

TOWN OF CINCO BAYOU
COUNCIL AS COMMITTEE MEETING
AUGUST 12, 1985

The Town Council as Committee Meeting of the Town of Cinco Bayou was called to order by Mayor Usrey at 6:00 P.M.

SILENT PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Usrey requested the Clerk call the roll.

ROLL CALL

Present: Mayor Usrey
Councilwoman Balsley
Councilman Davis
Councilman Gage
Councilman Laginess
Councilman Perry

Also Present: Attorney Gontarek Jean Allen
Jim Conoly Billy Moore
Aaron Talley Bernie Bagley
Josie Jackson Clerk Borchik
Helen Wren Secretary Knox

MINUTES - Mayor Usrey asked the Council to review the minutes of the July 1, July 8 and July 15, 1985 Town Council Meetings for approval at the next council meeting.

FINANCIAL REPORT - Mayor Usrey asked the Council to review the financial report for July, 1985 for approval at the next council meeting.

REGULAR BUSINESS

1. Centel - Mr. Conoly - Mr. Jim Conoly, Regulatory Manager for Centel, was present to request that the Council consider paying Centel the balance of the money owed on the overpayment of franchise fees to the Town. Following a discussion concerning the agreement previously made with Centel, the Mayor advised that this matter would be decided at next week's meeting.

2. Telephone Utility Tax - Mayor Usrey asked Mr. Jim Conoly to explain House Bill 1340 concerning Utility Tax on Telecommunications to the Council. A discussion followed concerning the bill and the options to municipalities for collecting the taxes. Mr. Conoly indicated that data pertaining to Cinco Bayou would be available within a few weeks.

3. Building Permit - Mr. Talley - Mr. Talley was not present. Mayor Usrey advised the Council that the drawings

and specifications were available for Council's review prior to next week's meeting.

4. Okaloosa Guidance Clinic - Dr. Jacobson - Jean Allen, Executive Secretary for the Okaloosa Guidance Clinic, was present to answer any questions concerning the Clinic. Mr. Billy Moore, a member of the Board of Directors of the Okaloosa Guidance Clinic, discussed some of the programs of the Clinic and requested a donation of \$250 from the Town to support Guidance Clinic activities for the coming year. Mayor Usrey advised that this request would be acted upon at next week's council meeting.

5. Fire Protection - Councilman Perry - Councilman Perry advised the Council that he and Councilman Davis had met Chief Cobb, Ocean City-Wright Fire Control District concerning fire protection for the Town. A discussion followed concerning emergency services, the cost of fire protection and the response time from the Ocean City and Shalimar stations. The Council was also advised that the contract for fire protection with the City of Fort Walton Beach expires on September 30, and that a decision needs to be made soon concerning fire protection.

6. Budget - Councilwoman Balsley - Councilwoman Balsley stated that each Councilmember has a copy of the proposed budget FYE 1986 as revised during the July 30, 1985 meeting. Each Councilmember was asked to review the budget.

7. Board of Adjustment Appointments - Mayor Usrey advised the Council that the terms of Mr. Kelley and Mr. Overstreet expire August 31, 1985. The Mayor also advised that he had contacted Mr. Kelley and Mr. Overstreet concerning another term on the Board of Adjustment and both agreed to serve. The Council will act on this item at next week's meeting.

8. Automobile Safety Belts - Mayor Usrey advised the Council that a letter had been received from the Florida Coalition for Auto Safety Now requesting that the Town consider passing a resolution endorsing a mandatory safety belt use law for Florida. Mayor Usrey advised that this matter would be decided at next week's meeting.

PUBLIC REQUESTS WILL BE HEARD AT THIS TIME. None

COMMITTEE REPORTS

Standing Committees

1. Streets & Sidewalks - Councilman Davis, Chairman - Councilman Davis asked the Council to approve sidewalk construction for two areas, (1) the north side of Hughes Avenue in front of Bienville Square, (2) the area by Leyenda Park from Mr. Perry's drive-way to Yacht Club Drive.

Following a discussion of the cost of the sidewalks, the Clerk was asked to obtain estimates to be presented to the Council at next week's meeting.

2. Parks - Councilman Gage, Chairman - No report
3. Finance & Budget - Councilwoman Balsley, Chairman
No report
4. Waterfront - Boat Dock - Councilman Perry,
Chairman - No report
5. Civil Defense - Councilman Perry, Chairman
No report
6. Neighborhood Watch - Councilman Laginess,
Chairman - Councilman Laginess gave a report to the Council on the meeting with Mr. Robert Hook, American Security, concerning some of the problems with the security patrol. Councilman Laginess advised the Council that there would be meetings periodically with American Security to discuss any problems that may arise concerning the security patrol.

Special Committees

1. Bicycle Path - Councilwoman Balsley, Chairman
No report
2. Building Codes - Councilman Laginess, Chairman
No report
3. Comprehensive Plan - Councilman Perry, Chairman
No report
4. Code of Ordinances - Councilmen Gage & Laginess
No report

ATTORNEY'S REPORT. None

CORRESPONDENCE

1. Memo - City of Fort Walton Beach - July 30, 1985
Councilwoman Balsley gave a report to the Council on the meeting held on Wednesday, July 24, 1985 at the Fort Walton Beach City Hall concerning the formation of a Utilities Commission. Following a discussion concerning the formation of a solid waste disposal and water and sewer utilities commission, the Council was asked to express their opinions on such a commission at next week's meeting.
2. Letter - City of Niceville - August 6, 1985 - Mayor
Usrey advised the Council that a letter had been received from the City of Niceville asking that the Town support a county wide ordinance controlling street merchants. Mayor Usrey advised the Council that the Town Occupational License Ordinance addresses this matter.

