Terrace. BellSouth had indicated that this would be an acceptable location, in fact preferable, since it is further north to the point of service that they want to make. Because of the upcoming season, this construction would be delayed until at least next year, or whenever BellSouth would decided to program it, however, they did have a need for additional lines in the north end of the island, and had asked to construct another telephone cabinet at the west end of Onondaga, which now has both BellSouth and FPL lines which come underneath the intracoastal waterway. He added that Public Works saw no reason not to issue a right-of-way permit to have the box constructed.

Mrs. Smith apologized to the representatives of BellSouth, remarking that she should have called on them first.

Mr. Paul Davis, BellSouth Director, addressed the Town Council, stating that one problem now was that building the facility would take a little more time, so it would be required to delay that until next year, or perhaps beyond that. Since there were pending service requests on the north end of the island, the alternative was to construct a cabinet west of Onondaga to provide that service.

Mrs. Smith stated that she was pleased that construction would not be done on Palmo Way, because of the green space area that may have been jeopardized.

Mr. Jakubiak referred to his memorandum of July 26 to the Mayor and Town Council, page 5, where there was a list of recommendations. Contact had been made with certain cities that were currently dealing with telecommunication issues.

Mr. Jakubiak noted that the sale of an easement was not recommended; leasing was an option, however, policies and procedures must be competitively neutral and non-discriminatory. A franchise would permit placement of equipment in right-of-ways; there was a difference, however, between laying a cable or conduit versus putting a box or a structure in a right of way, and it was believed that a telecommunications ordinance could include language where the municipality would recover a fee in addition to the franchise fee for a structure. Mr. Jakubiak noted that issue would have to be researched in more detail. He added that if leasing was an option, it was recommended that the leasing terms be based upon the terms of the Franchise Agreement.

In response to the query of Mr. Wyett, Mr. Bowser explained that the there was a public access that needed to be maintained regarding the CEV location; there was no bicycle trail at the Onondaga location.

Mr. Wyett asked the purpose of the access between Northlake Way and the lake?

Mr. Bowser replied that walkway was for access, but there was a dispute between the Town and the property owner concerning the walkway.

Mr. Wyett asked if residents had the right to walk in the right-of-way?

Mr. Bowser responded that resident could use the walkway.

Mr. Wyett remarked that a structure in this right-of-way would restrict pedestrian right-of-way, and a new precedent would be established allowing a structure in a public right-of-way that residents had access to.

Mr. Bowser established there were boxes all over rights-of-ways, and it would not be closed, but would be accessible for residents. Mr. Bowser explained that when any utility needed to utilize a right-of-way, there was an attempt to find the least objectionable location, and this was believed to be the best location--it would not eliminate access for the public, and BellSouth would be able to provide a box in a location that would have little to no visibility by the public, and be in a location where it would not be able to be hit by an automobile.

Mr. Wyett asked if the Town was entitled to any revenue for granting this?

Mr. Bowser replied negatively.

Mr. Jakubiak pointed out that there was an argument that could be made that some language could be included in an ordinance indicating recuperating some revenue for putting a structure in a right-of-way, however, that issue was still being researched. He noted that if approval were granted, it should be under the condition that the company understands that they will comply with future ordinances.

Mr. Buck Passmore, Regional Manager of BellSouth for Palm Beach County, clarified that the franchise, as of this point, included all telephone equipment--cables, lines, fiberoptics, equipment boxes, except for a CEV that takes a much larger area. Currently, no further remuneration could be gained by putting telephone equipment into a right-of-way according to the current franchise agreement. He added that, according to law, 1% is the cap--1% of the recurring charges from citizens, so actually the citizens would be paying the 1%.

Mrs. Smith commented that all property owners affected should be noticed that the boxes were going in.

Mr. Bowser replied that could be done.

Mr. Shaw asked the size of the box, and commented that the pad was 2' north of the south easement line and asked if it could be flush to the easement line, since it was indicated that accesses were east and west?

Mr. Bower replied that the doors opened in that direction, and access was needed. In addition, the pad would be modified to 58" wide in the north/south direction, so the wide side of the box would face north and south. The doors would be on the north and south sides and BellSouth would need to open the doors from both sides.

Mr. Wyett asked the dimensions on the east/west side?

Mr. Shaw made a motion to approve Resolution 37-96; seconded by Mr. McDonald.

Mr. Davis of BellSouth responded approximately 2'.

Mr. Jakubiak stated that it should be understood that there was a potential that charges relating to those boxes would be passed in an ordinance in the future.

Mr. Doney suggested that the opinion of Attorney Hawkins be obtained regarding the verbal agreement of Mr. Passmore to abide by any charges passed along to BellSouth.

Mr. Hawkins explained that the condition could be included in the motion, and have it re-seconded.

Mr. Shaw amended his motion to approve Resolution 37-96 with the understanding that the Town reserved the right to have a fee for the use of a structure on a right-of-way in the future.

Mr. Passmore agreed as long as it was stated that it would depend on what was allowed by the law.

Mr. Shaw commented that everything would be based on compliance with the law.

Mr. McDonald seconded the amended motion. On roll call, the motion carried 4/0.

Mrs. Smith stated that it would now be determined whether or not the Council would recommend that ORS consider drafting a telecommunications ordinance.

Mr. McDonald made a motion that ORS draft a telecommunications ordinance; seconded by Mr. Wyett.

Mr. Wyett suggested deferral, since not enough was known about the telecommunications act presently.

On roll call the motion carried 4/0.

VII. CONSIDERATION OF ANTENNA AND TOWER SITING FOR CELLULAR AND PERSONAL COMMUNICATIONS SERVICES WIRELESS TECHNOLOGY

A. Individual Presentations by Providers of Cellular and Personal Communication Services

Mrs. Smith stated that the order of presentation would be done by a blind draw. Fifteen minutes would be allowed for each presentation, with fifteen minutes allowed for questions.

The order of presentations would be follows:

1. AT & T Wireless
2. PCS PrimeCo
3. Stealth Technologies
4. BellSouth Mobility
5. Sprint Spectrum

Mr. Doney suggested taking a few minutes to hear from Mr. Jakubiak about submissions, and Mr. Ken Horowitz who had comments and inputs.

Mr. Jakubiak commented that Mr. Horowitz was a technical expert in the field, and had helped prepare a questionnarie submitted to all of the companies. There had been specific deadlines for submission of the questionnaire and letters of interest, and the companies that had met all deadlines were BellSouth Mobility and Stealth Technologies. PCS Primeco had met all deadlines, but had not provided enough back-up material. AT & T Wireless and Sprint Spectrum had not complied with all the deadlines, and had submitted materials after that date.

