

MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963
REGULAR TOWN COUNCIL MEETING
Thursday, January 27, 2011
3:30 p.m.

PRESENT: E. William Kenyon, Mayor
William H. Ahrens, Vice Mayor
Frances F. Atchison, Councilmember
Michael B. Ochsner, Councilman
Gerard A. Weick, Councilman

STAFF PRESENT: Richard Jefferson, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney
Bill Schauman, Director, Public Safety
Robbie Stabe, Capt., Public Safety

OTHERS PRESENT: 8 Residents; 1 Guest, VB 32963 Reporter

1. **Call to Order**

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

Mayor Kenyon called the meeting to order at 3:30, with the Pledge recited, the Invocation given and roll call taken as reflected above.

2. **Consent Agenda**

- a. Acceptance of December 13, 2010 Planning, Zoning & Variance Minutes
- b. Approval of December 16, 2010 Regular Town Council Meeting Minutes
- c. Approval of Voluntary Cooperation Agreement with City of Vero Beach for Law Enforcement Mutual Aid January 2011 – December 2013

A **motion to approve the consent agenda**, made by Councilmember Atchison and seconded by Councilman Ochsner, **passed 5-0** with no discussion.

3. **Mayor's Items**

- a. The Point, AKA Bee Gum Point, Preservation

Mayor Kenyon said the people representing the (Indian River) Land Trust were willing to come today, but he wanted to first see if there was any interest in the Town providing any funding to assist in the purchase of this property. Rather than the initial \$6 million, the sale price is now a little over \$3 million.

Questions from the Council included: if the Town would have a say in what is done with the property (not unless we were added to the title), the amount requested as a “donation” (a little over \$1 million), the public hearing process to determine the benefit to the Town and the public, resident input on use by the Town before donating funds, if it would call for a referendum (if it were a sizeable magnitude), and if we would have to have a bond issue (possibly). The consensus was to wish the Land Trust well in this endeavor.

Mr. Clem added that he had been dealing with the attorney for the Land Trust, who has also had interaction with the County and the City of Vero Beach for utility right-of-ways information as well as the Mosquito Control District access. The Town will preserve access for our electric substation right-of-way, and an unpaved existing roadway would probably be used. A clear title request is not yet settled, but no problems are foreseen. There was no motion needed.

Please Note: The Town of Indian River Shores does not transcribe verbatim minutes. Should any interested party seek to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

3. **Planning, Zoning and Variance (PZ&V) Board**

Mr. Beardslee said that they had a meeting on January 10 and approved a variance for a 4' wooden fence at 4735 Pebble Bay Circle. He also said that the PZV Board is in favor of the passage of Ordinance 502.

4. **Town Attorney**

a. Ordinance 502, Landscaping Around Fences, Second Reading

Mr. Clem read Ordinance 502 by Title as follows:

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF INDIAN RIVER SHORES RELATING TO LANDSCAPE OF FENCES; AMENDING SECTION 150.035(5) CHAIN LINK FENCING; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

After Mr. Clem said that this had been well discussed previously, a **motion** by Councilman Weick, seconded by Councilman Ochsner, **to approve the second reading of Ordinance 502 passed unanimously.**

b. Ordinance 504, Defined Benefit (DB) Pension Plan Amendment 175/185 Separation, Second Reading

Mr. Clem said this ordinance was prepared by our pension plan administrator, and it also was well discussed at the last meeting. Mr. Clem then read the Ordinance by Title as follows:

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, INDIAN RIVER COUNTY, FLORIDA AMENDING THE TOWN OF INDIAN RIVER SHORES' DEFINED BENEFIT PLAN; PROVIDING FOR CONTINUITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

A motion to approve the second reading of Ordinance 504 was made by Councilmember Atchison, supported by Councilman Ochsner, **which passed 5-0.**

c. Resolution 11-01, **CCNA Reform**

Mr. Clem said this resolution was requested by the Treasure Coast Regional League of Cities (TCRLC) and has been widely circulated and approved by many municipalities and Florida governmental entities. Its purpose is to give an alternate way to select bidders for such services as engineering or architects in a competitive process based on qualifications and not solely on cost. This is a request before the legislature, and we would be supportive of other cities if this passes. He read the Resolution 11-01 by title as follows:

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, DECLARING SUPPORT FOR PROPOSED CHANGES TO SECTION 287.055, FLORIDA STATUTES, ALSO KNOWN AS "THE CONSULTANT'S COMPETITIVE NEGOTIATION ACT" OR "CCNA;" PROVIDING AN EFFECTIVE DATE.

There was general discussion regarding the benefit and intent of the resolution among the Council and Mr. Clem. An interesting example of being able to flexibly choose a firm was cited by retired architect Vice Mayor Ahrens about the sixth most architecturally significant city in the States, Columbia, Indiana. The notoriety is attributed to the desire to have the best architectural firm to do their public buildings and willingness to pay their fee so long as it is the most qualified firm. Councilmember Atchison added that this process has been tweaked several times since 1973. A **motion to approve Resolution 11-01 on CCNA Reform** was made by Councilmember Atchison, supported by Councilman Ochsner, which **passed 5-0.**

d. Resolution 11-02, **Adopt Indian River County Local Mitigation Strategy (LMS) Plan**

Mr. Clem said that this was first adopted in 1995 and again in 2005 by the Town, and we are following the County's update as required by the State's Department of Community Affairs.

