



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

REGULAR TOWN COUNCIL MEETING

Thursday, January 24, 2013

3:30 p.m.

PRESENT:

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

STAFF PRESENT:

Richard Jefferson, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney
Robert Stabe, Public Safety Director
Darlene Wiltzius & Heather Christmas, Finance Department

OTHERS PRESENT:

Amy Brunjes + 2 from FPL; Jeff Lantz, AT&T
Residents Bill Beardslee (PZV), John Porta (Finance Committee)
Council Candidates Tom Slater, Brian Barefoot, Chuck Wurmstedt
26 Residents (from Bermuda Bay, Johns Island, Vera Cruz, Pebble Bay & The Estuary
Janet Begley (Press Journal) & Meg Laughlin (VB 32963)

1. **Call to Order**

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

Mayor Cadden called the meeting to order at 3:30 p.m. with the Pledge of Allegiance and Invocation, followed by the roll call by the Town Clerk as reflected above.

2. **Consent Agenda**

- a. Acceptance of Planning, Zoning & Variance Board Minutes dated December 10, 2012
- b. Acceptance of Finance Committee Meeting Minutes dated November 27, 2012
- c. Approval of Regular Town Council Meeting Minutes dated December 13, 2012

A **motion made** by Vice Mayor Weick **to approve the consent agenda items as presented** was supported by Councilman Ochsner. With no discussion, the motion **passed 5-0**.

3. **Planning, Zoning and Variance Board Report** (Chairman Bill Beardslee – no meeting this month)

4. **Mayor's Items**

- a. FPL / City of Vero Beach Electric Utility Update (Amy Brunjes)

Mrs. Brunjes, External Affairs Manager for Florida Power and Light (FPL), said if FPL takes over the City of Vero Beach's electric utility, there will be about \$23 million in annual savings in Indian River County, with \$2.5 million of that savings in Indian River Shores. A 3-way agreement was reached between FPL, the City of Vero Beach (COVB), and the Orlando Utilities Commission (OUC) to allow Vero Beach to exit its contractual obligations, and on October 16th the City Council voted to execute those contracts. The Florida Municipal Power Agency (FMPA) still has to sign off on that. It is a very good agreement, with, no cost to FMPA, who has remained cooperative with the COVB on this issue.

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.

What's new is that on January 15th, FPL presented a purchase and sale agreement to the COVB valued at \$178.9 million. Broken down, it is \$111.5 million cash, estimated employee liabilities \$16.4 million, \$30 million for the OUC power purchase agreement, and \$21 million in other costs. The 96 employees are offered two years of employment, and the Council is expected to vote in mid-February on this agreement. The target closing date is January 1, 2014, with an outside date of December 31, 2016. Remaining action is regulatory approvals, PSC on territorial changes, etc. with confidence that all will be done by the first quarter of 2014.

She explained the net savings of \$6.9 million to the taxpayers of COVB which offset most of the necessary taxpayer's increase to make up the \$7 million revenue currently transferred to the General Fund. FPL did increase the lease offer to \$1.5 million for the power plant, and after all other potential savings to the City, a potential net deficit of \$2.94 million remains.

A binding referendum for voters in the COVB on the sale will be on March 12, the same day as the Town's elections. She read the ballot language as follows: **"Do you approve of the sale and disposition of the City of Vero Beach electric utility and substantially all of its assets for the purpose of exiting the electric business under terms substantially similar to the Asset Purchase and Sales agreement between the City and Florida Power and Light Company?"**

Mrs. Brunjes asked the Council for a resolution that the Town supports the COVB voters voting in favor of the binding referendum. She asked if there were any questions.

The relocation of distribution center to the city property across the street and the number of customers inside and outside COVB (15,000 inside and 34,000 outside) were briefly discussed.

A motion to prepare a resolution in support of the purchase and sale agreement of the City of Vero Beach Electric Utility to FPL was made by Councilmember Atchison and seconded by Councilman Ochsner, which **passed unanimously 5-0**. The Town Clerk will coordinate with Mrs. Brunjes to have it ready as soon as possible.

