



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

REGULAR TOWN COUNCIL MEETING

Thursday, January 25, 2018

9:00 a.m.

PRESENT: Brian M. Barefoot, Mayor
Michael B. Ochsner, Vice Mayor
Robert F. Auwaerter, Councilman
Richard M. Haverland, Councilman
Deborah H. Peniston, Councilmember

STAFF PRESENT: Robert Stabe, Town Manager
Chester Clem, Town Attorney
Heather Christmas, Treasurer
Shannon Kazen, Building Department

OTHERS PRESENT: RESIDENTS: Joanne Sardella – Pebble Lane & Andy Sowers – John’s Island, Finance Committee; Diana Stark, Ron DuMoulin, Chad Goff, The Victoria; Tom Ether, Anne Dunn, The Shores; Nancy Auwaerter, Rod Foster, Ron Gabor, Sal Saraniti, Ocean Colony; Melissa Mittag, The Estuary; Sam Carroll, John’s Island; Bill & Anne Seawright, Bermuda Bay; 4 more unrecognized residents who did not sign in; GUESTS: David Heuberger, IR Land Trust; Doug Carlson, IR Mosquito Control District; Jim Moller, JIPOA; Dylan Reingold, Jason Brown, Indian River County; Scott Floyd, Republic Services; REPORTERS Janet Begley, Press Journal, and Lisa Zahner (arr. 9:13), VB 32963

Laura Aldrich, Town Clerk
Rich Rosell, Director PSD
Tim Dempsey, PSD Sgt.

1. Call to Order

- a. Invocation – Vice Mayor Ochsner
- b. Pledge of Allegiance
- c. Roll Call – Town Clerk

The meeting was called to order by Mayor Barefoot at 9:04 a.m. The invocation and Pledge of Allegiance were followed by the roll call as reflected above.

2. Agenda Reordering, Deletions or Emergency Additions. None.

3. Proclamations / Presentations. None.

4. Consent Agenda

- a. Approval of December 14, 2017 Regular Town Council Meeting Minutes
- b. Approval of Invoice from Town Attorney dated December 31, 2017
- c. Approval of PSD Request to Purchase 4 Replacement & 2 New In-Car Radios as Budgeted
- d. Approval of Auditor Carr, Riggs & Ingram Invoice Dated December 21, 2017

With no discussion, a **motion** by Councilman Auwaerter with support from Vice Mayor Ochsner to **approve the consent agenda as presented passed 5-0.**

5. Town Attorney (9:07)

- a. Access & Underground Electrical Supply Easement – Bee Gum Point

Mr. Clem briefly explained the request for this easement made by the Mosquito Control District, with Mr. Carlson describing where the line would be laid and that the paperwork will be ready to submit to the St. John’s River Water Management District and Army Corps of Engineers. A **motion to approve the easement which allows access and running underground electrical lines as presented** was made by Vice Mayor Ochsner and seconded by Councilman Haverland, **passing 5-0.** More minor discussion with no outcome followed before Mr. Carlson and Mr. Heuberger left.

- b. IRC/JIWM, Inc. Reuse Franchise Request (9:11)

One of the provisions in the agreement between John’s Island Water Management and the County was that there be a franchise agreement between the County and the Town of Indian River Shores. Mr. Clem said he and the Town Manager met several times with Indian River County administration to understand their

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.

requirements, and also met with the City of Vero Beach because the water/wastewater/reuse franchise of 2012 that we have is with them. Mr. Clem requested that no action be taken today, with clear understanding of the necessity to move forward in a timely manner. They will continue to work out the details and bring it back to the Council in February, hopefully with an acceptable agreement.

