



**MINUTES**  
**THE TOWN OF INDIAN RIVER SHORES**  
**6001 North Highway A1A, Indian River Shores, FL 32963**

**WATER UTILITIES WORKSHOP MEETING**  
**Monday, January 23, 2012**  
**9:00 a.m.**

**PRESENT:** Thomas W. Cadden, Mayor  
Gerard A. Weick, Vice Mayor  
Frances F. Atchison, Councilmember  
Richard M. Haverland, Councilman  
Michael B. Ochsner, Councilman

**STAFF PRESENT:** Richard Jefferson, Town Manager  
Laura Aldrich, Town Clerk  
Chester Clem, Town Attorney

**OTHERS PRESENT:** Residents Bill Beardslee, Melissa Mittag, Morton Lowenstein, Phillip O'Reilly, John Steiner, Paul Kaneb, John Porta, J.W. Saylor, David Becker, David Haynes, Bill Jenkins  
Vero Beach City Manager Jim O'Connor  
Indian River County Commissioner Bob Solari, County Manager Joe Baird, Utilities Director Erik Olson, County Attorney Alan Polakwich, County Finance Director Jason Brown  
Jim Moller, JIPOA  
Reporters Press Journal, VB 32963 and Hometown News

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation (Councilman Ochsner)
- c. Roll Call

Mayor Cadden called the meeting to order at 9:01 a.m., with the Pledge and Invocation recited. The Town Clerk called the roll and noted the attendees as reflected above.

2. **Utilities Discussion – Town Council**

- a. Review Proposed Agreement from the City of Vero Beach (COVB)

Mayor Cadden stated that this meeting is to consider water, wastewater and reuse water service to the Town. We have received excellent service from the City, and have sent a letter that we would not continue the existing franchise agreement. A new proposal has now been received from both the City and the County.

The Mayor asked Mr. O'Connor to come to the podium for questions from the Council. Vice Mayor Weick asked if the hydrant fee would stay at \$50,000 per year (Mr. O'Connor replied yes), and then if the City would match the County rates system-wide (no decision on that yet, City Council makes policy decisions). The Vice Mayor said it would be a problem to pay a different rate, and Mr. O'Connor said they don't envision it as a problem, as they could adjust the software to accommodate billing for different classifications, which ends up with the rates being the same. The current rate structure is based on the demand of clients, which may be different in Indian River Shores.

*Please Note: The Town of Indian River Shores does not routinely keep verbatim minutes. Any party interested in such an appeal relating to any decision made by the Council with respect to any matter considered at this meeting is responsible to record the meeting and include the testimony and evidence upon which the appeal is to be based.*

Councilman Ochsner asked how many rate-payers are associated in each of the three categories defined by the City, to which Mr. O'Connor said the program is adaptable to that, and could get that information. The next question was the rationale for three rate structures, to which the answer was the cost of service. Unpressurized water delivery and line maintenance, fewer meter readings for single meter/multiuser home owner associations are cost savers. Councilman Ochsner asked if there was a real cost analysis done and Mr. O'Connor said yes, it was provided to the City Council.

Vice Mayor Weick asked if the City intended to expand reuse water north of John's Island, to which the City Manager said there is capability to serve, with the users paying for the infrastructure as is done in the City. There are programs for assessments that could be made applicable for reuse. Continuing, Vice Mayor Weick asked about existing contracts with individual developments not being renewed, as the Bermuda Bay HOA was told by COVB Water Director Rob Bolton. Mr. O'Connor said they would renew contracts, but a renewal rate would be negotiated. The Vice Mayor asked if the rate structures for individual communities could be renegotiated right now for expired community contracts, to which the answer was yes, if the Town contracts with the City for water, the proposal would cover all three services (water, wastewater, and reuse water).

Mayor Cadden expressed concern with why the City would not let Bermuda Bay sign a 5-year renewal agreement, as they have had a franchise agreement with the City for 20 years. Mr. O'Connor said they have not been contacted by Bermuda Bay.

Councilmember Atchison asked if they had been contacted by John's Island about reuse water, and he said they had, and were in preliminary discussions.

Vice Mayor Weick said there were only three communities: The Estuary, Bermuda Bay, an Ocean Colony - that had one meter, and the other communities were paying \$1.97 per gallon. Mr. O'Connor said the franchise agreements allow them to plan for the future.