Bill Grealis, Town representative on the COVB Utilities Commission, voiced approval of the resolution. He had reviewed the documents, and said it is a very good contract. He has gone over the numbers, and for the County residents served, there will be about \$550 net savings per resident per year. Any contributions that are lost to General Fund are more than offset by these savings. Mayor Cadden thanked him for serving on this Commission.

b. Seven50 / Sustainability Initiative Status

Mayor Cadden said he has researched and found that the Town is a part of this initiative, and received a **motion to withdraw from the Seven50 organization** made by Vice Mayor Weick, seconded by Councilman Ochsner. Councilmember Atchison said when it was initially passed, it was called Sustainability, and it was supported by the County, the Treasure Coast Regional League of Cities (TCRLC) and the Treasure Coast Council of Local Governments (TCCLG). She expressed that the Town should not only be out of this, but also other regional memberships as well. Councilman Haverland asked if there was any financial impact or benefit of being in this, and Councilman Ochsner said there was a possibility of funding to the local governments at some date. Mayor Cadden said they initially spoke of non-support of HUD, which now this group does support. With the County and other municipalities withdrawing, we should also be out. **The motion passed unanimously 5-0**, with applause following.

c. Municipal Elections Agreement 2013

A motion to approve the Municipal Elections Agreement between the Town of Indian River Shores and the Indian River County Supervisor of Elections was made by Vice Mayor Weick and supported by Councilman Ochsner. There was discussion about early voting (none) and absentee ballots (can be done through Supervisor of Elections office). **The motion passed 5-0**. Councilman Haverland said this should be mentioned on the website, which the Clerk affirmed.

Councilman Haverland asked about the **Town Manager's evaluation**, which he believed should have been listed under the Mayor. Mayor Cadden said he did review it in great detail with Mr. Jefferson.

5. **Town Attorney**. Mayor Cadden said he and the auditor had discussed language in our Charter about the Treasurer, which he had asked Mr. Clem to review as it is outdated. Councilman Haverland offered to do this, as he resented the idea of paying the lawyer for this. Mr. Clem noted there are many areas of the Code to review and update at some point.

6. **Town Manager**

a. Cell Tower Update

Mr. Jefferson said so far, ATT has been the only one we have worked with, and they recommend an 85' tower rather than the 110' or 140' preferred by the tower provider, with three carriers, and placed as far east of the Maintenance Building as possible. As a side benefit, the residents would receive much better cell phone service.

Councilman Ochsner asked if the land at Jack Mitchell Way had been considered. Town Manager Jefferson said no, since the site behind the Maintenance Building was chosen because it is essentially for Public Safety. Councilman Haverland said there were comments last time about less people being impacted if it is there rather than closer to Bermuda Bay.

Councilman Ochsner said he understood there was 15' between each provider's equipment, and Town Manager Jefferson said 12' is adequate, but does not provide the best coverage as it goes lower. Councilman Ochsner asked what will simply satisfy the PSD need, and what costs are involved. Town Manager Jefferson said this would not cost the Town anything or incur any liability or responsibility, but there would be income involved. A 60' tower with one provider was discussed as not tall enough to get signals everywhere.

Mayor Cadden said he also was informed by the tower people that the minimum height is 85'. Town Manager Jefferson said Verizon seems to not have interest in anything but a single tower with only their equipment. Air cards are easily switched to carriers other than Verizon.

A monopole like a flag pole without a flag, or a single array is what is planned. Mayor Cadden said it could be put in a tree-like structure if that was more pleasing. Mr. Jefferson added it will have a small building and a generator, so next to PSD is very usable space.

Vice Mayor Weick mentioned the tower on 69th Street that has two carriers other than ATT and Verizon, noting the Spires does not have Verizon. Mr. Jefferson said the tower on 69th Street was his first and the best choice. Both Verizon and ATT said the signal loses its power when it crosses the water and would not work for the Town.

Mayor Cadden was ready to move forward with ATT and an 85' tower. Councilman Haverland agreed it would be a good service to the residents. Vice Mayor Weick said with the main objection being aesthetics, he didn't think a tower fits aesthetically in this Town (audience applauded). Mayor Cadden recalled an old, ugly tower on top of the Public Safety Building several years ago and the lifespan of technology. Town Manager Jefferson said there has to be soil studies and contract discussion prior to moving forward. Mayor Cadden suggested they have a contract drawn up and brought back for discussion. Town Manager Jefferson agreed to have pros and cons of both locations. Councilman Ochsner said they also need photos superimposed of where it is proposed to be.

Councilmember Atchison asked if it was taller than power poles, and was told it is by 20 or 25 feet. She then spoke about the email that was sent to the Council stating it was a financial issue to the Town, and emphasized that it is not. The Council agreed; it is a service issue.