The Mayor inquired of the timeframe for this, and Mr. Moller of John's Island Property Manager's Association (JIPOA) said May 1st. Assurance was given that it would be coordinated with the Old Winter Beach Road project for placement of infrastructure. Mayor Barefoot said the existing franchise agreement doesn't allow us to do what the proposed franchise agreement is requesting (an exclusive agreement), and Mr. Clem agreed that reopening the existing water/wastewater/reuse water agreement with the City is a big deal. The Mayor requested that meetings be set up with individual Council members to review the process, which is somewhat involved so they will all be prepared to further discuss this in February. Discussion about the current 30-year agreement followed without action.

6. Mayor's Items (9:20)

a. Vero Electric Utility Sale to FPL Update

Mayor Barefoot said that as of last night, 14 of 19 municipalities have approved the sale of the City's electric utility to FPL. Jacksonville Beach will be the last to vote on February 19. The FMPA will likely call a special meeting on February 22, which would be to ratify the sale if all have agreed. The Public Service Commission (PSC) approval is scheduled in March or April.

Councilman Auwaerter gave a brief report on attending the FMPA meeting on January 18 in Orlando.

7. Discussion with Possible or Probable Action (9:27)

a. Application – Town Representative to County MPO Citizen's Advisory Committee (CAC)

The Town Clerk had provided the application received from one resident in response to an opening for a representative to be appointed by the Council from Mrs. Auwaerter. Councilman Haverland asked if it had been advertised, and the Town Clerk said it had, for many months. **A motion to approve the appointment of Nancy Auwaerter to the MPO CAC passed 4-0**, with abstention by Councilman Auwaerter, upon being made by Vice Mayor Ochsner and seconded by Councilmember Peniston.

b. Sector 4 Beach Erosion Discussion (Vice Mayor Ochsner) (9:28)

This sector from John's Island almost to the Tracking Station has become unstable and is eroding at an alarming rate. The Beach & Shores Preservation Advisory Commission voted to recommend expediting the process to have Sector 4 declared as an eroding beach rather than a stable beach. Vice Mayor Ochsner continued that he and the Town Manager met with County Administrator Jason Brown and Coastal Engineer James Gray, who requested a letter from the Town asking them to apply to the State for reclassification as a critically eroded beach. Mr. Gray has data showing erosion there faster than Sector 3 that is already classified as critically eroded. The County is also aware that it is a threat to turtle nesting and infrastructure.

A motion to submit a letter from the Town Manager to the County Administrator asking the County to apply to the State for reclassification of Sector 4 as critically eroded was made by Councilman Auwaerter with support from Vice Mayor Ochsner, which **passed 5-0**. Town Manager Stabe agreed to let Vice Mayor Ochsner review it prior to submitting the letter. Mr. Stabe said James Gray will also supply key verbiage to include in the letter to expedite the process.

c. Municipal Elections Agreement (Town Clerk) (9:32)

Town Clerk Aldrich explained that this is a routine agreement with the Supervisor of Elections ensuring that they may use the Town's Community Center as a facility in which to hold the November 2018 elections, with the rebuild scheduled to be completed in time for that activity. **The motion to approve the Supervisor of Election's agreement passed 5-0** upon being made by Councilman Haverland and seconded by Vice Mayor Ochsner.

(all Victoria residents and County Administrator Jason Brown left the meeting)

d. OPEB Discussion 2017-2018 (Town Treasurer) (9:33)

Mrs. Christmas recommended that no contributions be made this or next year, as it is overfunded by \$200,000 and this should give it time to level out. She spoke with the auditors about having a second review, as they had concerns that something could be missed in the calculation process due to the complexity of GASB 74/75. She presented three options: 1) send the calculation out at a cost of about \$7,500/year; 2) hire an actuary to review the Treasurer's work; or 3) train coworker Darlene Wiltzius to do the calculation, as she understands it and can spot check it.

Mayor Barefoot suggested a fourth option of having the Finance Committee review it, which Mrs. Christmas agreed is another option. A question about why the auditors raised the concern now was explained as attributable to GASB 74-75, and with a new auditor, we could have a process in place as a control measure. The idea of training Darlene to review the calculation was well received, and then present it to the Finance Committee at the November meeting following the October calculation.