3. Letter - Board of County Commissioners - August 7, 1985
Mayor Usrey advised the Council that a Hurricane Preparedness Drill will be conducted on August 21, 1985 at 9 a.m. at the Courthouse Annex. Councilman Perry was asked to attend this meeting.

CLERK'S REPORT

The Clerk advised the Council that he had obtained an estimate of \$450 a month with a one year contract to maintain the parks and another estimate from ARC Industries of \$100 a week with a one year contract. The Clerk advised that this would not include cutting on the right-of-way and other required maintenance thruout Town. The Council was asked to consider this item for a decision at next week's meeting.

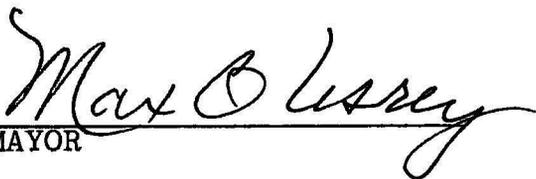
MAYOR'S ANNOUNCEMENTS

At this time, Councilwoman Balsley asked about the continuation of the newsletter. The Clerk advised the Council that the newsletter would be continued.

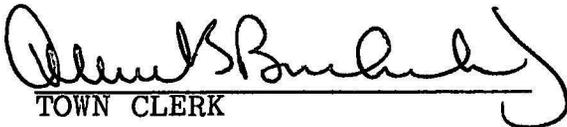
Councilwoman Balsley brought up the question of the problem with high weeds behind the Glenwood Townhomes on Opp Boulevard and the progress of the clean up. A discussion followed concerning areas in Town that need to be cleaned.

Mr. Aaron Talley was present at this time and a discussion followed concerning parking and drainage for the proposed building on Laguna Street. Mr. Talley also requested approval from the Council to proceed with the clearing of the property and the relocation of the west side fence in Laguna Park.

There being no further business, the meeting was adjourned at 7:37 P.M.


MAYOR

Attest:


TOWN CLERK

NOTE: A mechanical recording has been made of the foregoing proceedings of which these minutes are a part and is on file in the office of the Town Clerk.



Florida Coalition for Auto Safety Now

Suite 410, Lewis State Bank Building • Tallahassee, Florida 32301

(904) 222-3727

July 15, 1985

Mayor Max O. Usrey
City of Cinco Bayou
56 Yacht Club Drive
Fort Walton Beach, Florida 32548

Dear Mayor Usrey:

The Florida Coalition for Auto Safety Now is a nonprofit organization working to educate the public about the effectiveness of safety belts as a life saving device in automobile accidents. The coalition is also building grass-roots support for a mandatory safety belt use law for Florida.

It is estimated that safety belt use can decrease deaths and incapacitating injuries by 50%. A few months ago a mandatory use law passed in the State of New York and already the number of lives saved is dramatic. Seat belt use is up from a 14% usage rate prior to the law to approximately 70% and deaths and injuries have been reduced by 45%.

We are asking your city to take a stand on this worthwhile issue. Please agenda this matter at an upcoming meeting, and consider passing a resolution endorsing a mandatory safety belt use law for Florida. If you need any further information prior to the meeting, please do not hesitate to call me.

The Coalition is also surveying cities and counties in Florida to determine if they have a safety belt use policy. Please respond to the enclosed questionnaire, and also supply a copy of your resolution when passed.

If you do not plan to consider a resolution endorsing a mandatory safety belt use law for Florida, I would appreciate your notifying me of that decision as well.

Thank you for your consideration of this extremely important issue. I look forward to hearing from you soon.

Sincerely,

Kathleen Teague
Executive Director

Enclosure (1)

RECEIVED
18/7/85



CITY OF NICEVILLE

Home of the Boggy Bayou Mullet Festival

208 North Partin Drive
Niceville, Florida 32578
Phone: (904) 678-4523

August 6, 1985

To: Senior Administration Official (Cinco Bayou, Crestview,
Destin, Fort Walton Beach, Mary Esther, Niceville,
Okaloosa County, Shalimar, Valparaiso)

Re: Common Peddling Ordinance

Last October, the Greater Fort Walton Beach Chamber of Commerce in concert with local officials and other chambers began a campaign to locate an effective ordinance that could be commonly applied in Okaloosa County to regulate and control transient-type peddling.

After a statewide search, assisted by Donald L. Whitman, executive director, University of West Florida, Center for State and Local Government, Valparaiso's Ordinance No. 120, was found to be the "most complete and probably the best model," in the words of Mr. Whitman.

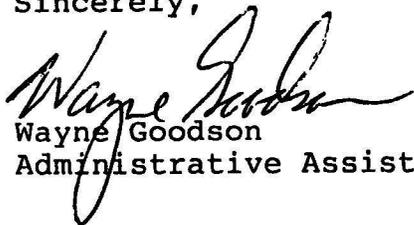
Very positive statement's from Valparaiso's City Clerk, Faye Floyd, attached, attests to the workability and endurance of that community's ordinance.