Mr. Ken Horowitz, a resident of Palm Beach, addressed the Town Council, stating that his purpose was to try and help the Town regarding the telecommunications issue. He detailed that he had been a resident of Palm Beach since late 1989, and had been involved in the telecommunications industry since the late 1970's, and had actually started the entire cellular telephone industry in 1983. He had owned and operated, and been chairman of cellular companies, and was considered an expert in the business. He had provided expert testimony to both the Public Service Commissions and Federal Communications Commission. He emphasized that the scope of the problems associated with telecommunications was very large, and that he had no conflicts of interest in that he did not own any telecommunication properties in the State of Florida.

Mr. Horowitz explained that there were two cellular operators in every market of the country, and there would be as many as six PCS carriers in the marketplace. The units would be slightly smaller than cellular phones, and had many advantages. There would also be paging companies that would like to locate antennas in Town, as well as wireless cable companies.

Mr. Horowitz reported that there was no way to stop this from happening--carriers would be permitted to provide facilities in the marketplace with no discrimination amongst carriers, and no consideration of environmental effects in terms of frequencies. He mentioned that he had helped the Town create a questionnaire, to which every respondent had indicated that whenever possible they would like to co-locate facilities, meaning sharing roof tops, sharing towers. He encouraged the Town to make certain that co-locations occurred.

Mr. Horowitz brought attention to the money making opportunity that the Town might want to consider. Carriers could put up their own facilities at their own expense, or go to a third party provider that could put facilities up for them, with the third party provider charging rent to the carriers, or the Town could put up the facilities themselves and enjoy some of the revenue.

Mr. Wyett thanked Mr. Horowitz for all the work he had done for the Town.

Mr. Horowitz suggested that the Town may be interested in hiring a consultant or an attorney specializing in the telecommunications area.

Mr. Wyett suggested that perhaps the Town should wait until more information was developed in the telecommunications area before hiring a consultant or attorney.

Mr. Horowitz replied that only advice should be paid for, not research.

Mrs. Smith reported that the Council would now have to address the question of the telecommunication company submissions and noncompliance of deadlines.

Mr. McDonald made a motion that every company that was in attendance and in the draw be listened to; seconded by Mr. Wyett. On roll call, the motion carried 4/0.

Mr. Jakubiak clarified that auctions were still being conducted, so four licensed providers would be heard from today (AT & T, PCS Primeco, BellSouth, and Sprint). Stealth Technologies was similar to CityTel and was a third party provider, and was not licensed in this area to provide a telecommunication service. One map had been received from Sprint Spectrum, however, maps had not been received from the other three licensed providers, and those maps were important and should be furnished at a later date.

Mr. Wyett expressed that each provider should be invited to stay and listen, as it would provide an opportunity to learn areas of cooperation for common facilities.

After the lunch break, Mrs. Smith reconvened the meeting and announced that AT&T Wireless would be the first presenter.

Robert Deziel, Attorney representing AT&T Wireless addressed the Town Council, and introduced the AT&T representatives, Jim Randall and Tony Flores.

Mr. Deziel requested that participants who were not presenting be allowed to remain in the Chambers during the presentation of the other companies.

Mrs. Smith replied that would be the choice of each individual, and the statement to exclude non-presenters was made before presentations routinely at all Council meetings.

Jim Randall, Site Acquisition Manager for AT&T Wireless, addressed the Town Council. Mr. Randall identified the materials in the hand-out presented to the Council previously.

Mr. Randall said he would explain the differences between cellular and PCS. Mr. Randall explained two existing cellular companies work in the range between 800 and 900 megahertz, BellSouth and AT&T Wireless Services. The system design is in place making site demand critical for both companies. PCS is presently establishing sites and, as the systems are built-out, co-location becomes feasible.

Mr. Randall said AT&T's intention is to stealth as many sites as possible, and they are not in the business to build towers but to furnish good, quality service to the public. AT&T is looking for capacity at the present time to furnish phone lines when the public needs service.

Tony Flores, Director of Site Development, addressed the Town Council. Mr. Flores stated the main purpose of AT&T is to provide service as stated by Mr. Randall. Mr. Flores said AT&T has a capacity problem, and new subscribers are often unable to access the overloaded system. Each existing site has a finite number of users who can access it at one time--approximately 50 simultaneous users can use one site at a time. Rush hour or emergency situations cause problems. The sites cannot be established any place, because the sites must have a symmetry to the design. Specific sites and locations have to work because of their geographical location on a map and the geographical height above the ground as determined by the engineers. Existing structures are preferred for the installation of antennas.

Mr. Flores stated AT&T is attempting to work with local governments to form a type of process that will provide the best and most mutually beneficial system to the community.

Mrs. Smith asked Mr. Flores and Mr. Randall to explain why the Town should choose AT&T over the other providers?

Mr. Flores replied he would not suggest choosing AT&T over some one else since all the companies want to provide good coverage and quality service to their customers as well. However, for competitive reasons, AT&T wants to provide service for their customers in a way that will not alienate any one.

Responding to a question from Mr. Wyett, Mr. Randall explained that "RSSI" (as used on the hand-out materials) was the radio signal strength as determined by a test vehicle driving on the surface streets in an area that measures the signal strength of a particular site. Mr. Randall noted that the colors used on the maps--green, yellow, and red referred to good, not so good, and "no conversation".

Mr. Randall explained that if 65 users attempted to call in a site area at one time, some would receive a message for a "directed retry" or try another site that is farther away.

Mr. Wyett requested Mr. Randall explain the potential increased capacity of the proposed antenna on the chimney of the First National Bank Building in Palm Beach.

Mr. Randall replied that each site provided at least 50 users to the area and the other sites are off-loaded.

Mr. Wyett projected that future users would use digital service over analog service as the demand for lines increases, and the 50 users in a site area would not meet the demand. Mr. Wyett asked Mr. Randall to project what type of facilities would be required in the future.

Mr. Randall responded that AT&T is looking at an overlay-underlay scenario where a home would have a base station that would handle all of the local communications around the property. As the user traveled away from the home base, the telephone would switch to the next closest site. The digital technology would allow three voice paths in the same space that is required for one voice path for analog service. Additional radios are being developed that would double the three paths to six paths for one actual device.

Mr. Wyett said that, in the future when the need increases, the poles could be hidden in the commercial districts with stealth technology but questioned the placement of equipment in the residential areas (the north end of Palm Beach) when usage is high.

Mr. Randall responded that AT&T engineers are working on an overlay-underlay scenario that would use more micro cells. An area that handles a broad coverage and has random access by transient users would be helped by that.

Mr. Wyett questioned if all of the providers would share poles or equipment or would there be separate equipment for each provider in the residential areas?