Vice Mayor Ochsner expressed his standing concern about having \$1.2 million in OPEB to cover \$12,000/year. The Mayor said that he agreed with Mrs. Christmas' recommendation to hold off on contributions for a couple of years and then have Darlene and the Finance Committee review the calculations.

e. Finance Committee Consideration of Use(s) for Building Department Funds (Cmbr Peniston) (9:38)

Councilmember Peniston said she had discussed some interesting ideas with a member of the Finance Committee regarding the use of funds generated by the Building Department. She wanted to have them come and share their ideas with the Council. The Mayor agreed to invite the Chairman to come and discuss this, and Mr. Stabe said he has already spoken with him. Mr. Stabe added that Building Official Jose Guanch had provided a memo for their consideration, even though he was out sick and unable to join in the discussion. He had a number of recommendations regarding the fund balance and fee schedule. Mr. Guanch could address this with the Finance Committee and then join with Mr. Poole to discuss it at the February Council meeting. More discussion about other building department fees with no resulting action followed.

Mayor Barefoot asked that this be concluded by February, as it has been discussed many times.

(the Mittag's and Building Department's Shannon Kazen left)

f. Project Ledger (Budget) – Old Winter Beach Road FDEM Grant Payments (Town Manager) (9:46)

Mr. Stabe said at the recommendation of the grant writer and Treasurer, with a very tight timeline to expend funds for the Florida Department of Emergency Management (FDEM) Grant by June 30, he is requesting the Council to consider waiving the \$5,000 signature authority for items within the attached budget, and then bring a summary of invoices paid each month for Council's review/discussion. All change orders over \$2,000 must still be presented to the Council for approval.

He continued that the RFB has been advertised, and 19 companies have investigated documents before possibly bidding. The bid closing is February 5th, which will be followed by bid review with a recommendation for award to be presented to the Council in February. He added that this is a combined budget for both grants, which will have different work projects and costs. Each project gets approval by the Engineer of record. A **motion to allow Mr. Stabe to approve the invoices, with complete details of what is paid each month provided to the Council at the next meeting** was made by Councilman Haverland with second by Councilman Auwaerter. Councilman Haverland asked if this was a total budget, and Mr. Stabe said the utilities for John's Island and Indian River County's reuse water pipe will have costs involved, but installation will include part of both. The total amount is \$1.357 million, which is the estimated cost of the project until we have bids in hand. The net cost to the Town is expected to be under \$200,000.

Mayor Barefoot asked if a normal 10% contingency is included, and Mr. Stabe said it could be built-into the line items. Landscaping of The Shores and River Club is included in portions of the budget. The Mayor said we should reflect at least 5% contingency (roughly \$60,000) in this \$1,357,000. Mr. Stabe anticipates a contingency will be included by the bidders. The **motion was approved 5-0.**

(3 residents left)

g. Title VI Non-Discrimination Policy (Town Manager) (9:56)

This is required to be on file by the Florida Department of Transportation because of the roadwork being done. A **motion to adopt the Title VI non-discrimination policy** was made by Councilman Haverland and seconded by Vice Mayor Ochsner, which **passed 5-0.**

h. Update on Florida Legislature Activity and Its Attacks on Home Rule (Councilman Auwaerter) (9:57)

Councilman Auwaerter gave a brief update on Senate Bill 574 regarding the municipality's right to regulate tree cutting and Senate Bill 1180 regarding Ethics disclosure. House Bill 7003 passed 100-2 to the Senate, requiring a Form 6 with every income source to be completed by elected officials *if* the municipal revenues for the last three years exceed \$10 million. It was unclear if the municipal revenue was cumulative or annual.

The Constitutional Revision Commission's Proposal 95 regarding regulation of commerce, trade or labor exclusively within their own boundaries leaves too much leeway for interpretation. For example, in theory a pizza delivery business that crosses boundaries into another jurisdiction would not be able to be regulated.