Several chronological steps may now be taken to expedite a decision by local governments.

1. Execute the attached interlocal agreement which formalizes the intent among local governments to adopt and enforce a common ordinance. This may be done, of course, by motion.
2. Appoint an elected official and one staff member to meet at a scheduled time to approve or modify the Valparaiso ordinance. (This will be a workshop type meeting).
3. After consensus approval of a model ordinance, schedule public hearings leading to its adoption.

I have been asked to act as the liason in coordinating the above. I would, therefore, appreciate receiving, as soon as possible, a signed copy of the interlocal agreement and the names of persons appointed to represent your entity at the workshop meeting.

Sincerely,

A handwritten signature in cursive script that reads "Wayne Goodson". The signature is written in black ink and is positioned above the typed name and title.

Wayne Goodson
Administrative Assistant

WG/am



CITY OF VALPARAISO

VALPARAISO FLORIDA 33580

July 22, 1985

Mr. Wayne Goodson
Assistant City Manager
City of Niceville
208 N. Partin Drive
Niceville, FL 32578

Dear Mr. Goodson:

Ordinance No. 120, of the City's Code of Ordinances, has proven to be an extremely workable solution to the problem of unwanted solicitors within the City of Valparaiso.

While the involved application process, along with the nonrefundable \$50.00 per person investigation fee, discourages short term sales people from operating, a legitimate business person does have the option to complete the lengthy process and become eligible to go door to door.

The success of Ordinance No. 120, however, is largely due to enforcement, as demonstrated by residents who are quick to report unwanted solicitors, and the Police Department who responds immediately to inform violators of City regulations.

In summary, Ordinance No. 120 has worked for us. Let us know if we can be of further assistance.

Sincerely,

Faye B. Floyd
Faye B. Floyd
City Clerk

FBF:hb

"Home of the World's Largest Air Force Installation, Eglin AFB, Fla."

AGREEMENT TO ENFORCE A
COMMON PEDDLING ORDINANCE
IN OKALOOSA COUNTY
BETWEEN ALL GOVERNING BODIES
OF OKALOOSA COUNTY

This Agreement is made at Okaloosa County, Florida, by and between Okaloosa County and the incorporated municipalities of the County, which include Cinco Bayou, Crestview, Destin, Fort Walton Beach, Mary Esther, Niceville, Shalimar and Valparaiso, all political subdivisions of the State of Florida. This Agreement states the intent of the aforementioned governing bodies to adopt a common peddling ordinance for reasons herein set forth.

WHEREAS, Okaloosa County and its many cities offer a favorable business climate that is attractive to entrepreneurs and transient-type venders from outside the County; and

WHEREAS, such entrepreneurs and venders may constitute an uncontrolled, unfair and unscrupulous competition detrimental to established businesses which regularly pay occupational licenses, collect and forward sales taxes, pay personal taxes, and support local civic business activities; and

WHEREAS, more and more transient venders are attracted to Okaloosa County causing concern and financial loss to area residents and businesses as the result of non-existing, outdated, or overly lenient laws to protect the general populace of Okaloosa county from such unsolicited invasion,

NOW, THEREFORE, in consideration of the urgent need for all governing bodies of Okaloosa county to adopt a Common Peddling Ordinance - to regulate and control transient-type peddling more effectively, the execution of this Agreement by duly authorized officers commits each political entity of Okaloosa County to adopt and enforce a mutually acceptable Common Peddling Ordinance.

County of Okaloosa

By: _____

ATTEST:

County Clerk

City of Crestview

By: _____

ATTEST:

City Clerk

City of Destin

By: _____

ATTEST:

City Clerk

City of Fort Walton Beach

By: _____

ATTEST:

City Clerk

City of Mary Esther

By: _____

ATTEST:

City Clerk

City of Niceville

By: _____

ATTEST:

City Clerk

City of Valparaiso

By: _____

ATTEST:

City Clerk

Town of Shalimar

By: _____

ATTEST:

Town Clerk

Town of Cinco Bayou

By: _____

ATTEST:

Town Clerk

City of Fort Walton Beach

Cinco Bayou

RECEIVED
7/31/85

INTER-OFFICE MEMORANDUM

DATE: JULY 30, 1985
TO: AREA CITIES, TOWNS & OKALOOSA COUNTY
FROM: CITY CLERK
SUBJECT: PROPOSED UTILITIES COMMISSION

Enclosed herewith are the minutes of the Utilities Commission meeting held on July 24, 1985.

Please advise the results of the poll to your Council or Commission to see if you are interested in being a part of the Utilities Commission.

We would appreciate your response back as soon as possible in order to decide what the next step would be in the formation process.