Mr. Randall replied AT&T's first choice is to use existing structures such as light poles or technology for synthetic foliage. Some of the shorter applications, as described by Mr. Wyett in the residential areas, could use chimneys or other sources for equipment. As the technology develops, the antennas will be smaller.

Mr. Wyett stated his concerns were not to have ugly structures or a disruption in the environment and also to maintain the revenue stream. Mr. Wyett said the Town is considering an ordinance subject to the Communications Act to accomplish the two purposes.

Mayor Ilyinsky said he has not experienced difficulties with his cellular phones and questioned the need for additional antennas.

Mr. Randall explained that as shown on the map given to the Town Council, the Town does currently have access to service; however, due to the increase in users that will not always be the case. Responding to Mayor Ilyinsky's questions, Mr. Randall replied that if fifty subscribers picked up the phones at one time, that would present problems. Mr. Randall explained that the tower in West Palm Beach that probably receives the call from a cell phone in Palm Beach and returns the call to the island is becoming overloaded.

Mr. Shaw added that the Mayor was using a car phone with a 3 watt transmitter, and the users with a tenth of that power are the ones having a problem.

Mr. Randall said that towers pass off to other towers or antennas as needed.

Mr. Ken Horowitz offered to meet with the Council to explain the differences in phones if anyone so desired. Mr. Horowitz said only a certain number of channels exist, and new technologies are being developed. Only a certain amount of the spectrum has been given to cellular providers, and the only way to have more channels (more calls) is to reduce the size of the cell sites such as the example of micro cells mentioned earlier.

Mr. Horowitz noted that the map as presented by the AT&T representatives represented the effectiveness of the portable phones from outside calling locations--not inside buildings. Mr. Horowitz illustrated on the blackboard an arrangement of cells from West Palm Beach to Palm Beach. Mr. Horowitz said the providers want to provide Palm Beach with its own cells so additional channels are available. Cells are becoming smaller and smaller and closer to the ground.

Mr. Shaw asked if AT&T's goal was to go to micro cells?

Mr. Randall replied that the company's 1997 goal is to have one-third of the planned South Florida area sites be micro cells. Responding to Mr. Shaw's questions concerning system designs for different areas, Mr. Randall replied that a wireless office system technology is being developed, similar to a PBX, that would have a very small micro cell allocated to a very small geographical footprint which may be one condominium building. All of the new licenses that are being licensed off by the government are introducing other wireless providers, and that will impact the available customer bases.

Mr. Shaw asked how that would impact the single family residences and were street lights viable as antenna sources?

Mr. Randall responded that the natural evolution of the system as more cells are introduced into the system, in order for the footprint of the cells to be smaller, the actual height has to be lower. This opportunity to use existing structures will increase as technology improves.

Mr. Shaw asked what effect the ever decreasing site radius will have on the hard wire relationship between the sites and going into equipment facilities?

Mr. Randall replied similar equipment will have to be supplied as is available currently; however, micro equipment will be much smaller as employed by some installers presently.

Mr. Shaw questioned if the real problem would be the mass of the equipment at ground level.

Mr. Randall responded that as the technology develops, the residents will become accustomed to them such as they are to transformers now. The controlled environmental vaults are another option as used by BellSouth.

Mr. Randall said that the service must cover emergency and disaster situations. Mr. Randall pointed out that the current required dimensions for facilities are now 12' x 28', and building sites are considered for antenna attachments with inside air conditioned space which is critical to the operation. The height is typically 8'.

Mrs. Smith questioned-- if the space were not available in Palm Beach for the equipment, the equipment would not be put in and the services could not be provided?

Mr. Randall replied that is dependent on future technologies.

Mr. Flores added that AT&T Wireless is looking at the micro cell technology to resolve that problem. AT&T realizes that all of the communities cannot be served with the macro cell scenario which requires about 300 square feet of floor space and the micro cell would occupy 10 square feet or less. Mr. Flores, replying to a question from Mrs. Smith, said that the technology would be available in 1997.

Mr. Shaw asked if AT&T thought anything in the legislation provided AT&T with an inherent right to place these vault boxes anywhere the company deemed necessary.

Mr. Flores, paraphrasing from the Telecom Act as interpreted by AT&T, said: "Regulation of the placement, construction and modification of personal wireless services shall not prohibit or have the effect of prohibiting the provision of personal wireless services." Mr. Flores said that local governments cannot devise ordinances or arbitrarily exclude wireless services from the communities. Mr. Flores continued, "The intent of this section that bans or policies that have the effect of banning personal wireless services or facilities not be allowed and that decisions be made on a case by case basis."

Mr. Shaw said the Town does not have land, open spaces, or water towers, and asked Mr. Flores if there is no land, does AT&T have the right to create land?

Mr. Flores said if no raw land is available, the company attempts to work with other businesses or people who have land they want to lease. AT&T does not want to own the property.

Mr. Randall distinguished between building attachments and free standing monopoles and towers. Mr. Randall said the new technology is a completely stealth operation and has no visual impact whatsoever. Landlords are dealt with on an individual basis; however, towers are different situations. Towers are visual and have impact.

Mr. Jakubiak said while the Telecom Act clearly states the communities cannot pre-empt regulations nor can the ordinances preempt companies from offering their services in the communities, the Town can adopt ordinances and regulations that can control, through zoning, the placement of the facilities. Mr. Jakubiak suggested that each provider should be questioned concerning current and projected maps for potential sites.

Mrs. Smith asked if AT&T provided that information in the hand out to the Council?

Mr. Flores replied negatively. He explained that some of the issues involved anti-trust actions. Mr. Flores said that AT&T had to understand what was part of the public record before the company released their future plans.

Mr. Horowitz inquired if the Town were to supply three, strategically located sites, and the companies could be provided with a turn-key site for a reasonable amount of rent that would include a generator if the companies would be interested?

Mr. Flores responded that AT&T would be very interested in a proposition like that, because the company is not interested in purchasing sites.

Mrs. Smith said that Mr. Horowitz's suggestion was not necessarily the Town's recommendation, and the Council's main objective was to protect the Town residents from the intrusion of towers and boxes. If the Town does not have the property to give to the PCS companies, the Council will fight to protect the residents' property rights.

Mr. Flores replied that other communities have similar concerns, and he understood the sentiments expressed by the Town Council members.

Mr. Flores closed by saying the Telecommunications Act of 1996 is a device that can bring industry and local government together for the benefit of the public. AT&T Wireless Services looks forward to working with local governments to draft language and ordinances that will benefit both. AT&T was mandated by the FCC to provide a certain level of quality, and if that quality falls below a certain point, the company is at risk of losing its license.