A **motion to send the letter prepared by TCRLC to the residents via the news alert asking them to sign a petition in favor of protecting Home Rule** was made by Councilman Auwaerter with a second from Vice Mayor Ochsner, **passing 5-0.**

- i. Request to Change Council Meeting Date in February (Councilman Haverland) (10:01)

Councilman Haverland and the Mayor both expressed a scheduling conflict with Thursday, February 22nd for the Council meeting, with the Councilman suggesting moving it to the following Thursday. This was not good for the Mayor, who received concurrence with everyone for moving it to Tuesday the 20th at 3 p.m.

A motion to move February's meeting to Tuesday, 2-20 at 3 p.m. was made by Councilman Haverland with support from Councilmember Peniston, which passed 5-0.
8. **Town Manager** (10:03)
 - a. Public Safety Salary/Benefit Study Update

Mr. Stabe said that Dave Everetsen, Municipal Solutions, is in the process of finalizing the report. Plans are still to narrow down data from 30 of 114 agencies to review with the Finance Committee members electronically in late January, and then present the initial draft report to the Council in March.
 - b. Cell Tower Update (10:05)

The Town Manager reported that he received an email this morning the tower will be delivered February 6, and it will be erected that week. Operational capabilities are anticipated 6-8 weeks once built. A second carrier has not yet been confirmed. Some of the delay has been caused by Verizon's engineering changes to the branches. As some residents are already switching to Verizon, an update on AT&T was requested.
 - c. Community Center Update (10:08)

Yesterday the Mechanical, Electrical and Plumbing (MEP) drawings were received to accompany the construction plans. Aaron Bowles with MBV will assist in preparing the bid package, said Town Manager Stabe, which will be posted on DemandStar. Discussion about when it would be demolished and available again for use took place, with an estimated 6-month timeline given after demolition. Weather could cause delays, and it is important to be completed by mid-October so the Certificate of Occupancy can be granted prior to November. A question was raised if the Supervisor of Elections had an alternate site, and was told they likely would use the same place as for the August elections.
 - d. Beachcomber Dune Crossing Status Update (10:12)

Plans were received today from MBV Engineering for this FEMA- reimbursement project, and we will advertise this as well. Mr. Stabe noted appreciation for the resident's long-term patience on this.
 - e. Old Winter Beach Road Update (10:14)

(see 7.f. above.) The bid results will be presented to the Council next month with a recommendation.
 - f. Traffic Camera Statistics (Chief Rosell) (10:15)

Chief Rosell said the County's system has been down since August now, and there are no anomalies noted in the control logs. Their new software is causing the delay in obtaining stats derived from statistics provided to the County from the Town. The County bought the new system and does not charge us, and their analysts review/compile the data. The Chief added the Town could purchase this system for ~\$100,000.

The traffic light at Village Beach Market was discussed as a real problem, with Councilman Haverland reporting that he talked with Phil Matson at the MPO meeting about a year ago and was told they have no control over it. Chief Rosell agreed to check into it.

Home health aid may be causing wide-spread issues, he cautioned. One resident who has their own CFO to manage their money apparently had three individuals employed by a reputable home health care company tap their accounts for \$200,000 before they found out. If someone thinks something is wrong, let PSD know and they will gladly check it out. **The Mayor noted that this is the kind of thing that we should include in our News Alerts and also let JIPOA know.**

He spoke to The Shores HOA recently who had seen Border Patrol cars in Town. Their mission is to keep our borders secure from human trafficking, and with a routine patrol schedule, they have had no incidents since they started coming here. Their marked cars are the best deterrent. The Chief was complimented for doing a great job.
 - g. Departmental Reports (Building, Finance, Town Clerk, Public Safety) (10:26)

Mrs. Christmas said the PSD Budget may be over by \$225,000 due to workers comp, as there are currently three officers on light duty rather than off duty. We always anticipate some, but not this much light duty. Flu season is causing absenteeism in the department also.