A resident asked if they may have any input, and the Mayor said not at this time. This is not a vote to put up a tower, just to continue the research process. Town Manager Jefferson said ATT has done a study on this site, and he can ask for a study at the end of Fred Tuerk.

A resident asked if this tower is about the residents' cell phones or just for Public Safety Department's purposes. He and Mayor Cadden discussed tower height briefly.

Susan Mehiel of Bermuda Bay said this is the second meeting and the Town has never had photos to share, which was refuted by the Council as they were available at the last meeting. She asked about boosters for the vehicles, and alternative technology rather than a tower. The height is about twice as tall as the Public Safety Building, she continued, and mentioned income from three carriers with no regard to potential financial impact to the value of homes. She is asking that they not go ahead with the feasibility study. Mayor Cadden said this was already discussed at length last month.

b. Termination of General Employee Pension Plan Update

Mr. Jefferson said we have five employees in the Defined Benefit Plan, three of whom are retired and two that are employed by the Town. The total cost for the buyout of the employees would be \$555,496. Total assets in the Defined Benefit plan right now are \$344,205, so for \$211,291 the Town would be able to buy out the retirees and roll the two current employees to another plan, thus eliminating administrative fees. Vice Mayor Weick asked if we would change the employees to the current 401 type plan, which Mr.

Jefferson affirmed it would be best to use the current 401/457 plan for government employees. Then the Town would have no other retirement liability. Councilman Ochsner ascertained that the Town costs currently are \$47,940 per year. A **motion to terminate the General Employee Pension Plan** was made by Vice Mayor Weick, seconded by Councilman Haverland, which **passed 5-0**.

c. Island Club Annexation Update

Mr. Jefferson said this is a dead issue as he has been informed that Island Club has decided not to proceed with this. Councilman Haverland was puzzled as to why they would not want to be in the Town. The recent negative press that insinuated we don't have enough money to cover our financial obligations has created an insurmountable mountain, Mr. Jefferson replied, which has led them to believe the Town needed their money. This was never the idea, the intent was simply to offer our Public Safety Department coverage to the area. It went on for a year, and when he asked if they wanted to be part of the Town, they never gave a definitive yes. There was a lot of research on their part, hours of staff time on our part, but there was too much skepticism to overcome.

d. Canvassing Board Appointment (Town Clerk Aldrich)

Mrs. Aldrich said the traditional composition of the Canvassing Board is the Town Clerk, the Town Manager, and the Public Safety Director to represent the Town at the Supervisor of Elections to oversee absentee ballots and approve provisional ballots. A **motion to approve the Canvassing Board as Town Clerk Aldrich, Town Manager Jefferson and Public Safety Director Stabe to represent the Town in the 2013 Town Council elections** was made by Councilmember Atchison, supported by Councilman Ochsner, which **passed unanimously 5-0**.

e. Special Called Meeting for Installing New Council

With little discussion, a **motion to have the Special Called Meeting to install the newly elected Town Council at 8:30 a.m. on March 15th** was made by Councilman Ochsner, supported by Vice Mayor Weick. Councilmember Atchison abstained. The **motion passed 4-0**.

f. Benefit Changes Requested by Council for Non-Union Staff

At Mr. Jefferson's bidding, Mr. Ochsner explained that the Finance Committee listened to Mr. Jefferson's request to forego increasing the general employee's contribution for family health insurance coverage from 22% to 36%, as had been implemented in the Union contract. As a policy, the benefits usually are mirrored, and the Committee concluded that it is up to the Town Manager to make the determination.

Councilman Haverland said the total annual amount of additional cost to the Town is \$8,500, which is not the issue. When comparing total compensation to other towns, he said our employees receive the most generous health care plan that exists, and we ask the least of our employees in terms of paying for it. He sought information from the County, the School Board, and the City of Vero Beach, and the employees all pay 45% or more for family and some also pay a portion of employee costs. He opined that the Town should reduce the liability for dependent care to zero in the future, not in one fell swoop. Currently two employees making \$60,000 per year are subsidized by the Town at \$7,000 for one and \$16,000 for the other. Health care, he said, is totally out of control, and it would be a real error to bend over backwards to deal with this request. This could be the beginning to get health care costs under control, he added, mentioning \$1.8 million unfunded liability for retirees of which part is the health care expense. He urged the Council not to agree with Richard's proposal.

