



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

REGULAR TOWN COUNCIL MEETING

Thursday, January 26, 2012

3:30 p.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**      **Judy Lewis, Town Treasurer**  
**Bill Schauman, PSD Director**      **Robert Stabe, PSD Captain**  
**Shawn Hoyt, PSD Officer**

**OTHERS PRESENT:**

**Residents Bill Beardslee**      **Melissa Mittag**      **J.W. Sayler**  
**Jack Mitchell**      **William Shankland**      **Ed Wiegner**  
**David Becker**      **David McKenna**

**William and Melissa Gundy**

**Guests Greg Pheneger, JI Golf Club**      **Kimberly Keithan**

**Ralph Monticello, IR Land Trust**

**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 3:30 p.m., with the Pledge and Invocation recited. The Town Clerk called the roll and noted the attendees as reflected above.

2. **Consent Agenda**

- a. Planning, Zoning & Variance Board Minutes dated December 12, 2011
- b. Approval of Regular Town Council Meeting Minutes dated December 14, 2011

Mayor Cadden asked for comments or changes, and hearing none, Councilmember Atchison made a **motion to approve the consent agenda as presented**. Vice Mayor Weick seconded the motion, which **passed 5-0**.

3. **Florida Power & Electric (FPL) Presentation (Amy Brunjes)**

External Affairs Manager Amy Brunjes came to the podium to discuss current activities at FPL. They continue to maintain the lowest rates of all 55 utilities in the State of Florida, and are 25% lower than the national average. Investments of more than \$11 million through 2014 have been made to keep the bills lower, she continued, mentioning the packet that was mailed to the Council prior to the meeting today. The project in process now is the Intelligent Advanced Metering Infrastructure, which includes modernization of the entire electric grid. An

*Please Note: The Town of Indian River Shores does not routinely keep verbatim minutes. Any party interested in 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.*

\$800 million investment in smart-read technology covers everything from power plant upgrades to meters on the house, which are expected to be installed by May this year in Indian River County. Almost 3 million smart meters have already been installed beginning in Dade County and moving north. A postcard will be mailed to residents by FPL with an approximate date of installation, then notification that it will be activated should be about three months later. Some of the many benefits of this upgrade she mentioned are due to its reliable advanced radio frequency (RF) system being able to repair trouble spots even before there is an outage, and residents will no longer have to call and inform them that the power has gone out. Customers will have the ability to go on the "dashboard" online to see in real time their home usage and make adjustments in their usage habits if desired. There is also a bill estimator online, and no meter readers will need to come to the house. These employees are being transitioned to other jobs, and not eliminating jobs. Enhanced customer service is available with smart readers for callers also. Eventually, renewable energy such as solar and wind will hook to the grid easier. There is no change in the privacy level; it remains the same with no personal information shared.

The rates have been frozen through an agreement with the PSC through 2013, and in March they are asking the Public Service Commission (PSC) for a rate increase of about 23 cents a day. They will still have the lowest rates in Florida even with increase. FPL's return on equity is the lowest in Florida, and earnings will drop without the rate adjustment. Even though the base rate goes up, the fuel costs are expected to go down, and the effective rate increase in 2013 would be about \$3/month rather than almost \$7 a month.

Ms. Brunjes also said that the plans to purchase the City of Vero Beach utilities are still underway, as they are actively negotiating with the attorney. One of the key steps to a successful sale is for the City to relieve itself of the obligations to the Florida Municipal Power Association and the Orlando Utilities Commission (OUC). It's all very complex, and they making very good progress.

Vice Mayor Weick asked if the biofuel company (INEOS) qualifies for the rate increase incentive, and Ms. Brunjes said she would have to find out. He also asked if the City has part interest in the nuclear power plant in PSL, which she said they did and discussed it briefly.

City Manager of Vero Beach Jim O'Connor said they are in two different power supply contracts, and met last Friday with OUC and FPL was there. The COVB owns 11 megawatts of the PSL plant through another power supplier, he added.

Mayor Cadden asked how much a smart meter costs FPL per unit, and she said it's an \$800 million investment, and the meters are made by GE in the USA.

Mayor Cadden asked if there were any questions from the audience before thanking Ms. Brunjes for coming.

#### 4. **Planning, Zoning and Variance Board Report** (Chairman Bill Beardslee)

##### a. Draft Minutes from January 9, 2012

Chairman Beardslee said that at the regular meeting in January they discussed an item that had been tabled since last spring: a request from Indian River Land Trust (IRLT) for a sign at the entrance to Bee Gum Point, an extension of a 75' fence to close off access, and a landscaping plan. It was approved, and the Council had a copy of the sign in their packet, which included the addition of "Indian River Shores" to the sign.