Vice Mayor Ochsner asked if the overage was partly related to the pension accrual rate, which Mrs. Christmas affirmed was \$125,000 higher than we anticipated. The salaries portion is about \$100,000. Chief said they have been using per diem officers rather than incurring overtime if possible. The Vice Mayor and Councilman Haverland briefly discussed the sick leave use info provided by Chief.

Mayor Barefoot mentioned that there would be a meeting to discuss the status of All Aboard Florida that the staff and elected officials are welcome to attend next Tuesday, January 30th at 9 a.m. at John's Island. The speed of the train and recent deaths were discussed, and the possibly of four trains using the same set of tracks with speeds varying from 50-100 mph.

9. **Council / Committee Reports or Non-Action Items** (10:35)

a. Council Committee Reports (MPO, EDC, TCCLG, TCRPC, TCRLC, Others)

TCRLC – No meeting.

TCCLG – Councilman Haverland had nothing of significance to report.

Beach & Shores Preservation – Vice Mayor Ochsner discussed this earlier in the meeting.

MPO – Nothing to report.

Councilman Auwaerter and Councilmember Peniston had no reports.

Councilman Auwaerter reported that at the PSD Pension meeting, the consultant was there but not the fund manager. There is significant under-performance on the actively managed funds, and while the expense ratio is not terrible, 40-50 basis points, while an index fund could be under 5 basis points. He raised this issue, and Board member Sam Carroll said they will look into it. Councilman Haverland was also at the meeting, and noted that the consultant provided the manager's rating, and he is in the bottom 6% for managing bonds and bottom 25% for managing equities on a gross basis, not net. This is conservatively managed, which he believes is why they underperform, but they also spoke of shifting 10-15% into the riskier real estate market. They have not paid attention to any Council letters of recommendation yet. Councilman Auwaerter said the consultant used gross numbers to do the calculations, and this is the biggest source of financial risk to our Town.

10. **Call to Audience** (10:40)

Rod Foster of Ocean Colony inquired of the next steps regarding **beach erosion**. Vice Mayor Ochsner said there would be an engineering evaluation, and Mr. Stabe added the Florida Department of Environmental Protection (FDEP) is scheduled to do another annual report June 1st. If the County agrees with our request in the letter, they forward it on to FDEP for consideration and it could be included in the upcoming June report with designation as a critically eroded beach, which would then be engineered. Once the beach is engineered and designated as an eroded beach, we can get the FEMA funds if it becomes eroded. The Town currently only owns one public beach access at Beachcomber Lane.

Councilman Auwaerter discussed the County approving funding of beach replenishment at Porpoise Point, which is south of Town and has no public access. All houses have metal sea walls there, which increases sand loss everywhere else as it protects one property. The Vice Mayor thought it had been engineered in the past and was included in funding for when erosion occurs.

Sal Saraniti of Ocean Colony asked how quickly we would hire additional engineer to look at this sector, Vice Mayor Ochsner replied it had been stable and only has changed the last ten years or so, and they look at 30-year windows. It's been ignored because it was thought to be okay.

Jim Moller, JIPOA, addressed that **trash and recycle**, stating for the third week in a row recycle was not picked up on Wednesday, asking if it will be changed to Thursday? He is getting overloaded with calls about being missed, and is forwarding all of the calls to the Town and to Republic with nothing but excuses provided (the truck broke down, the driver was sick, etc.). He asked what he could tell the residents? The residents put it out at 7 a.m. and it's not picked up until the next day.

Mr. Stabe said he is meeting with Republic Services this afternoon at 2 p.m. to discuss this and will send the Council a memo recapping the outcome and explain what has changed.

11. **Adjournment.** The Mayor adjourned the meeting at 10:51 a.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the February 20, 2018 meeting)