Mr. Deziel added that all of the providers in the room will be providing service in the Town, and it is not a matter of who will be in the Town and who won't. Mr. Deziel asked that the Town consider the needs of AT&T which are from a "stealthing standpoint", and AT&T's current needs are not permitted in the Town because of the "Zoning in Progress" moratorium that allows the Town to organize its thoughts related to ordinances. Mr. Deziel asked the Council to consider between towers or antennas that would be an eye sore and those that would not.

Mrs. Smith announced the next presenter would be PCS Primeco.

Mr. Wyett asked if no vacant property existed, would the Town be precluded under the Telecommunications Act from dealing with a private owner to place an antenna or tower on the front lawn?

Mr. Jakubiak replied that the preferable choice that the Council may make would be to come to the Town first on Town located facilities, and if those facilities did not work, then the companies would seek an exception to the ordinance and appear before the Town Council.

Mr. Wyett asked if the Town Council could turn the request down?

Mr. Jakubiak replied, "Maybe not" and could not comment on that right now.

Mike Vonder Meulen, SBA Incorporated - Steven Bernstein Associates, representing PCS Primeco or Primeco Personal Communications, explained the company is a limited partnership composed of BellAtlantic, NineX, Air Touch, and USWest. Primeco participated in the FCC auction for A and B bands for PCS and won 11 NTA's, encompassing the entire state of Florida, portions of Lousiana, Texas, Chicago, Hawaii, and the Richmond, Virginia area.

Mr. Vonder Meulen said his company attempts to use existing sites on industrial and/or commercial buildings, and these are not visible from the street as they are stealthed on the roof tops. Condominiums are also used, and the last resort is vacant, raw land. None of the South Florida sites are mono poles or tower structures in residential areas.

PCS Primeco is not on line as of this date; however, by the end of the year the company should be launched with adequate coverage in the next four years. The cell sites that cover the Town of Palm Beach are from Palm Beach Shores through Lake Worth and West Palm Beach and were identified on a map in the handout given to the Town Council members. Mr. Vonder Meulen identified the various sites and signal frequencies listed on the map.

Responding to a question from Mr. Wyett concerning the type of equipment that would be installed on the island, Mr. Vonder Meulen replied the standard equipment consists of antennas and cabinets that resemble traffic signal boxes, 3'x3'x4'. Two to four of those boxes would be placed on a site and can be mounted or hidden on roofs. A monopole would be constructed on an 8'x16' slab.

Mr. Vonder Meulen reported that his company is working with seven school sites with the Palm Beach County School Board and has worked with several communities revising telecommunication or cellular site ordinances. Mr. Vonder Meulen offered his company's services to the Town of Palm Beach.

Mr. Shaw referred to the July 9th letter from PCS Primeco that indicated that the company had no intention of installing any antennas in the Town of Palm Beach which seemed to be opposite to the micro cell that was geared to take in a much smaller area. Mr. Shaw asked if the company's policy was not to go to the micro cell?

Mr. Vonder Meulen responded that company policy can change subject to business dictates. Mr. Vonder Meulen said that since the company is not on line yet, the system has not generated revenues, and the success of the system has yet to be determined. The technology is somewhat untested in a large scale commercial market, and until some of those questions are answered positively, the system would not expand.

Mr. Vonder Meulen, replying to Mr. Shaw's questions, said the company is one of the new digital systems using CDMA technology and was used for communications devices during World War II. This is the first time that it has been commercially used, and it will be able to transmit not only voice communications but data and video also. This system has approximately ten times the coverage of a cell site which is approximately 500 per cell.

Mr. Vonder Meulen said that each site starts out with six antennas and expands to nine to further increase the coverage.

Mr. Wyett noted that Mr. Horowitz reported as many as seventeen providers could be using sites in Palm Beach which caused space problems for sites in the Town. Mr. Wyett asked how PCS Primeco would coordinate with other providers who have similar site problems?

Mr. Vonder Meulen replied that his company had co-location agreements with all three of the cellular carriers in the market attending the meeting. (The companies agreed.)

Mr. Vonder Meulen said his company did not need a room or a vault. If the installation was on a roof, two structural I-beams were used over a structural column on the building.

Mr. Wyett noted that substantial ground or roof areas would be required for all of the providers.

Mr. Vonder Meulen said that Mr. Hodgkins, Palm Beach County, is pushing for stealth type technologies.

Mr. Wyett asked if the Town would be within its legal parameters to require that all antennas be of the stealth nature?

Mr. Vonder Meulen replied he believed that has yet to be determined by the FCC and the Act has room for interpretation.

Mr. Wyett said he believed the Town Council's intent was to put together something that would encourage Palm Beach to be the beneficiary of early PCS and advanced cellular systems and not to put up road blocks for companies.

Mr. Horowitz said, with respect to co-location sites and the equipment location, much of the equipment is redundant. A good part of the footprint is batteries for back-up, generator equipment, fuel, and signaling racks to communicate back to the phone company central offices. Co-located sites can share many of those facilities, and the footprint does shrink.

Mr. Horowitz said that when a provider builds a cell or PCS site, these sites must communicate back to the phone company's central office. Two ways to do that depend on wire service in the ground, either fiber or whatever, or microwave dishes which may be four feet in diameter. The number of antennas for the wireless carriers is somewhat contingent upon the facilities in the ground that are provided by BellSouth to the switches in West Palm Beach.

Mr. Shaw said the Town derives a franchise fee from the communication industry. As the cellular system comes into play, Mr. Shaw asked Mr. Horowitz how he envisioned the Town receiving compensation? Since the question is, "Is there any claim to the revenue being generated since no facilities are being used in the Town?", how is that resolved.

Mr. Jakubiak replied that franchise fees are for the use of rights-of-way, and the area under discussion is wireless; however the ability to generate revenue exists if these sites are co-located on municipal property. The Telecom Act states the Town cannot tax a satellite dish because it uses the airways and is on private property.

Responding to questions from Mr. Shaw, Mr. Jakubiak replied that his February, 1996, memorandum stated that a 7% Public Service Tax that is collected from approximately 50 providers, and any of the companies providing services, located in the Town or not, will be paying 7% tax.

Mrs. Smith announced the next presenter would be Stealth Technologies.

Jim Haldeman, Director of Sales for Stealth Technologies, Charleston, South Carolina, introduced Bruce Joyner from Joyner & Associates, the local representative.

Mr. Haldeman explained that his company is not a wireless provider but the sole purpose of his organization is to assist wireless phone companies to conceal their antennas. Mr. Haldeman provided the historical background of Stealth Technologies using two albums of photographs that were submitted to the Mayor and Town Council for review. Mr. Haldeman said many of the examples in the photographs showed the matching materials used for concealing the antennas or other equipment on any part of various buildings.