Vice Mayor Weick disagreed with \$1.8 million unfunded, which numbers he said are not backed up. There was discussion with Councilman Haverland about the unfunded liability number. Councilman Ochsner agreed with the Vice Mayor that the auditors and actuaries can't or won't break it out. Vice Mayor Weick said this insurance only goes until age 65, after which it should be required to end. Employees have an understanding at the onset of employment that the Town provides health insurance, and the Council should honor this provision.

Town Manager Jefferson said the question is whether to keep it at 78% or 64% paid by the Town. A **motion** was made by Councilman Haverland **to bring the Town's portion for non-union employees to 64%**, which was seconded by Councilmember Atchison. Councilman Ochsner said he prefers that they make it the same for union and non-union, although the Finance Committee voted to defer to Mr. Jefferson. Although he agreed to that, he also sees that Mr. Haverland has some valid points. The **motion passed**

unanimously. There was **an amended motion to place an effective date of February first** made by Councilman Haverland, supported by Councilmember Atchison, which **passed unanimously 5-0.**

g. FY12-13 PSD Budget Adjustment

Councilman Ochsner explained that as part of the transition with key employees leaving PSD administration and the Town Treasurer position, there were mistakes made and elements left out of the budget, as well as incorrect math. Since Chief Stabe monitors the expenses closely, he worked with the Finance Department to determine the changes needed. The budgeted surplus is decreased from \$526,666 by \$123,150. The Finance Committee voted to recommend approval by the Council to amend it right away for budget tracking purposes.

Mayor Cadden recommended approving it as is, and made a **motion to approve the recommended budget adjustment of \$123,150 for the Public Safety Department** which was seconded by Councilman Ochsner, **passing 5-0.**

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Mr. Jefferson said there is one other item that has arisen which is not on the agenda regarding **pickup trucks, boats and trailers.** Our ordinance needs to be rewritten, and he asked the Council if the intent is to refer to all pickup trucks or commercial vehicles only, and if there is a certain timeframe involved. Mr. Clem added the ordinance talks about these items being garaged, not being prohibited. It is for aesthetics and has been enforced for the last 30 years, he added, agreeing it could be further clarified. The non-gated communities are the concern, Town Manager Jefferson said. Mr. Clem said presumably tradesmen will be leaving when the day is done, noting that garaging them overnight may need to be added. Town Manager Jefferson said the question arose because there are some very nice luxury trucks that will not fit in the garage. He said a similar case went as far as the Supreme Court and it was denied because of the lack of definition of a truck.

Vice Mayor Weick said the County Planning and Zoning Board also faced this issue, and ended up increasing the size (of the garage) because of the popularity of pickup trucks. However, when people move into this Town, they are made aware that there are no pickup trucks allowed outside at night, which was echoed by Councilmember Atchison as a Realtor. Our garage is a minimum of 24', and accommodates almost every truck made.

Mr. Jefferson said we will clarify that they are not allowed outside at night. Mr. Clem said other communities have a variety of these restrictions, and ours has been enforced, so it ends the conflict.

6. Council Discussion

a. Council Items

1) Council Meeting Date Change to March 21st, 22nd or 29th (Haverland)

Councilman Haverland said he made a mistake when requesting March 26th for the Council meeting, and asked if the Council would consider any of the three other dates. Vice Mayor Weick said he would not be able to make any of them as he will be out of the country as of the 20th. **A motion to move the Regular Town Council meeting to March 21st** was made by Councilman Haverland, supported by Councilman Ochsner, which **passed 4-0.** Councilmember Atchison abstained.

2) Retiree Medical Incentive & Funding Update (Ochsner/Haverland)

Mayor Cadden asked if there was anything else to add to this, and Councilman Ochsner said we can't complete discussion on it yet until there is sufficient information. Councilman Haverland noted that this has been discussed since last October, asking what the Town could do to find lower cost health care for the retired employees. Councilman Ochsner said professional advice rendered is that every retiree would have to be individually underwritten, not facilitated by the Town. Probably not all would stay on the Town's plan. One of the drivers, he added, was to get all of the retirees off the plan so rates would drop for active employees and the Town. It defeats the purpose to leave some on the plan.

Councilman Haverland said we aren't doing anything but providing information. An agent could say I can get you this for this price, which may be different coverage, better or less benefits at a better price. If the Town presented the opportunity, it might be attractive to the retiree. It would have no effect on the employees already in the plan, as we are rated individually by age and sex. If one leaves, fine, if not, it stays as it is. Councilman Ochsner said state law requires that we provide insurance, not that the Town

subsidizes it. Vice Mayor Weick clarified that we have to offer the same insurance that we offer active employees.