The second item was also in regard to IRLT with a formal, legal document protecting the Town by specifying the intent to use the property for conservation. Vice Mayor Weick asked if the easement negotiations were complete, and Mr. Clem said they are not. Utilities easements are in negotiations between the owner, the County and the City of Vero Beach.

Jack Mitchell, 220 Sandpiper Point, also the Vice Chair of PZV, said last year he objected strenuously to IRLT's intent to purchase this property. Eleven years ago the Town received a letter from Tom Lowther, then Chairman of the Board of County Commissioners, that the

County would take over and support that land if the Land Trust was ever in financial default. He perceived it as regionalization, an attempt by the County to take over our structure, and having stood firmly in protecting the identity of the Town for 43 years, insisted that our Town name be on the sign. He said he is very proud of our Town and wants to maintain our identity, and is not against the Land Trust. He mentioned a desire at some later date that the Town might be “gifted” 20 contiguous acres of that land for a memorial cemetery. Speaking to the audience, he commended the Council and encouraged involvement by others in the affairs of the Town.

## 5. Mayor’s Items

### a. Water Utility Discussion

Mayor Cadden said that there was a Workshop earlier this week that lasted over two hours which was quite good, resulting in both the City and County receiving instruction to provide more information that is needed by the Town Council to go forward. Once this anticipated information is received, we will then set up another meeting in February to finalize the discussion either at the next meeting or at a special called meeting by the Council.

Councilman Ochsner mentioned his quick calculation at that workshop when he had asked Mr. O’Connor why we should pay the City \$6 million more than the County. Subsequently he corrected his assumption to consider the reuse, franchise fee and hydrants, and came up with a \$4.2 million difference in 30 years. However, over a ten-year period, the City of Vero Beach comes out slightly less than the County.

Vice Mayor Weick thought it's time to make our intentions known, and made a **motion to direct the staff to enter into negotiations with the County to formalize a new water, wastewater and reuse water contract**. There was a **second to the motion** by Councilman Ochsner for discussion. Mayor Cadden disagreed saying next month isn't too long to wait. Councilmember Atchison said she thought we were coming close to voting as well, and respected the advice of the Town Attorney to hold off until some issues are resolved with the City and County.

Councilman Haverland asked when three or four points he absolutely would like to see in the contract should be brought up for discussion. Councilman Ochsner said he also was gravitating towards making a decision, but waiting one more month won't make a difference. There being no further discussion, the vote was called, which **motion failed** 4-1 with Vice Mayor Weick voting in favor.

Mayor Cadden said that Mr. Olson has made a good effort to write a contract for us, but still wanted the Town to hire an engineer to sit on our side of the table to check the technical details. He recommended that the Council get estimates for another engineering consultant. Councilman Haverland voiced disagreement. Mayor Cadden said he was thinking \$8,000 - \$10,000 at the most, and with a 30 year multi-million dollar contract, he didn’t want to leave the leaf unturned. Councilman Haverland said he was concerned about finance, not engineering, adding that although they were not formally presented, the GAI documents are available for review. Councilman Ochsner, Vice Mayor Weick and Councilmember Atchison agreed with Councilman Haverland. The Vice Mayor added that the County said they would take care of this, and we should wait and see what comes from their agreement. They agreed to hold off for now.

Mr. O’Connor asked for the Town to present them with the questions and issues to address with the contract, such as the 30-year broken down contract to 10 years. Councilman Ochsner quickly recapped his concerns as reuse is too high, the Town wants to own the infrastructure, and they don’t want franchise fees. Vice Mayor Weick added the \$50,000 fire hydrant rental fee goes away. Councilman Haverland added that he likes the option for three ten-year incremental contracts with an opt-out clause, a guarantee that no one gets a rate better than the Town, and he wants a fee charged for the infrastructure that the Town owns starting in 2016. The Vice Mayor added that

there would be uniform rates throughout the territory in Vero Beach. Mr. O'Connor asked for this to be recapped and sent to him. Mr. Clem said it seems appropriate that each member of the Council supply their input to the Town Clerk by Monday, which gives Mr. O'Connor time before the City's Council meeting on the 7<sup>th</sup>.

Mr. Beardslee reminded them about the discussion on Monday regarding the cost for putting infrastructure in the north end, which the County would pay and the City wanted to charge \$3 million.