Mrs. Smith noted that "stealthing" has become the buzz word of the industry.

Mr. Haldeman agreed that the word has become free advertising for his company.

Mrs. Smith asked Mr. Haldeman to describe the minimum height needed to conceal the antennas or equipment?

Mr. Joyner provided the analogy of the power emanating from each site and compared it to a flash light. Mr. Joyner said that heights can be anything needed and gave the examples of light poles and roof tops. The heights could be any where from 25 to 60 feet.

Jim McGann, responding to questions from Mrs. Smith, replied that his company was not in the engineering business but designed the package after the customers came to them. Mr. Joyner explained the engineers start the project with input from the site purveyors. Mr. Joyner reviewed the photographs of stealth applications as shown in the album hand-out.

Mr. Wyett asked if multiple antennas for multiple providers needed distance or separation between them?

Mr. Joyner replied the separation could be horizontal or vertical and, depending on the application and the mix of PCS and cellular, separation could be an issue. Mr. Haldeman added that often their customers provide the specifications, and, if needed, his company could provide a structure that would completely enclose a roof top. Mr. Haldeman provided several photographs showing situations where materials were matched to the buildings to conceal the equipment.

Mrs. Smith asked Robert Moore, the Director of the Planning, Zoning and Building Department, to address the Council concerning questions involving space requirements.

Mr. Moore asked the representatives of Stealth Technologies how much square footage of space, inside the building, would be required to support all of the users' needs?

Mr. Haldeman responded that question would have to be addressed by all of the users of the group, and his company's primary function is to build at the direction of the users.

Mrs. Smith said that issue created an entirely new element with the introduction of required inside space for users. The presentations, to this time, dealt with outside space requirements. Mrs. Smith asked that the other presenters present be prepared to discuss the inside needs for space requirements, because Town Hall has no excess interior space. Mrs. Smith questioned if a legal question regarding the "taking" of space in a public building was at issue? Mrs. Smith said the companies must have an idea of the electrical space required on the inside of a building--either residential or commercial.

Mr. Moore said the discussions have been on the aesthetic nature of the antenna systems; however, prior discussions with Mr. Horowitz indicated needs exist for inside areas for the generator. Mr. Moore suggested the company may have not dealt with municipalities previously. Mr. Moore added the Council may wish to address this issue with other presenters present at the meeting, and ask them if they can share some of the equipment inside the air conditioned area.

Mr. Jakubiak said a questionnaire was sent to each of the companies requesting them to provide information regarding the size of the space they would need. One of the presenters responded they would need battery support and generator support in an area.

Mr. Joyner responded that the typical needs are AC power, battery power back-up, phone lines to make the cell site work, and an exit port for the cables to the antennas if the equipment shelter is not on the roof, then the cables must be run to the antennas on the roof. Mr. Joyner said the size of the space may vary for the previously stated requirements, and micro cell is typically a smaller cell site, lower power, and more sites would be required to cover the same area in most cases.

Mr. Joyner said that PCS installations are just beginning for Stealth Technologies, and one of the solutions in a residential area would be the use of existing light poles. Chimneys and vents on residences are also potential sites for antennas. An antenna engineer is working on the horizontal and vertical polarization issue which is related to the separation of antennae, and this engineer is attempting to reduce the platform size to ten inches. Mr. Joyner reported that a plan is being worked on to install antennas in light fixtures on the Golden Gate Bridge to provide for users sitting in cars waiting on the bridge for the toll booths. Light poles would be an additional consideration.

Mr. Joyner discussed the issue of using vaults underground; however, the technology is still in the development stages. Additional potential sites included schools, churches, and power sub-stations.

Mr. Wyett said he understood at this point in time, cellular systems need approximately a 20' x 30' space inside air conditioned buildings impervious to the elements. PCS systems can stand alone, without air conditioning in the open in an enclosed 10' x 10' or 10' x 20' space. Mr. Joyner supported those statements.

Mr. Moore asked if Mr. Hawkins would address the issue of the Town creating an ordinance and the terms and providing the space for users. The critical issue question-- was it up to the vendors to modify their needs to meet what the Town offers through its ordinance?

Mr. Wyett said he and Mr. Shaw would be charged with issuing a recommendation for an ordinance through the Ordinance, Rules, & Standards Committee. Mr. Wyett continued that, as laymen, they would have to create an ordinance that would comply with the Telecommunications Act.

Jim Bowser, the Town Engineer, said any site belonging to the Town would have to have an strength analysis. Mr. Bowser mentioned that the Town would have a liability for service if a user were relying on the Town's generator and it failed for whatever reason. Mr. Bowser said access to the building would be a problem on a twenty-four hour, seven day a week basis. Mr. Bowser suggested staff should meet to work out details and share ideas for sites.

Mrs. Smith agreed that the Town has many possibilities, and the presentors were being educated as well as the Council.

Mr. Joyner, responding to a question from Mr. Wyett regarding the cellular and PCS companies, said the types of ground equipment currently needed are different; however, the technology is converging and may be similar rapidly. Mr. Joyner added that some of the companies are not currently sharing information regarding the location of sites. The locations may change or more may be needed as time goes on.

Mr. Jakubiak said that discussing any specific building at this point is premature and suggested that the Mayor and Council may at some time choose to hire a professional to review the facilities.

Mrs. Smith replied the Council is not choosing any buildings; however, the members are learning from the presenters.

Mr. Jakubiak, referring to his conversations with Mr. Horowitz, said that these users need certain requirements for facilities, and Town properties, buildings or open spaces, may be considered for sites.

Mr. Doney asked if any consideration had been given by the companies to use or fit pumping stations and either sanitary or storm sewer locations in an attempt to co-locate facilities?

Gilberto Pastoriza, Attorney representing BellSouth Mobility, introduced Wendy Bonner, Manager for Real Estate and Construction in the South Florida area, and Paul Scarpello, resident expert in micro cells.

Mr. Pastoriza said his company has the same type of needs as AT&T Wireless. Mr. Pastoriza added that the service for the Town of Palm Beach is generated from the mainland.

Mr. Pastoriza stated he was appearing at the meeting to inform the Council that his company has coverage problems in some parts of the Town and needs additional cell sites to cover the increased demand for services. Some of the municipalities do not have heights, and towers have to be created. Mr. Pastoriza reported that downtown Miami has all of the equipment on building roofs.

Mr. Pastoriza said that his company will only share generators and will not share any other equipment. The company can create its own air conditioned space outside, or inside space can also be used. If the company uses micro cell technology, no air conditioned space would be required; however, additional sites would be needed due to the lower capacity of the micro cells and the lower height requirements.