Mayor Cadden said they were exorbitant rates for individual meters. Reuse agreements were discussed with Mr. O'Connor by the Mayor and Vice Mayor, with Mr. O'Connor stating that the City planned on servicing the Town for next four years under the current agreement, and Mayor Cadden asked why they would not continue the neighborhood agreements. Mr. O'Connor said they are. Vice Mayor Weick said there is no reuse agreement with the Town, and in four years the City has raised the rates four times with Bermuda Bay from 52 cents to \$1.97. Their reuse agreement with the City just expired on December 13, 2011. Mr. Clem said there are 12 or 14 contracts between individual home owner associations in the Town and the City for reuse water. The major reuse water contract is with John's Island Water, and until 2020, that water authority has an exclusive right to contract with the City or County directly.

Mayor Cadden said he has a problem with the \$1.97 reuse water rates for the Town communities. Bermuda Bay, The Estuary and Ocean Colony currently have this rate. Mr. Clem said he has a copy of all of the reuse water agreements.

Councilmember Atchison asked Mr. O'Connor how secure the rates are and what confidence he could give the Town that the system will be maintained. Mr. O'Connor said that they are following the recommendations made in the study, having reduced 63 positions overall in the past five years, and that they expect stabilized rates for the next five years under the current rate structure.

Councilmember Atchison also mentioned a concern from the residents about representation, and was reminded that the Town is represented on the Utilities Commission.

Councilman Haverland said that he has read that reuse water is in limited supply, and asked if and when there would be capacity to serve north of Winter Beach Road. Mr.

O'Connor said they would respond to a projection of needs provided by the Town, stating they believe there is plenty of capability to serve both the City and the Town in reuse water, with an anticipated cost reduction.

Councilman Haverland asked if Mr. O'Connor had an opportunity to see the County's offer to the Town, to which the reply was no, he put together what the City can afford based on a business model from the City.

Councilman Ochsner noted that with quick calculations, over a 30-year span the proposed agreement from the City would cost the residents \$6 million more than with the County. Mr. O'Connor said that the decision making policy sits within the current council, and that the City has provided reliable, pressurized service and will guarantee to continue to provide such.

Councilman Haverland continued that the City's offer appears to be grossly non-competitive with the infrastructure ownership and cost absorption to provide for north end reuse water. Mr. O'Connor replied that they are providing pressurized reuse water to the meters, adding it's not a deal-breaker with the City if the Town wants to retain the infrastructure. A brief discussion among Town Council about the infrastructure as an asset, its maintenance, and ownership advantage followed. Councilman Haverland added whether we do business with the City or County, we should have some rental income for providing that asset.

Mr. O'Connor said a proposal has been sent for the Town's consideration, and the City will review a counter proposal if it is submitted. He is not here to negotiate, and would prefer to have any questions in writing so that the City of Vero Beach officials could respond.

Mayor Cadden asked for an explanation of Item 4 of the City's letter: "The contract would be assignable if the City of Vero Beach relinquishes providing water and sewer utility services under the same terms and conditions agreed to at the contract signing." Mr. O'Connor replied that any existing contract is assignable to become an asset as part of the system. Who would control the rates, should that happen, was discussed as 1) countywide authority (utility authority sets the rates); 2) City hires a company to manage the system, and the Council sets the rates; and 3) an outright sell, the PSC would set the rates. The Mayor asked Mr. Clem if the rates would be controlled by Tallahassee if the City decided to sell the company, and he said that was his understanding. Councilman Haverland asked if different rate controls for the County portion could be part of an agreement. Mr. O'Connor said he understood that the contract would be a system asset and controlled by rates set by the Public Service Commission, who also sets the value of the entire system.

Councilman Haverland asked if we could lose the negotiated rates if the City sells to a regulated utility provider, which Mr. Clem noted it would be part of the contract that they would buy with the existing contracted rates. Any sale of a utility is subject to the PSC approval.

Mayor Cadden asked for clarification that if we chose to stay with the City, the 10 % surcharge would be removed, but a 6% surcharge is added. Mr. O'Connor said yes, they had included that the City would charge what the County charges as customary in their rates. The Mayor said that the remaining question is ownership, and strongly recommended that the Council direct the Town Manager to investigate who owns what in 2016.