## 6. Town Attorney

### a. Draft Ordinance Regarding Fertilizing Near the Water

Mr. Clem said this ordinance is based on a model from Florida Department of Environmental Protection, and was patterned after the City of Vero Beach's ordinance with input from the John's Island Golf Course manager. Its intent is to keep fertilizers out of the lagoon. He feels that the Town Council needs direction to go forward with this, especially regarding penalties, as it could be a fairly large undertaking to enforce. It requires licensure of fertilizer applicators, a permit from DEP, and somebody has to enforce this, presumably our Code Enforcement person.

Vice Mayor Weick asked if it is the same as the one passed by the COVB for continuity, and was assured by Councilmember Atchison and the Town Manager that it was. It was also endorsed by the Florida League of Cities. Councilman Haverland asked if the COVB has any enforcement in their version, and Mr. Clem said no, and as it is it would be a crime to fail to apply fertilizer properly. It would have to be a Code Enforcement issue in our Town, whereby a violator could be given a warning for first offense and progressive penalties afterward.

Councilman Haverland asked how this benefitted the Town, and Mr. Clem said we have lawns and waterways that leach into the Indian River Lagoon, which is an estuary and an impaired body of water. Mr. Greg Pheneger added that by 2014, every commercial applicator (one who applies fertilizer) has to be licensed and take a test that is mandated by the State. Maintaining grass and shrubs also covered in this ordinance, including not blowing yard waste into the road. The larger companies have already begun the process and follow Best Management Practices (BMPs). He mentioned a study showing that The Fingers have a lot of grass clippings in the water, and places where BMPs are being followed (e.g. Vero Beach Country Club and Rio Mar golf course) the water is in good shape.

Mr. Clem was concerned about the smaller businesses servicing inland streets. Mr. Pheneger said it is not expensive, a \$50, 6 hour course to be licensed. Councilman Ochsner asked if the lawn services who do not apply fertilizer need a license, and Mr. Pheneger said it only is applicable to the person who applies fertilizer to someone else's lawn. This State law is effective in 2014, and the State has asked governments who are next to impaired body of water to adopt an ordinance.

Councilmember Atchison was supportive, as it follows the Town's initiative to be a leader in the Green (environmental) movement. Mayor Cadden asked if everyone in Town has to be licensed, and Mr. Jefferson said that the lawn people don't have to have Town licenses. Mayor Cadden suggested that the Town make the landscaping/lawn maintenance services become licensed. Vice Mayor Weick asked if we can enforce the prohibition of blowing grass into the streets, and Mr. Pheneger said we could. Town Manager Jefferson agreed with Mr. Clem, it does need an enforcement provision. Mr. Clem suggested the ordinance should go to the PZV before the Council approves it. Councilman Ochsner and Councilmember Atchison liked that idea.

Chief Schauman was asked if they could enforce it, and Mr. Jefferson said that there is a small amount of training with the 6-hour course. More discussion about training and reviewing the ordinance ensued.

**A motion to move this Ordinance regarding fertilizers to the Planning, Zoning and Variance Board for further recommendations** was made by Vice Mayor Weick, supported by Councilmember Atchison, and which **passed 5-0**.

## 7. Town Manager

### a. Sidewalk Bid Results and Recommendation

Mr. Jefferson said they had advertised for a Bid to replace asphalt sidewalks for approximately one mile, stretching from the John's Island south gate to Seminole Lane. Eight (8) bids were received based on the same specs ranging from \$213,000 to \$70,800. He recommended \$70,800, which is a licensed and insured company. Mayor Cadden asked the difference between the 4 and 6 inch deep sidewalk, and Mr. Jefferson said he recommends 4", non-reinforced depth like the other sidewalks in the County. A **motion to accept the bid from Stanislaus for \$70,800** was made by Vice Mayor Weick, seconded by Councilmember Atchison, which **passed unanimously**.

### b. Fund Balance Policy In Accordance With (IAW) GASB-54 (Judy Lewis)

Town Treasurer Judy Lewis said that the GASB issued a statement that requires every government to adopt a policy on how funds are categorized and spent. It requires that we specify and maintain a minimum unassigned fund balance. She recommended that we start with 15%, which is low compared to how much the Town actually carries. It is required to be in place before the audit is completed this year.

Councilman Ochsner noticed that different nomenclature was used (Unreserved Fund Balance and Unassigned Fund Balance), which she said are the same and agreed to make that consistent. Councilman Haverland asked if this was also referred to as the Emergency Fund, and she said it is part of it. She referred them to item 5 for clarification. Councilman Ochsner said his preference is to leave it as Unassigned. A **motion to approve the policy with amendment to call it Unassigned Fund Balance** was made by Councilman Ochsner, supported by Councilmember Atchison, which **passed unanimously**.