Mr. Pastoriza said his company is the leader in South Florida for stealthing monopoles, and reported that a tree in Coral Springs is actually a stealth site. Mr. Pastoriza said that his company works with many government entities, including sites in Dade County parks, Broward and Palm Beach County School Boards, light poles, and ball fields. Mr. Pastoriza said his company is looking for five sites in the Town of Palm Beach within the next three years, and these sites were shown on the map included in the handout given to the Mayor and Town Council.

Mr. Doney identified the sites as follows:

1. Caribbean Road near the Inlet--four or five streets from the Inlet;
2. Northeast corner of the Palm Beach Country Club;
3. East end of the east side of the Everglades Club Golf Course;
4. Phipps Ocean Park;
5. Slightly north of Lake Worth Road on the east side of A-1A.

Mr. Shaw asked if the five proposed sites were cellular or PCS sites?

Mr. Pastoriza replied that those were cellular sites, and stated his company was a licensed, cellular provider.

Mr. Shaw said he did not understand that the micro cells were an option--he thought that was something that was more unique to the characteristics of the PCS technology than the cellular technology.

Mr. Pastoriza replied that his company has used micro cells in some of the urban areas in Dade County.

Responding to questions from Mr. Shaw regarding the heights of the antennas at the proposed sites, Mr. Pastoriza said the heights could range from 70 feet to 100 feet.

Mr. Shaw asked Mr. Pastoriza what would happen if his company could not build towers higher than 50 feet? Mr. Pastoriza responded the Town would have a law suit, and the company could probably not operate the system with a restriction of 50 foot height limitations.

Mr. Shaw reported that the other presenters indicated that the micro cell technology could operate with much lower antennas and said that was a critical point for the Council to consider because the Council was attempting to find out what the needs were for the suppliers.

Mr. Pastoriza responded that the heights were dependent upon the number of sites that would be needed and lower antennas would require many additional sites closer together with no tall builders or trees in between.

Paul Scarpello explained that if it were determined that five micro cells would take care of the area, shorter towers would require approximately ten to fifteen installations--generally each taller micro cell can be replaced with two to three micro cells depending upon the terrain. The company would look at existing structures before designing their own structures. Typically, between one and three micro cell antennas would be needed--the typical antenna would be three feet tall by two inches in diameter weighing about eight pounds. Twenty to thirty square feet of ground space is typically required, either outside or inside. Equipment installed on the outside would be on a six feet by four feet pad or under thirty square feet.

Mrs. Smith asked if the installations would have to meet the 7.5 foot FEMA building requirement?

Mr. Moore responded that he understood that as a utility, this would not be affected by FEMA and unless a company was buying flood insurance through the Federal government, the 7.5 feet building requirement would not be applicable.

Mrs. Smith asked Mr. Moore the number of existing buildings in the Town that are 70 to 100 feet high?

Mr. Moore replied that the Town did not have any ten story buildings (100 feet) but had a few eight story buildings (80 feet).

Mr. Moore asked Mr. Scarpello if the heights were restricted to 50 feet for installations, did the company have the capability to design a system, lower than the 70 to 80 feet? Mr. Moore said he thought the Town needed some outside help to determine questions concerning height.

Mr. Pastoriza explained his statement regarding a law suit was said in jest.

Wendy Bonner said if BellSouth decided to file a law suit every time a disagreement with a municipality came up, the company would be permanently in court. Ms. Bonner said the company wants to build a facility that would serve its customers and is aesthetically pleasing to the Town. Ms. Bonner said the cellular and PCS technologies are completely separate. If the towers were located too close together, co-conversations could result or channel interference, and many factors must be considered.

Mayor Ilyinsky asked if BellSouth Mobility had many customers in the Town of Palm Beach?

Ms. Bonner replied she did not know the exact number.

Mayor Ilyinsky asked if the customers are presently being served, why are more towers needed?

Ms. Bonner responded that she had the same answer as AT&T--the Town is being served by the mainland, and BellSouth has spotty coverage in some places. BellSouth does not arbitrarily build towers. They are only built to service the customers as shown on the maps that were distributed; however, the sites on the map may need to be revised after further consultation with the company's engineers.

Mr. McDonald said he has BellSouth Mobility service and the coverage is very weak from Town Hall to the south end.

Mr. Wyett suggested that BellSouth review the topography of the Town including the Sand Transfer Plan located on the north side of the Inlet.

Ms. Bonner replied that the dots on the map were approximately 1/4 mile in circumference and were not accurately placed on the map.

Mrs. Smith said the Town would welcome the participation of BellSouth Mobility when the ordinance is drafted on the telecommunications issue. The Town wants to draft an ordinance that will work for the Town and for the companies supplying the service.

Mrs. Smith announced the next presenter would be Sprint Spectrum.

Joe O'Hagan, Consultant to Sprint Spectrum Limited Partnership, explained that Sprint Spectrum is a partnership composed of Sprint and three cable companies, Cox, TCI, and Comcast.

Mr. O'Hagan said Sprint is licensed in the Miami MTA that extends from the Keys to Vero across to Fort Meyers and back down to the Keys. The service area is the lower third of Florida. Sprint is new and is attempting to start a network that will be operational by 1997. Sprint plans to serve the Town of Palm Beach through a site that is off of the south end of Singer Island and the sites along the mainland. In the next few years, Sprint would have a need for two or three sites in the area.

Mr. O'Hagan explained that cellular operates at a lower frequency--in the 800 to 900 megahertz range while PCS is in the 1800 and 1900 megahertz range. That means with a higher frequency, Sprint's signal drops off much more quickly than a cellular signal will--resulting in the need for more cell sites. Mr. O'Hagan said Sprint does not expect the antenna heights to be much over sixty to seventy feet, and the company could live with the existing heights that are on the island including the office complexes and condominium structures.

Mr. O'Hagan reported that co-location is a corporate policy with Sprint, and one or two additional users are included in the planning for any additional towers. The square footage requirements for equipment are similar to Primeco, and a 10' x 10' inside area could be used. Outside locations are proposed on plots of land that would be approximately 30' x 40'. An equipment shelter and tower would be installed on each plot.

Mr. O'Hagan said that larger cables can be used on taller towers that are located farther away from the island for service.

Mr. Shaw responded he referred to the use of one equipment room for two antennas to minimize the ground services and maximize the coverage. Mr. O'Hagan replied that could be done.

Mr. Shaw asked if Sprint evaluated an area or community for its potential use such as residential or business uses? Mr. Shaw asked if Mr. O'Hagan considered Palm Beach to be a high user of cellular services in the next year or two?

Mr. O'Hagan replied he was not in the Sprint Spectrum marketing side, but since Palm Beach is a high income area, the residents would probably be large users. The cellular business has not made as great an in-road into market penetration as was expected. At most, 12% of the business is cellular.