HELEN SPENCER
CITY CLERK

/s
Enclosure



HOME OF THE

Sonic Boom

MINUTES OF MEETING OF REPRESENTATIVES
FROM AREA CITIES AND OKALOOSA COUNTY
JULY 24, 1985

INTRODUCTION: A meeting of the representatives from area cities and Okaloosa County, Florida, was held on Wednesday, July 24, 1985, at 4:00 p.m., in the Conference Room at City Hall, with the following representatives present:

City of Fort Walton Beach:
Councilman J. C. "Buck" Smith
Chuck Ingram, City Manager
Helen Spencer, City Clerk
City of Mary Esther:
Joe Sparks, City Clerk.
City of Niceville:
Lannie Corbin, City Manager
Ed Gibbs
City of Valparaiso:
Councilman H. H. Strong, Jr.
Town of Cinco Bayou:
Councilman Irene Balsley
Board of County Commissioners:
Bill Peebles, Jr.
County Officials:
Dave Heinrick, County Engineer
Donald Neal
Mr. Marley

ABSENT: The following cities had no representatives present:

City of Crestview
City of Destin
Town of Shalimar

POSSIBLE
FORMATION OF
UTILITIES
COMMISSION:

Mr. Smith opened the meeting by stating that this is a very informal meeting to get the opinions of the surrounding cities on the possible formation of a Utilities Commission. Further, that the City of Fort Walton Beach is preparing to go forward in the formation of a Utilities Commission and wanted to know if some of the area municipalities were interested in joining same. Additionally, that he felt there is a need for something to be done, especially about garbage, by the people elected to make the decisions and encouraged everyone present

POSSIBLE
FORMATION OF
UTILITIES
COMMISSION:
CONT:

to express their opinions. Mr. Smith pointed out that representatives from Destin and Shalimar were not present, but they had called and asked for a copy of the minutes of this meeting

Mr. Peebles spoke on their research and findings of cost of waste management. Garbage collection is something they are looking at and are trying to be aware of the problem and have a site available for dumping.

Dave Heinrick, County Engineer, gave a report on the status of land fill for waste disposal.

Discussion then followed on solid waste disposal, the water and sewer problem and what would be involved in the formation of a Utilities Commission. Mr. Peebles asked if any other utilities were going to be included in the utilities commission. Mr. Smith stated that it would be up to the majority to decide what they wanted to be included in the utilities commission.

Mr. Smith stated that he would like the representatives to return to their respective councils to get a feel on their opinions on whether this is something they want to do collectively as a group or individually. Mr. Smith also asked to have some response back to be able to decide on the next step and where to go from here. Mr. Smith thanked everyone for attending and participating in this meeting.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:50 pm.

RECEIVED
7/29/85

MBS

CENTEL

July 26, 1985

The Honorable Max O. Usrey
Mayor, Town of Cinco Bayou
35 Kelly Avenue
Fort Walton Beach, Florida 32548

Dear Mayor Usrey:

Mr. Al Borchik has informed me of your request to have a representative from Centel at the August 12, 1985 Council Meeting. I would appreciate having my name put on the agenda as the Centel Representative for the purpose of discussing payment of the balance due Centel in the utility tax/franchise fee account.

We regret the recent publicity regarding this matter and assure you that we are willing to work for a solution that is mutually beneficial to both parties.

Sincerely,

James Conoly

James Conoly
Regulatory Manager

JC:bb

bcc: E. L. Taliaferro
B. S. Rames
D. H. Fournier

OKALOOSA GUIDANCE CLINIC, INC.



CRISIS LINE
244-9191

August 1, 1985

8/5/85 11512
FORT WALTON BEACH OFFICE
205 SHELL AVENUE, S.E.
FORT WALTON BEACH, FLORIDA 32548
TELEPHONE (904) 244-0151

ALCOHOL CENTER
205 SHELL AVENUE, S.E.
FORT WALTON BEACH, FLORIDA 32548
TELEPHONE (904) 244-6131

CRESTVIEW OFFICE
227 LAKEVIEW DRIVE
CRESTVIEW, FLORIDA 32536
TELEPHONE (904) 682-5132

Cinco Bayou Town Council
Kelly Avenue
Ft. Walton Beach, FL 32548

Dear Council Members:

The OGC has provided the community with eight programs and twenty-six services. The table on page 19 of the Annual Report lists programs and services with starting dates, estimated number of clients and benefits to the community.

Last year, for the first time, Okaloosa County received its fair share of state mental health funds. These apportionments provided for the start of an ARTS (Adult Residential Treatment System) program and expansion of the GRTS (Geriatric Residential Treatment System). Another major achievement was a great increase in self support (fees) which made it possible to add several new service positions.

Local matching funds are vital to obtaining state funds so that the OGC can continue to grow with the community and provide for an increasing and diversified population. Consequently, the OGC is requesting an appropriation of \$250.00 from the Town of Cinco Bayou.

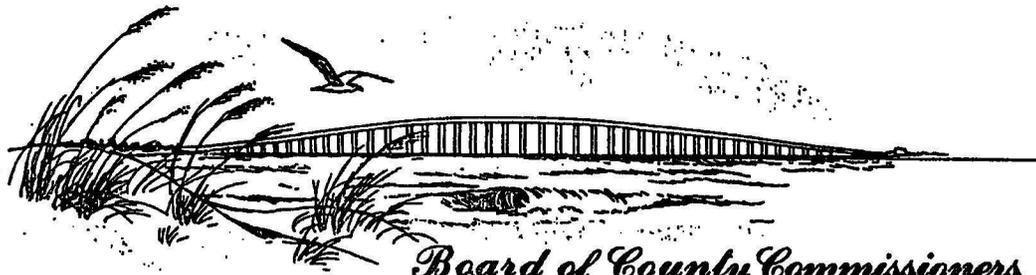
Representatives of the OGC Board and Staff plan to appear before your council on August 12, to make a presentation and answer any questions you may have concerning this request or the services being provided by the OGC.