Vice Mayor Weick asked what the City's position on who owns the infrastructure is, and the response was that the City has no position on ownership at this time, and would be negotiated if the Town agrees to contract with the City. The Vice Mayor also said that the American Waterworks Association sets the water rates, and asked if the City follows those

guidelines. Mr. O'Connor said he has seen their rates, and they do follow them. The Vice Mayor read a section of the reuse water contract with the procedure for setting rates, asking if that was followed, with going from 52 cents to \$1.97 in a few years. Mr. O'Connor said the AWA does not approve rates; the City follows its guidelines.

The Mayor turned to the audience for questions or comments.

Phillip O'Reilly, Ocean Colony resident, offered his opinion of the contract with the City, citing the reuse water rates for Ocean Colony as going from 32 cents six (6) years ago to \$1.97 as (price) gouging, calling it capricious and arbitrary rate setting. He said he wouldn't consider talking with the City unless they meet the County's rates.

John Werwaiss, Sable Palm Lane, referred to the letter dated January 6 from the Board of County Commissioners (BCC), Revenues and Expenses FYE 2011, the depreciation of \$14 million and renewal/replacement of \$1.459 million is listed. He asked about the condition of our pipes in comparison of those west of Vero Beach, and if they might be more or less expensive to maintain. Mr. O'Connor said that some of the Town's pipes are older than some, younger than some system-wide. They have been maintained, so they have had replacements as necessary. Another question Mr. Werwaiss asked concerned the average lifespan of water pipes if properly maintained? Mr. O'Connor said there is one schedule based on how they last before they burst, then another after replacing/repairing, therefore based on conditions, there is not a specific number.

Paul Kaneb, 111 Stingaree Point, said all of this is new to him other than what he has read in the paper, wondering if it would be easier to understand if it were put on a spreadsheet. He thought there should be more time spent to look at this intelligently, and questioned the 30 year length, other suppliers, and how the County would take over the function performed by the City for the Town.

Mayor Cadden thanked Mr. Kaneb for the good comments, adding that the Town needs more technical direction right now. The Council has been through this (factfinding process) for two years now. Vice Mayor Weick added that the Council definitely wants to treat everyone in the Town equally, which is not the case now with the relatively new individual reuse water agreements. As for the 30 year contract, it seems to be standard in the State of Florida.

b. Update on County Proposal

County Manager Joe Baird and Utilities Director Erik Olson came forward. Mr. Baird said their proposal is simple, the Town residents get the same rates as all current customers. If you go with the County, you vote for commissioners. The rates include built-in renewal and replacement costs, with \$80 million cash spent last couple of years. The County has assumed that the Town owns the lines, and suggested that the Town specify in the contract to keep them, with the County gladly continuing to maintain the system. They are fiscally stable and financially strong with over \$60 million in cash and AAA rated. They are putting in lines now, looking at reuse for the north part of barrier island. Mr. Baird continued by stating that they feel very comfortable with their proposal, and don't want to treat any customers differently, regardless of location. The County has excess coverage available. No rate increase has been levied in years, and bringing the Town on their system would improve the economy of scale. The County also has its own new reverse osmosis (RO) and wastewater (WW) plants.

Erik Olson addressed the question of bringing reuse infrastructure into Town. The BCC has already approved a project to enhance the system, pulling water out of the canal system for use in the reuse water system, at no cost to the Town. The County maintains and assumes the costs for hydrants as part of their infrastructure maintenance costs. They do

not charge different rates for pressurized versus non-pressurized reuse water, and could tie into the lines and serve John's Island right now if they just ask.

Councilman Ochsner mentioned the City's availability of pressurized reuse water at 60 psi, asking Mr. Olson if that were also available from the County. He replied that it was, as they use the same pumps for pressurized or non-pressurized.