Mayor Ilyinsky asked Mr. Hawkins if the Town had the right to deny a company access to the Town if the company were going to install a 500 foot tower which the Town would not allow?
Mayor Ilyinsky questioned the situation where the Town had to accept the ideas of some company that the Town did not like, if another provider had ideas the Town did like.

Mr. Hawkins replied that he was not sure the law said the Town had to accept the 500 foot tower or that the Town has the discretion to deny it. Mr. Hawkins said a series of issues in a workshop setting were presented at this meeting that required the Town's evaluation for the formation of an ordinance. Mr. Hawkins said the Town has to present a situation that is competitive neutral, and the Town cannot discriminate. The Town would have to research the issue of denial of a 500 foot tower, and this is a very complicated area. Those questions cannot be answered today.

Mayor Ilyinsky read an excerpt from Quality Cities Magazine as follows: "The new legislation is very complicated. Cities should be very wary of relying on what cable operators and telecommunications providers tell them the legislation means. Talk to your lawyer. Cities should not agree to amend any of their cable or telecommunication franchises until they have conducted an independent review of both the new Federal law and how it applies to them. When the dust settles--it will be a little while before that happens--there will be new rules and responsibilities for in a variety of important areas."

Mr. Hawkins said he heard that the FCC issued 700 pages of rules (August 1) and 700 pages of regulations supposedly interpreting congress's legislation. This issue will be very complicated and many court challenges can be expected dealing with this very issue.

Mr. O'Hagan said that both cellular and PCS carriers are licensed by the FCC, but a cellular carrier cannot have a PCS license in the same area where it has cellular coverage. BellSouth Mobility could not be a PCS carrier in this area, but could be in other parts of the country.

Mr. Moore asked if BellSouth Mobility was co-sharing the location by the Sand Transfer Plant with another company? Mr. O'Hagan replied they were sharing the location with one other carrier.

Mr. McDonald said that many of the unanswered questions are legal and until things are settled and the participants are in a position to know some of the answers, it is a waste of the Council's time to listen to what people think now. Mr. McDonald suggested saving time by not listening to that.

Mayor Ilyinsky and Mr. Shaw agreed with those comments.

Mr. Doney said that at the August 13 Council Meeting, Mr. Randolph will have a memorandum suggesting a specialist should be retained to protect the Town's interests in a timely manner.

Mr. Jakubiak clarified that four licensed providers, two of whom were cellular providers (AT&T Wireless and BellSouth), and PCS Primeco and Sprint Spectrum who are consortiums of various companies were the presenters at this meeting. FCC auctions are continuing and the Mayor and Town Council heard from only two of the potential six providers who will be licensed to provide service in the Town. Mr. Jakubiak suggested that the Council should give the staff directives in moving in a couple of directions. The alternatives on the issue are that the Town would deal with a third party such as CityTel and Stealth who give advice on locations, etc. The Town could deal with the individual companies; however, the Town should put its rules and procedures in place that will help the Town protect the municipal rights both in dealing with issues such as co-location but also protecting the rights-of-way and maximizing the revenue sources. Mr. Jakubiak advised the one key point was not to establish a precedent that will allow other providers to come in and ask for the same privileges that one provider has been given since February, 1996. A technical adviser should be hired to answer some of the technical questions addressed at this meeting. Study the municipal property and if it is determined by a technical expert that the municipal property isn't feasible either from the buildings or from the areas like a golf course or Bradley Park, then the Town can rule out the municipal property.

Mr. McDonald suggested that Mr. Jakubiak commit his points to writing for the Council members, and no decisions should be made until after the meeting in Boca Raton.

Mrs. Smith said she anticipated that this will be an agenda item for the August 13th Town Council meeting. Mr. Jakubiak could prepare his summary with his recommendations as back up for that line item, and that would be the appropriate time for the Council to hear Mr. Jakubiak's summary with recommendations for staff actions when the full Council is sitting.

IX. CONSIDERATION OF APPOINTMENT TO BLUE RIBBON PANEL, PUBLIC EMPLOYEE RELATIONS COMMISSION (MINI-PERC) - ONE FOUR-YEAR EMPLOYER MEMBER TERM TO EXPIRE APRIL, 2000 (DEFERRED FROM JULY 9, 1996, COUNCIL MEETING)

Mr. McDonald said, after looking at the letters, that there appears to be some confusion. Mr. McDonald recalled that the Council wanted to have a Mini-Perc Committee or a Blue Ribbon Panel that would select the employer member. Mr. McDonald said that it appears the Citizens' Association actually nominated someone to be the employer member, and they did not understand the Council wanted an appointment to the three member Blue Ribbon Panel.

Bill Crouse, Personnel Director, reported he spoke to Mr. Silken and Mr. Curtis (his secretary). He identified that those are the representatives that both associations have selected to sit as the Blue Ribbon panelists. Mr. Crouse explained the situation to Ned Barnes who passed that on to the Palm Beach Civic Association. Mr. Crouse said he had not spoken to Mr. McLendon but planned to have the three members meet next week to hopefully have the name(s) from the panel for the consideration by the Town Council.

Mr. Crouse recommended the Town Council appoint Mr. Silken and Mr. Curtis to the panel.

Motion made by Mr. Shaw to approve the nomination of Mr. Alan Curtis, representative of the Civic Association, and Mr. Stanley Silken, representative of the Citizens' Association, to the Blue Ribbon Panel. The motion was seconded by Mr. Wyett. On roll call, the motion carried 4/0.

(Mr. Wyett left the meeting after item IX. was heard.)

X. ADDITIONAL CONSIDERATION OF VIDEO UPGRADE FOR THE TOWN COUNCIL CHAMBERS

Charlie Boggs, Purchasing Agent, requested the issue be addressed in two parts. The first part would be the purchase of the equipment. Mr. Boggs recommended the hardware be purchased from Pro Video Sales for $7,990. The second part of the issue is the installation. Mr. Boggs explained that he made the recommendation to sole source the installation with Peerson Audio who maintains the audio equipment because he was under the false impression that the audio would interface with the video system.

Mr. Shaw recommended that two television receivers be installed rather than four at this time.

Mr. Moore said that he supported going forward with the purchase.

Mr. Shaw reported that $5,000 was allocated in the budget for this expense and $3,600 was donated by Saks Fifth Avenue for a total of $8,600.

Motion made by Mr. Shaw to approve $6,550 for the purchase of the four television sets. The motion was seconded by Mr. McDonald. On roll call, the motion carried 3/0. (Mr. Wyett left the meeting.)

Mr. Boggs said if the Public Works Department can install the system without affecting the audio system, he recommended the Town do that because it would be a lot cheaper.