Sincerely,

Doris L. Berg
Doris L. Berg
OGC Board President

ja

Atch



Board of County Commissioners

County Seat
Crestview, Florida 32536
Tel. (904) 682-2711

Okaloosa County
Florida

Annex
Thalimar, Florida 32579
Tel. (904) 651-3710

August 7, 1985



Mayor Max O. Usrey
35 Kelly Avenue
Fort Walton Beach, Florida
32548

Dear Mayor Usrey,

Subject: Hurricane Preparedness Drill 1985

The Board of County Commissioners (Civil Defense Authority) will conduct its annual Hurricane Preparedness Drill in the E.O.C. (Emergency Operation Center), Courthouse Annex on August 21, 1985 at 9:00 A.M., and should be completed around noon.

Your presence and participation is essential in order for this Board to meet its obligations mandated by Florida Statutes.

Sincerely,

BILL W. PEEBLES, JR.
Chairman

Please Address Reply To:

SUMMARY OF
HOUSE BILL 1340
UTILITY TAX ON TELECOMMUNICATIONS

1. Effective July 1, 1985, municipalities will have the choice to either:
 - (a) Continue levying the municipal public service tax (utility tax) on basic local telephone service at a rate not to exceed 10 percent of the monthly recurring customer service charges. This excludes pay telephones, access charges, and any customer access line charges paid to a local telephone company as the law presently allows; or
 - (b) apply the utility tax on an expanded base which includes telephone service, intrastate toll telephone service, telegram or telegraph service, teletypewriter or computer exchange service, and private communication service at a rate not to exceed 7 percent of the total charge for the service excluding pay telephones, access charges, and any customer access line charges paid to a local telephone company. Furthermore, municipalities are allowed to levy the tax at a rate not to exceed 7 percent of the monthly recurring customer service charges (excluding variable usage charges) on cellular mobile telephone or telecommunication service, specialized mobile radio, and pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communication.
2. For the purpose of compensating the telecommunication company for recordskeeping, collection, and remittance, the company is allowed to deduct 1 percent of the total amount collected and due to the municipality.
3. With the adoption of HB 1340, the utility tax rate on telecommunication services need not be levied at the same rate as electricity, metered or bottled gas, and water services. The new law, specifically removes telecommunication service from the subsection which addresses the taxing of competitive services at the same rate. For example, if a municipality is presently taxing electricity, metered and bottled gas, telephone and water services at 8 percent, the municipality could amend the ordinance to increase telephone to 10 percent on basic local telephone service (or to decrease it to 7 percent on the expanded telecommunications base), while electricity and water services remain at 8 percent.
4. Should a municipality wish to achieve maximum revenues from the utility tax on telecommunication service, a revenue analysis should be conducted to determine if a sufficient volume of

applicable telecommunication service charges, excluding local telephone service, exist within your municipality. Since the maximum rate that can be applied to the expanded base is 7 percent, a municipality should be extremely careful to make sure that sufficient taxable sales exist to overcome the 30 percent decrease in revenues presently being generated from local telephone service (provided the city is levying the full 10%). Attached is the most current list (dated 6/14/85) of long distance service companies who have been certified to operate in Florida by the Public Service Commission. A complete listing of telecommunication companies operating in Florida will be maintained by the Department of Revenue; however, at this time, DOR states that Florida law requires them to keep such information confidential. In order to identify those companies who provide other applicable telecommunication services, each municipality should attempt to locate such companies through occupational licenses, yellow pages, newspaper/television advertising, competitive telecommunication companies, etc.

5. If your municipality elects to levy the utility tax on the expanded telecommunication base, the law requires that a municipality adopt an ordinance specifying such a change, and notify each company responsible for collecting the tax. Concerning the amount of notice time to provide to each company, there appears to be a question with the language in Section 1, Chapter 166.231 (9) (d). One argument is that a municipality must notify each company at least 120 days prior to the effective date of the ordinance. However, an argument of equal merit is that the 120 days notice does not pertain to a municipality on its initial election to convert from the 10% maximum levy on existing basic telephone service to the 7% maximum levy on the expanded telecommunication base. Therefore, it is the League's recommendation that each municipality consult with their City Attorney concerning the amount of advance notice time.

If, at a later date, a municipality decides to revert back to the present base (up to 10% of local telephone service), a minimum of 12 months must have expired from the effective date of the ordinance before the change can take effect. The law specifically states that the effective date of the change take place at least 120 days after the companies are officially notified.

6. Finally, the law places a cap on all future franchise fees paid by telephone companies. It cannot exceed 1 percent of the gross receipts on recurring local service revenues provided within the municipality. Included within the 1 percent maximum fee are all taxes, licenses, fees, and other impositions except ad valorem taxes and amounts for assessment for special benefits, such as sidewalks, street pavings and similar improvements, and occupational license taxes levied or imposed by a municipality upon the telephone company.