Councilman Haverland said that Mr. Olson had mentioned that there was no rate increases for potable water or sewer in many years, and asked about the reuse water rate history. Mr. Olson said the County didn't charge anything for 20 years, then at the suggestion of a consultant, began charging 15 cents, and more recently based on a study brought the reuse rate to 67 cents with small, incremental changes. No dramatic changes are anticipated other than what has been approved to date. Councilman Haverland asked if there was a schedule of increases planned, and Mr. Olson said one was for reuse only. He compared the discussion of going from 52 cents to \$1.97 with the City to the County rates going from 60 to 67 cents, and with incremental increases up to 80 cents planned. Councilman Haverland said that he was hearing that rates weren't expected to rise above 80 cents, asking for an explanation about the future rates. Mr. Olson said he could not say what rates would be ten or 12 years in the future, adding that the rates were stable for 20 years at 15 cents. After a cost of service analysis, they determined 0 - 15 cents was not reasonable, and reviewed other's rates to see what it costs to recover the expenses. Water/sewer rates have also been stable for 13 years. Economies of scale also stabilize the costs. Councilman Haverland asked if the County were to buy Vero's water system, would that (previous offer at a specific price) have resulted in lower rates, and Mr. Baird said that is probably likely due to redundant personnel being eliminated. They are most interested in having the best and most inexpensive service.

Councilman Ochsner asked about incremental processing costs for reuse, with Mr. Olson replying that they are small, as it relates to chemical charges, electric costs, CPI costs and labor, other minimal costs. He asked if there is a chemical cost to reuse, and Mr. Olson said yes, with the Councilman saying that he thought the only incremental cost is distribution. Mr. Olson further explained that the County has put in almost \$8 million in infrastructure improvements for reuse alone over several years, and has authorized contracts in place for capacity increase for approximately \$2 million and to bring it down A1A, as well as many other infrastructure costs that have been absorbed in the reuse system.

Mr. Baird added that they are looking at recapturing \$335,000 in reuse revenue, a small portion of the County's \$47 million in revenue. Their water rate structure has 15-20% built in for renewal/replacement of infrastructure.

Vice Mayor Weick asked if the seven-cent rate increase is firmly set, and Mr. Baird replied that the BCC sets the rates, and has the right to change them.

Commissioner Solari added that he had recommended the rate increase, as he perceived that a lot of reuse water was being wasted, and put a value on a valuable asset rather than a waste product. He added that he didn't see the need for higher costs than the projected 88 (sic) cents, which he felt is good pricing in place.

Vice Mayor Weick asked if they are under FPL electric rates for the water system, and Mr. Olson said they are for the vast majority of the system. The Vice Mayor continued by questioning the installation of reuse water lines for the northern portion of Town from Winter Beach all the way to CR 510, with Mr. Olson replying that they are hoping to secure a partnership with the City on this. Even so, the County is moving forward on this, and it should be in place within a year.

Continuing, Vice Mayor Weick asked if he understood correctly that if a legal problem

arose with the City if the Town chooses to go with the County for water service, the County said they would pay up to \$250,000 in legal fees. Joe Baird implied there is evident language in our franchise agreement that the Town owns the infrastructure. Alan Polackwich added that his view is that the assets revert to the Town, as he is not aware of any City attorney who has taken the position that the City owns the Town assets. Mayor Cadden said this is something for staff and the municipal attorneys to determine through mutual agreement and understanding, and should get this accomplished quickly.

Mr. Clem asked about any new development on the territorial agreement, and Mr. Olson said he viewed this as a photograph in time of 1989 rather than a restrictive document relating to the territory in the future. Mr. Clem asked if there had been any communication between the City and County to resolve this, and Mr. Olson said no, adding it should be a catalyst towards regionalization in the long term, as a partnership makes sense.

Mayor Cadden asked about the adequacy of volume of reuse water available from the County to serve the Town if there was not cooperation between the County and City. Mr. Olson responded that any customer-generated wastewater converts to reuse, and the County has this (traditionally-generated from the wastewater plant) asset as well as plans to pull water out of a canal system to supplement 1.5 – 2 million gallons per day. The BCC has already authorized construction and development of this project.

Councilman Ochsner asked Commissioner Solari about the conservation component in reuse water pricing, which he said he pushed for higher pricing to encourage conservation by using more reuse and less potable water to protect the aquifer. Mr. Baird added there is almost an allocation cost, which could be split between wastewater and reuse water costs.

### 3. **Public Discussion**

Mayor Cadden asked if there were any questions from the audience.

John Steiner, Ocean Colony, said the residents have a vote on County Commissioners, unlike members of the City of Vero Beach Council, which is a big factor. He asked Mr. Baird if the County taxes are subsidized by the water utility, to which the response was that it is a true enterprise fund with only G&A (General and Administration) costs attributed. They do not want to incorrectly support a taxing fund. Mr. Steiner asked if water and sewer rates are comparable to what the Town is paying now, which Joe Baird said most see it as a reduction. Mr. Stein thanked the Council for all of their time and effort put into this.