Councilman Haverland said there is another issue. Today, an employee who retires after 25 years receives insurance subsidized by the Town at a cost of about \$2,300 per retiree. He suggested we subsidize them to leave our plan by offering them with \$2,000/year to use towards another plan. If they don't opt out, they're not going to get it. It would be effective May 1st with an incentive to opt out rather than an incentive to stay in the Town's plan. We have to have this done before April first. Councilman Haverland made a **motion to create an incentive of \$2,000 per year per retiree who elects to opt out of our plan and eliminate the option we have for those retirees who remain in our plan** which was seconded by Vice Mayor Weick. It was amended to add **until they turn 65**, which was read again by the Clerk as **motion to create an incentive of \$2,000 per retiree per year who elects to opt out of the plan and thus eliminate the option to remain in our plan until they turn 65**. The motion passed 5-0.

3) Vero Electric Utility Sale Non-Binding Referendum (Haverland)

Councilman Haverland said this was addressed with the Resolution agreed to earlier in the meeting, which shows the Town's desire to be released from the City's Electric Utility service.

4) Employee Handbook Update (Ochsner)

The Finance Committee reviewed the draft of the handbook, and Laura is in the process of making those changes. Some items discussed were the medical insurance, and the idea that personal and sick leave days should be lumped together with an incentive to not use them. Mr. Jefferson will have a recommendation on this. Life insurance was also determined by most in the Committee to remove the three-level distinction based on employee classification as it is currently, and to give everyone a \$50,000 policy rather than bring someone down to another level. A few components of benefits not included in the draft relate to Long Term Disability, mileage reimbursement, and Employee Assistance Plan. Laura said the EAP should just be mentioned in the Handbook as included in the Health Insurance policy. Mr. Jefferson will be providing suggestions regarding paid time off, and Laura will have the revised draft soon, maybe by the next Council meeting.

5) Medical Insurance Workshop Tied to Affordable Care Act (Haverland)

Councilman Haverland said he was concerned with possibly having to provide health insurance coverage for employees who work 30 hours per week, especially the temporary (per diem) staff. Vice Mayor Weick mentioned the under 50 employees rule, which Councilman Haverland said they could change, and Councilman Ochsner interjected that it is a moving target, with regulations being poured out from Washington.

b. Committee Reports

Beach and Shores. Councilman Ochsner said there have been two Beach and Shores meetings since last the Council meeting, mainly about post-Sandy repairs to beach dunes and crossovers without going through the normal Committee process. There have been 24 permits issued, including John's Island Beach Club, The Carlton, Marbrisa, Baytree, and Ocean Pearl, all of which have been completed now. Sea Grape beach had both cross over and dune repair. The Tracking Station had significant damage, with dune repair and the life guard station completed. Wabasso and Golden Sands will be closed beginning the end of January through the end of February, and back open by March 1.

Sector 3 replenishment reimbursement request for \$6.5 million from DEP was also discussed, with the possibility of being under-scored when the project was graded being explored. Post-Sandy damage to both Sectors I and II was discussed, with the possibility of Sebastian Inlet District providing additional sand. The (erosion) modeling contract is still in the works, the RFQ was evaluated and vendors selected. The County should review information in February, with contracts available to issue in March. Councilman Ochsner stated he will be attending the National Conference of Shores and Beach Preservation in February.

TCRLC (Treasure Coast Regional League of Cities). Councilmember Atchison asked to have information posted on the Town website alerting the residents to a group who is spearheading a healthy Indian River Lagoon. Councilman Ochsner added the TCCLG sent a letter to the Governor asking for State oversight of the Lagoon, and received a response acknowledging the problem but offering no solution.

TCCLG (Treasure Coast Council for Local Governments). Councilman Haverland had no report. (See Councilman Ochsner's report above)

City of Vero Beach (COVB) Utilities Commission Report. (See page 2).

MPO. No report from Councilman Haverland.

EDC. Vice Mayor Weick reported Versa by Webtex addressed them by video on how to promote Indian River County. No action was taken.

7. **Call to Audience**

Mayor Cadden recognized three Council candidates in the audience, Chuck Wurmstedt (former Councilman), Tom Slater (current Finance Committee member) and Brian Barefoot (experienced in many different types of organizations), each of whom introduced themselves. The Town Clerk mentioned the two incumbents who are also running for reelection.

8. **Adjournment**

Hearing no further comments, the meeting was adjourned at 5:06 p.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the February 28, 2013 meeting)