Mr. Shaw confirmed that no complicated link existed between the audio system and the video system. The way the system will be set up would allow the addition of extra audio services to it. The Town made it a proposal to install the four sets for $182 and run the conduit and the wiring necessary with labor and materials for $1,060 which was included in a memorandum from Mr. Ugi to Mr. Doney on the 24th of July.

Motion made by Mr. Shaw to approve the $1,242 for the installation of the video system as outlined.

Mr. Boggs requested that $300 be added as a contingency. Mr. Shaw recommended the amount be increased to $1,500 to come from the budgeted amount for the system. The motion was seconded by Mr. McDonald.

On roll call, the motion carried 3/0.

Mr. Shaw recommended that two wired microphones be added to the system at a cost of $300 apiece to be added to the existing audio system without the involvement of a third party.

Mr. Shaw made by Shaw to add the two microphones at a cost of $600 to the existing system. The motion was seconded by Mr. McDonald. On roll call, the motion carried 3/0.

Mr. Doney referred to Joe Ugi's memorandum, dated July 24th.

Mr. Bowser reported that the enlargement of the dias was addressed in that memorandum at a cost of $6,078 to modify the railing system and to expand the dias. Price quotations were received to build a permanent setting (table) on the dias with a new layout.

Mr. Shaw said he would like to see that postponed.

Mr. Shaw made a motion to defer item number 1 in the July 24th memorandum from Joe Ugi. The motion was seconded by Mr. McDonald.

Mrs. Smith clarified with Mrs. Crozier that the money for the TV monitors which the Council understood was approved was $5,000 plus the $3,500 from the Saks donation as part of the budget approval.

Mrs. Crozier responded the $5,000 was approved as part of the budget, but she understood the cost would be more than that.

Mrs. Smith added that the $3,500 is the Saks donation--that is already there.

Mrs. Crozier replied the $5,000 was for FY97 and the $3,500 was from Saks.

Mr. Shaw asked if the money needed to be borrowed from the General Fund until FY97?

Mrs. Crozier responded that could be done or $5,000 could be approved from the Undesignated General Fund Balance.

Mr. Doney stated the $5,000 is in the FY97 Proposed Budget, and the discussion centers around the authorization of the $5,000 from the Undesignated General Fund Balance in order to move quickly. If this is done, the $5,000 would be removed from the FY97 Proposed Budget and the budget would be revised accordingly for the September 5 meeting.

Mrs. Crozier stated that if it is approved from the Undesignated General Fund Balance then it has to be expended and treated as a 1996 expenditure. It cannot be borrowed from FY97; however, there is money available either way.

Mr. Shaw made a motion to delete the $5,000 from the Proposed FY97 Budget and the $5,000 for the project be appropriated from the Undesignated General Fund Balance. The motion was seconded by Mr. McDonald. On roll call, the motion carried 3/0.

A roll call vote was taken on the previous motion by Mr. Shaw to defer Item 1 indefinitely and carried 3/0.

XI. RECONSIDERATION OF INCREASING THE DAILY NON-RESIDENT ADULT TENNIS COURT FEES (*DEFERRED FROM JULY 9, 1996, COUNCIL MEETING)*

Mr. Bitzer reported he discussed the increase of the daily non-resident adult tennis court fees with the Tennis Pro who was of the opinion that this increase would not work. Mr. Bitzer said the fees would normally be increased to decrease over-crowding and to increase revenue. The non-resident play is minimal.

Motion made by Mr. Shaw to approve the reconsideration and not to have the split rate. The motion was seconded by Mr. McDonald. On roll call, the motion carried 3/0. (The result was no action taken.)

XII. CONSIDERATION OF STATUS REPORT BY PUBLIC WORKS DIRECTOR ON BEACH ACCESS STAIR INSTALLATION AT LA PUERTA WAY AND EL PUEBLO WAY

Jim Bowser reported that a turtle has nested close to the LaPuerta Way stair site. There is a ten foot restriction around turtle nests. Mr. Bowser reported that Mr. Dusey suggested that because of the vulnerability of the steps he was reluctant to build them because he thought they would be washed out with even a minimal storm. The residents of LaPuerta did not want to agree with Mr. Dusey's price as did the residents on El Pueblo.

Mr. Shaw clarified that Mr. Cooke did agree with Mr. Dusey and at this particular time, it would not be prudent to pursue this and he understands the issue. Mr. Shaw said Mr. Cooke thanked those involved for resolving the problem and asked the Council to consider a more permanent arrangement such as exists at the Mid-Town Beach which may involve a consolidation of public accesses that would be more lasting.

Mrs. Smith asked what action would be taken to address Mr. Caruso's concerns. Mrs. Smith said she understood Mr. Ugi could address the liability issue of the steps.

Joe Ugi reported the Town does not have any of those stairway types in the Town (where the steps could be raised and lowered) and that particular structure has not been investigated.

Mrs. Smith asked that Public Works did address the issue and received permits from the State for the stairs so the Town has gone ahead.

Mr. Ugi said the low bid contractor and the permits are in place. The time has to be determined for doing it.

Mrs. Smith said she would support putting the stairs in on LaPuerta -- away from the turtle nest -- to give the residents of that area access to the beach, but not to have to replace them every month if they are washed out. Mrs. Smith said the residents wanted them for the summer; however, the discussion indicated that they don't.

Mr. Shaw added that a more permanent structure, with pilings, could be considered later in the year. Mr. Shaw indicated Mr. Cooke agreed with that and a consolidation would be worth waiting for.

Mrs. Smith passed the gavel and made a motion to approve the steps at LaPuerta Way with the condition that they not be rebuilt. If they go in now, the Council is attempting to give the residents the access that they desire and have been requesting, but the Council will not replace them again until next summer.

The motion died for lack of a second.

No action was taken on the issue.

XIII. ANY OTHER MATTERS

Mr. Barnes asked if the issue of Council Members recusing themselves would be discussed at the August 13, 1996, Town Council meeting? Mr. Barnes said the Civic Association would like to participate in that discussion. Mr. Barnes requested any back up material from Mr. Randolph or Town staff be supplied to the Civic Association for review in preparation.

Mrs. Smith said Mr. McDonald has the back up since he did the research.

Mr. McDonald replied that he had reviewed all of the opinions, etc. and he felt that a clarification was needed of the recusal process and procedure given his understanding of what the opinion said, and it was added for that reason. Mr. McDonald said he was not supplying any back up material.

No other matters were considered.

XIV. ADJOURNMENT

The meeting was adjourned at 5:10 p.m.

Mary A. Pollitt
Town Clerk

Prepared by:
Sue Eichhorn
Mary Pollitt