Mayor Cadden said there was some inequity in the rates for large homes, as County rates are designed for smaller homes with a rate scale increasing with consumption. Vice Mayor Weick noted that the condominiums will pay approximately 30% less, and about half of our Town is condominiums. The City says they will match those rates.

Paul Kaneb, 111 Stingaree Point, said he was troubled with the 30 years as a usual term. He appreciated the County's market-based approach versus the City's municipal government approach of developing a model and then delivering. He wondered why the Town can't operate more like a business, with a 30-year contract comprised of six (6) five-year options with unilateral renewal, thinking it helps us stay more in control. Mr. Clem said that public utilities have different laws than business and commerce, adding perhaps there is a statutory requirement for a 30-year franchise agreement. County Attorney Polackwich agreed that 30-years and sometimes greater is standard, relating it to recovery to infrastructure costs. Councilman Haverland agreed with the shorter periods in the contract, and asked if they could propose 5-year contract increments. Mr. Baird said they would like a minimum of 10 or 15 years to recapture infrastructure costs. Mr. O'Connor said from the City's standpoint it is negotiable, as they have most of the infrastructure in place.

Vice Mayor Weick asked why a franchise agreement is necessary, and Mr. Olson said they are not allowed to come into Town limits without one.

Councilmember Atchison commented on Mr. Kaneb's point, saying it is good that Mr. Clem has been here to provide the continuity of 30 years (of knowledge). She liked the thought of a five-year long range plan to assist in tracking the history.

Vice Mayor Weick said the Bermuda Bay reuse contract is for 20-years with automatic renewals in 5-year increments. Some other contracts have a one-year renewal unless there is a mutual agreement not to renew. Mr. Baird suggested that the individual agreements be done away with and covered instead under a blanket franchise agreement for the Town, which the Council affirmed as desirable.

Bill Jenkins, 104 River Oak Drive, said there is an existing infrastructure in the (Town) that works like a Christmas tree from the water tank to Old Winter Beach Road, which can't be fed backwards, and asked how the County will make sure the rest of the area that is currently not suited for this infrastructure would be serviced. Mr. Olson said the County has this in the plan, with connections at the north and adding a connection via directional bore across the Lagoon to Fred Tuerk which will serve both directions, deeming it not difficult. The County will use existing lines and work with the City.

Councilman Haverland noted if we decide to go with the County, it has a dramatically unfavorable effect on the City, since the \$9 million of infrastructure now owned by the City reverts to the Town, and the profit the City makes on water sales to the Town will be eliminated. He asked if the County's offer to them would remain unchanged, which Commissioner Solari explained as being in agreement with Joe Baird, the entire savings in the original offer would be given to the City customers, so all who live and work in Indian River County get a fair deal with County rates across the board.

Councilmember Atchison addressed Mr. O'Connor and Mr. Jenkins, stating that this will never be considered a large county according to the consistent projections from LAAC and MPO, and questioned the need for two systems. Mr. O'Connor said they have a system designed for high density without urban spread, so whether one or two systems is best is debatable. He also agreed with Mr. Baird, they need to establish a partnership. The key is the efficiency in the plants, and if there are economies of scale. Continuing, Mr. O'Connor said he has spoken with company engineers who would analyze and ensure that they are not duplicating equipment. He said the City of Vero Beach does have an asset of \$7 or \$9 million in Indian River Shores, which is small compared to system-wide. There is a deep well injection plant valued at over \$1 million and a no-discharge plant to address environmental issues. The City has also been talking to Indian River Farms about not using potable water, and historically speaking reuse water was not in high demand. Over time it has become more in demand. Consolidation or partnership is still a topic for discussion, and the City has a lot of assets that need to be addressed.

#### 4. **Adjournment**

The Mayor thanked everyone for coming, and for the comments especially, saying they would be addressed at the Regular Town Council meeting on Thursday. The meeting was adjourned at 10:36 a.m.

Respectfully submitted,

/s \_\_\_\_\_  
Laura Aldrich, Town Clerk

*(Approved by the Town Council at the 2-23-12 meeting)*