LONG DISTANCE TELEPHONE COMPANIES
CERTIFIED BY THE
FLORIDA PUBLIC SERVICE COMMISSION

A.B.E. Corporation
1516 E. Hillcrest Street
Suite 202
Orlando, FL 32803

AT&T Comm. of the Southern
States, Inc.
Mr. G. T. Rhodus
District Manager - Taxes
340 Mount Kemble Avenue
Room N-150
Morristown, N.J. 07960

Allnet Communication Services, Inc.
201 E. Kennedy Blvd., Suite 438
Tampa, FL 33602

Alltelco, Inc.
1501 Magnolia Avenue
Winter Park, FL 32789

Americall LDC, Inc.
550 Water Street
Suite 1212
P. O. Box 40278
Jacksonville, FL 32203

American Teledata Corporation
400 West Ashley Street
P. O. Box 4276
Jacksonville, FL 32201

Argo Communications Corp.
100 N. Biscayne Blvd.
2nd Floor
Miami, FL 33131

Annette K. Caldwell, d/b/a
Call/Share
250 Tampa Avenue West
Venice, FL 33595

Capricorn Communications
Engineering, Inc.
1864 Cornell Avenue
Winter Park, FL 32789

Chatco Communications, Inc.
5375 N.W. 74th Avenue
Miami, FL 33166

Datel Communication Systems, Inc.
625 Twiggs Street, Suite 203
Tampa, FL 33601

Eastern Telephone of Melbourne, Inc.
532 E. New Haven Avenue
P. O. Box 2256
Melbourne, FL 32901

800 Telepatch Service, Inc.
12945 Seminole Blvd.
Bldg. 2, Ste. 11
Largo, FL 33544

EN-TEL Phone Systems, Inc.
P. O. Box 1436
Inverness, FL 32651

Execulines of Florida
c/o Executone of Fla., Inc.
3025 E. South Street
Orlando, FL 32803

Florida Long Distance, Inc.
1516 E. Hillcrest Street
Suite 202
Orlando, FL 32803

GTE Sprint Communications Corp.
Oakland Commerce Center
Suite 102
3115 N.W. 10th Terrace
Fort Lauderdale, FL 33301

Lasernet, Inc.
7100 W. Camino Real
Suite 311
Boca Raton, FL 33433

Lincom Corporation
4830 W. Kennedy Blvd.
Suite 351
Tampa, FL 33609

Long Distance America
(Certificated as Dial USA, Inc.)
2810 E. Oakland Park, Blvd.
Fort Lauderdale, FL 33306

MCI Telecommunications Corp.
Stephen Gunn, Manager
Tariff & Rates
1133 19th Street, N.W.
Washington, D. C. 20036

Network 1, Inc.
3305 S.W. 9th Avenue
Fort Lauderdale, FL 33315

New American Phone Company, Inc.
P. O. Box 23146
Fort Lauderdale, FL 33307-3146

North American Telephone
(Florida Telcom Long Distance Company)
Suite 1000, 412 Madison Street
Tampa, FL 33602

PSA, Inc.
206 N. Beach Street, Suite 100
Daytona Beach, FL 32014

ReCon Systems, Inc.
P. O. Box 248
Bushnell, FL 33513

Satellite Business Systems
8283 Greensboro Drive
McLean, VA 22102

Southland FiberNet, Inc.
1201 Creighton Road
Pensacola, FL 32504

Southland Systems, Inc.
1201 Creighton Road
Pensacola, FL 32504

Starnet Corporation
150 Southeast 2nd Avenue, Suite 205
Miami, FL 33131

Sun Tel Communications Corp.
907 N. Dixie Highway
W. Palm Beach, FL 33401

Suncoast Communications, Inc.
1670 Main Street
Sarasota, FL 33578

Suntel, Inc.
7100 W. Camino Real, Suite 311
Boca Raton, FL 33433

Telamarketing Communications of Jax
6 East Bay Street, Suite 200
Jacksonville, FL 32202

Telamarketing Communications of Miami
100 N. Biscayne Blvd., Suite 1405
Miami, FL 33132

Telamarketing Communications of Orlando
135 W. Central Blvd., 4th Floor
Orlando, FL 32801

Telamarketing Comm. of S.E. Florida
707 N.E. Third Avenue, Suite 300
Fort Lauderdale, FL 33304

Telamarketing Comm. of Tallahassee
227 N. Bronough Street, Ste. 5044
Tallahassee, FL 32301

Telamarketing Comm. of Tampa Bay
201 E. Kennedy Blvd., Suite 425
Tampa, FL 33602

Telecom, Inc.
135 W. Central Blvd.
Orlando, FL 32801

Telephone Systems Long Distance Ser.
1013 Martin Luther King Blvd., S.
Tallahassee, FL 32301

Telesystems, Inc.
P. O. Box 5920
Lakeland, FL 33803

Teltec Saving Communications Co.
1080 N.W. 163rd Drive
Miami, FL 33169

Transcall America, Inc.
P. O. Box 3864 - Sun Bank Bldg.
Longwood, FL 32750

Tri-County Communications, Inc.
2025 W. Monroe Street
Tallahassee, FL 32301

U.S. Dial Corporation
400 W. Ashley St., Suite 700
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An act relating to taxation; amending s. 166.231, F.S.; authorizing municipalities to levy a tax on telecommunications services; providing alternatives; authorizing sellers to retain 1 percent of tax collections; providing procedures for municipalities in choosing alternatives; providing an exemption; amending s. 203.01, F.S.; levying the gross receipts tax on certain telecommunications services; providing an exception; specifying the form of the gross receipts tax on telecommunications services; providing penalties; providing an exception; amending s. 203.012, F.S.; providing definitions; providing exclusions; amending s. 203.013, F.S.; revising the formula for taxing telegraph and telecommunications services; designating part I of chapter 203, F.S.; creating part II of chapter 203, F.S., consisting of ss. 203.60, 203.61, 203.62, and 203.63, F.S.; providing for imposing a gross receipts tax on interstate and international telecommunications services; providing legislative intent; providing definitions; providing for application of certain sections of part I; providing severability; amending s. 212.05, F.S.; imposing the sales tax on certain telecommunications service charges; repealing s. 203.05, F.S., relating to express company gross receipts taxation; amending s. 337.401, F.S.; limiting franchise fees for certain

telecommunication service providers; providing an exception; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) and subsection (2) of section 166.231, Florida Statutes, 1984 Supplement, are amended, and subsection (9) is added to said section to read:

166.231 Municipalities; public service tax.--

(1)(a) A municipality may levy a tax on the purchase of electricity, metered or bottled gas (natural liquefied petroleum gas or manufactured), water service, telephone service, and telegraph service. The tax shall be levied only upon purchases within the municipality and shall not exceed 10 percent of the payments received by the seller of the taxable item from the purchaser for the purchase of such service. Municipalities imposing a tax on the purchase of cable television service as of May 4, 1977, may continue to levy such tax to the extent necessary to meet all obligations to or for the benefit of holders of bonds or certificates which were issued prior to May 4, 1977.

(b) The tax imposed by paragraph (a) shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.

(2) Services competitive with those enumerated in subsection (1) or subsection (9), as defined by ordinance,

shall be taxed on a comparable base at the same rates. However, fuel oil shall be taxed at a rate not to exceed 4 cents per gallon. However, for municipalities levying less than the maximum rate allowable in subsection (1), the maximum tax on fuel oil shall bear the same proportion to 4 cents which the tax rate levied under subsection (1) bears to the maximum rate allowable in subsection (1).

(9) A municipality may levy a tax on the purchase of telecommunication service as defined in s. 203.012 as follows:

(a) Only upon purchases within the municipality of local telephone service as defined in s. 203.012(3) at a rate not to exceed 10 percent of the monthly recurring customer service charges excluding public telephone charges collected on site, access charges, and any customer access line charge paid to a local telephone company; or

(b) Only upon purchases within the municipality of telecommunications service which originates and terminates in this state at a rate not to exceed 7 percent of the total charge for such service, excluding public telephone charges collected on site, access charges, and any customer access line charges paid to a local telephone company, provided, purchases within the municipality of telecommunications service as defined in s. 203.012(5)(b) shall be taxed only on the monthly recurring customer service charges excluding variable usage charges. A purchase is within the municipality if the communication originates or terminates within the municipality and is billed to a purchaser, telephone or telephone number, or telecommunications number or device within the municipality.

(c) For the purpose of compensating the seller, the seller shall be allowed 1 percent of the amount of the tax

collected and due to the municipality in the form of a deduction from the amount collected for remittance. The deduction shall be allowed as compensation for keeping of records and collection of tax and remitting the same.

(d) A municipality shall elect by ordinance the tax specified in paragraph (a) or paragraph (b), and any such election shall not be changed until after the expiration of at least 12 months after the effective date of the ordinance levying the tax specified in such paragraph. A municipality shall notify the companies responsible for collecting such tax at least 120 days prior to such change of election.

Purchases of local telephone service or other telecommunications service for use in the conduct of a telecommunications service for hire or otherwise for resale are exempt from the tax imposed by this subsection.

X Section 2. Subsection (1) of section 203.01, Florida Statutes, 1984 Supplement, is amended and subsections (4), (5), (6), and (7) are added to said section to read:

203.01 Tax on gross receipts for utility services.--

(1)(a) Every person, including a municipal corporation, that receives payment for electricity for light, heat, or power; for natural or manufactured gas for light, heat, or power; or for telecommunication services, and for the sending of telegrams and teletype messages shall report quarterly to the Department of Revenue, not later than January 31 for the 3 months ending December 31, not later than April 30 for the 3 months ending March 31, not later than July 31 for the 3 months ending June 30, and not later than October 31 for the 3 months ending September 30, under oath of the secretary or some other officer of such person, the total

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or employees, is liable for the tax and is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Section 203.012, Florida Statutes, 1984 Supplement, is amended to read:

203.012 Definitions.--As used in this chapter:

(1) The term "access charge" or "right of access" means any charge to any person for the right to use or for the use of a telephone system which includes equipment, facilities, or services to originate or terminate any of the services defined in subsection (4), subsection (5), subsection (6), or subsection (7) and which specifically includes customer access line charges, which includes the gross amount paid by subscribers and users in this state for access into the intrastate or interstate interexchange network as authorized by the Federal Communications Commission or the Florida Public Service Commission.

(2)(a) Gross receipts from telecommunication services include the gross receipts for all telecommunication services of whatever nature, including, but not limited to, access charges and charges for right of access; residential and business 1-party, 2-party, and 4-party rotary charges; centrex charges; directory assistance charges; public telephone charges; touch-tone charges; emergency number charges; private branch exchange message charges; public announcement service charges; dial-it charges; local area data transport charges; key lines charges; private branch exchange trunk-flat rate charges; and directory listing charges other than yellow-page classified listing charges.

(b) Gross receipts for telecommunication services do not include:

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CODING: Words in struck through type are deletions from existing law; words underlined are additions.