### c. Move Funds to FL Prime Money Market from Bank of America Money Market (Judy Lewis)

Mrs. Lewis said she is requesting to move money from Bank of America (BOA) to get away from their onerous fees and put it in the prime account in the State pool. We used to save our money in the SBA until 2007, which has been revamped and is stable, and has better yield than BOA and no fees. She proposed moving \$2 million. Councilman Ochsner said saving \$360 a month and picking up some return interest is good, and asked what the range (of balance) is on the account. Mrs. Lewis said it was close to \$5 million in January 2011, and down to the lowest level of \$1.5 million in April, and now is almost \$3.1 million. Councilman Ochsner asked about moving more to the money market and laddered CD's, and she said our operating expenses are \$400,000 - \$600,000 a month, and prefers to have \$2 million available for liquidity in case of emergency. She added we have \$1 million in laddered CD's, and is investigating using a bank in Town that will earn 0.75% in a money market, which is better than any CD's. The main goal is to get away from fees, and eventually do an RFP for competition. A **motion to move \$2 million as requested** was made by Councilman Ochsner, supported by Vice Mayor Weick, which **passed unanimously**.

## 8. Call to Council

### a. Council Items

Councilman Haverland said at the last meeting they talked about residents who are interested in being on the Finance Committee. The Council has had the opportunity to interview Thomas Slater and Allen Jones, and he expected to see it on the agenda. The Mayor asked if there was a requirement to attend a Finance meeting first, and the Town Clerk said the Council had discussed that but did not conclude decisively. Councilman Haverland saw no purpose in requiring attendance if they were qualified. Councilmember Atchison asked when the Finance Committee has their next meeting, and Councilman Ochsner said he has been waiting for the audit to call the meeting, and said he would make it a point to speak to the candidates prior to the next meeting. The Town Clerk was instructed to have Finance Committee Appointment on the February agenda.

Councilman Haverland said that at the last meeting there was much discussion about budget amendments, and he had asked for monthly or quarterly financial statements. He thought we would have one at this meeting. Mrs. Lewis apologized, adding she does intend to provide those starting next month, as she is bogged down at present with the audit.

b. Committee Reports

**Coastal Structures Subcommittee Meeting:** Councilman Ochsner said he attended this meeting, and they had a brief presentation by Jason Brown from Indian River County with options for paying for protective structures. Based on linear feet in Sector 3, the County would pick up 66% of the cost, the Town of Orchid (most severely threatened) picks up 11%, and Indian River Shores 24%. There were no motions to that effect or anything definitive done. A motion to recommend that the Beach & Shores Preservation Committee recommend that the County do a Request For Qualification for Engineering Services to recommend alternatives to placement of sand on the beaches did pass.

c. Committee Reports

**Beach & Shores Committee.** On 16<sup>th</sup> a new Chairman, David Varney, was elected, and the motion mentioned above to go before the BCC was approved. Sector 3, Phase 2B Replenishment was discussed, which completes the project that was started two years ago. Treasure Shores is closed, and this project should be finished in March. The Sebastian Inlet Taxing District is pumping sand into Sectors 1 and 2, which continues through spring.

**TCRLC (Treasure Coast Regional League of Cities).** Town Manager Jefferson attended in her stead, who reported that they also had the FPL presentation as was heard today.

**MPO.** Councilman Haverland reported that this meeting was cancelled last month.

**TCCLG (Treasure Coast Regional League of Cities).** Councilman Haverland said they had a presentation on housing and neighborhood stabilization due to foreclosure, and another item, ordinances related to nuisances (noise, unkempt property).

**EDC (Economic Development Council).** Vice Mayor Weick reported that the EDC did not meet.

He asked the Town Manager if the Town is sending the proposal (questions to be clarified) to City by February 7<sup>th</sup>, and the Mayor said the Council is to send the list to Richard Friday or Monday. Councilmember Atchison asked if we are having a workshop, and Mayor Cadden said once the information is received, we can look at it at Town Council at the February Council meeting. Councilman Haverland asked how the responses would be compiled, and Councilman Ochsner said so long as the concerns are made known, they will respond. Mr. Jefferson said he would ensure the Council received the compiled list before sending.

9. **Call to Audience**

Patricia Gundy, Association President of Pebble Bay Estates, asked if the Town is considering having reuse water piped in. Councilman Ochsner, Vice Mayor Weick and Town Manager Jefferson all clarified that if the neighborhood wants to tie in, it is at the neighborhood's expense and would be from A1A.

10. **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 4:59 p.m.

Respectfully submitted,

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

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