1. Charges for customer premises equipment, including such equipment that is leased or rented by the customer from any source;

2. Charges made to the public for commercial or cable television, unless it is used for two-way communication; however, if such two-way communication service is separately billed, only the charges made for two-way communication service will be subject to tax hereunder;

3. Charges made by hotels and motels, which are required under the provisions of s. 212.03 to collect transient rentals tax from tenants and lessees, for local telephone service or toll telephone service, when such charge occurs incidental to the right of occupancy in such hotel or motel; or

4. Connection and disconnection charges; move or change charges; suspension of service charges; and service order, number change, and restoration charges.

5. Any tax collected pursuant to part II of this chapter.

6. Charges for services or items of equipment supplied by providers of the telecommunications services described in s. 203.012(5)(b), such as maintenance charges, equipment sales, or rental which are incidental to the provision of such telecommunication services, provided such charges are separately stated, itemized, or described on the bill, invoice, or other tangible evidence of the provision of such service.

(3) The term "local telephone service" means:

(a) The access to a local telephone system, and the privilege of telephonic-quality communication with substantially all persons having telephone or radio telephone

stations constituting a part of such local telephone system;
or

(b) Any facility or service provided in connection with a service described in paragraph (a).

The term "local telephone service" does not include any service which is a toll telephone service, private communication service, cellular mobile telephone or telecommunication service, specialized mobile radio, or pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communication, or teletypewriter or computer exchange service.

(4) The term "private communication service" means:

(a) A communication service furnished to a subscriber or user that entitles the subscriber or user to exclusive or priority ~~prefer~~ use of a communication channel or groups of channels, or to the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in subsection (3), subsection (6), or subsection (7);

(b) Switching capacity, extension lines, and stations, or other associated services which are provided in connection with, and which are necessary or unique to the use of, channels or systems described in paragraph (a); or

(c) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system.

(5) The term "telecommunication service" means:

(a) Local telephone service, toll telephone service, telegram or telegraph service, teletypewriter or computer exchange service and private communication service; or,

(b) Cellular mobile telephone or telecommunication service, specialized mobile radio, and pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communication, but does not include services or equipment incidental to telecommunications services enumerated in this paragraph such as maintenance of customer premises equipment, whether owned by the customer or not, or equipment sales or rental for which charges are separately stated, itemized, or described on the bill, invoice, or other tangible evidence of the provision of such service.

(6) The term "teletypewriter or computer exchange service" means the access from a teletypewriter, telephone, computer, or other data station of which such station is a part, and the privilege of intercommunication by such station with substantially all persons having teletypewriter, telephone, computer, or other data stations constituting a part of the same teletypewriter or computer exchange system, to which the subscriber or user is entitled upon payment of a charge or charges, whether such charge or charges are determined as a flat periodic amount, on the basis of distance and elapsed transmission time, or some other method. The term "teletypewriter or computer exchange service" does not include local telephone service or toll telephone service.

(7) The term "toll telephone service" means:

(a) A telephonic-quality communication for which there is a toll charge which varies in amount with the distance and

elapsed transmission time of each individual communication; or

(b) A service which entitles the subscriber or user, upon the payment of a periodic charge which is determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

The term "toll telephone service" includes interstate and intrastate wide-area telephone service charges.

Section 4. Section 203.013, Florida Statutes, 1984 Supplement, is amended to read:

203.013 Telecommunication services; assessment;
apportionment of business done within this state with respect to interstate telecommunication services.--

(1) ~~(a)~~ Except as provided in subsection (2), the tax on gross receipts from the provision of telecommunication services when the communication originates but does not terminate in this state and terminates in another state, or originates in another state and terminates but does not originate in this state and the charge for such communication is billed or charged to a Florida telecommunications number or device, Florida telephone number or telephone, or Florida customer, shall be reported and paid in the same manner as provided in part II, s. 205.01 on the portion of the gross receipts for such interstate telecommunication services which is equal to the sum of:

212.081(3)(b). Actual cost includes, but is not limited to, depreciation, interest, maintenance, repair, and other expenses directly attributable to the operation of such system. For purposes of this paragraph, the depreciation expense to be included in actual cost shall be the depreciation expense claimed for federal income tax purposes. The total amount of any payment required by a lease or rental contract or agreement shall be included within the actual cost. The provisions of this paragraph do not apply to the use by any local telephone company or any telecommunication carrier of its own telephone system or telecommunication system to conduct a telecommunication service for hire. If a system described in this paragraph is located in more than one state, the actual cost of such system for purposes of this paragraph shall be the actual cost of the system's equipment located in Florida.

Section 8. Subsection (3) is added to section 337.401, Florida Statutes, 1984 Supplement, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit.--

(3) If any municipal authority requires any telephone company to pay a fee or other consideration as a condition for granting permission to occupy municipal streets and rights-of-way for poles, wires and other fixtures, such fee or consideration may not exceed 1 percent of the gross receipts on recurring local service revenues for services provided within the corporate limits of the municipality by such telephone company. Included within such 1 percent maximum fee or consideration are all taxes, licenses, fees, and other impositions except ad valorem taxes and amounts for assessments for special benefits, such as sidewalks, street

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pavings and similar improvements, and occupational license taxes levied or imposed by a municipality upon the telephone company. This subsection shall not impair any franchise in existence on the date this subsection takes effect.

Section 9. Section 203.05, Florida Statutes, is hereby repealed.

Section 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 11. This act shall take effect July 1, 1985 or upon becoming law, whichever occurs later.