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, ADOPTING THE 2010 REVISED INDIAN RIVER COUNTY UNIFIED LOCAL MITIGATION STRATEGY PLAN; AND PROVIDING AN EFFECTIVE DATE.

He said this is our official document to be included in the Statewide LMS Plan. Councilmember Ochsner asked what is required of the Town by adopting this, and Mr. Jefferson said it is something in which we must participate in order to receive Hazard Mitigation Funds, should the need arise.

Councilmember Atchison, supported by Councilman Weick, made a **motion to approve Resolution 11-02 adopting the Indian River County Local Mitigation Strategy Plan**, which passed 5-0.

5. **Town Manager**

a. Announce Candidates for March 8 Town Council Election

Mr. Jefferson announced that there were two candidates at the conclusion of the Qualifying Period on January 21st, with two vacant seats. They are Dick Haverland and former Mayor Tom Cadden. Therefore, there is no need for an election. Congratulations were offered.

b. March 2011 Post-Election Reorganization Meeting Date

The recommended date for this meeting was stated, with a **motion to hold a Special Call Post-Election Reorganization Meeting on Wednesday, March 9 at 8:30 a.m.** made by Councilman Weick and supported by Councilmember Atchison. The motion **passed unanimously**. The Town Clerk said she would make sure the candidates were aware of the meeting.

c. Town Vehicle for Building Official/Manager

Mr. Jefferson said his current vehicle now has 94,000 miles, and he has received bids with government pricing from \$22,635.67. Councilmember Atchison asked why this could not wait until the next budget cycle, and was informed by the Town Manager that the threshold for trading in a used vehicle is 100,000 miles, after which the value is greatly diminished. This is not part of the General Fund budget. Revenues from the Building Department fees are State-mandated to use for Building Department expenses, such as supplies, a vehicle and personnel. Councilman Weick said the fund has enough money for this purchase, and asked if the vehicle would be purchased from a local dealer. Mr. Jefferson said he had local bids, with the Vero Beach Ford dealer offering the best price. Councilman Ochsner asked if it would be traded, and Mr. Jefferson said the quoted price included the trade-in. Mr. Jefferson added that he had offered it to everybody locally to purchase it for the price they would give for trade, and no one was interested. He asked how it related to the Kelly Blue Book pricing, and Mr. Jefferson said it was at the top end. A **motion to approve the purchase of a replacement vehicle for the Building Official/Town Manager for \$22,635.67 with the trade-in** was made by Councilman Weick, supported by Councilman Ochsner, which **passed 5-0**.

d. Public Safety Department (PSD) Update (Chief Schauman)

Mr. Jefferson said that there have been a couple of questions brought forward regarding the PSD vehicles that are parked on A1A, and asked Chief Schauman to explain this and provide a general update.

Public Safety Director Bill Schauman said they use decoy vehicles as part of the overall patrol scheme, with crime prevention as the objective. They just finished the year end report, and overall crime is down 20% from six months ago in the Town. He attributes at least some of this to the show of force on A1A with the decoy vehicle. Traffic crashes are down 53% with only 20 in the year, which usually average 40 – 50.

A lot of what the Department does is based on accreditation requirements, which is audited every two years for recertification. This is to ensure that the Department is living up to the standards that have been set. Indian River Shores Public Safety Department is one of 125 accredited of 480 agencies in the State. Councilmember Atchison asked when the audit is, and Chief said it is in November, with reaccreditation in February.

The decoy vehicle does not cost the Town any money, as unlike the County Sheriff's Department, our officers do not take home their vehicle. Chief Schauman said the five main patrol vehicles are rotated with those that are not in use. Councilman Weick said it's a great program, and asked if we have received the new cars yet. Chief Schauman said they should arrive sometime in February or early March.

Councilmember Atchison asked if there was any response to the CPR alert, and Chief Schauman said there may be one community interested in the class. The Town staff will go to any Homeowner's Association or Property Owner's Association and give the CPR class.

7. **Call to Council**

a. Committee Reports

Beach and Shores. Councilman Ochsner reported that he attended this Committee meeting on

January 17. The Board of County Commissioners is reevaluating the committee member rotation, so the plans to elect a new chairman are tabled until the February or March meeting. As usual, the beach restoration was the primary focus of the meeting. A presentation on the funding request made by the County to the State for a portion of the available \$6.8 million statewide for beach restoration projects was given, with the County's point-ranking in the high 20's (scale 1-100). There would have to be funds somewhere in the neighborhood of \$40 million available before our projects would be funded. Being part of a Federal program would increase our points, but participation is too expensive. Sector 3, Phase I is fully constructed; Phase II is set to begin in February. The contractor is paid based on the survey, not the amount of sand placed, so the construction is planned from north to south to avoid a small portion washing away prior to the survey, which happens to lie in the Town of Orchid.

Sebastian Inlet has constructed a DMMA (Dredge Material Management Area) to keep sand from building excessively in the tidal pool area and storing it elsewhere on dry land. It can be used for Sectors 1 and 2. Mayor Kenyon asked if there will be any large funding amount needed in the near term future, and Councilman Ochsner said it had been so badly neglected for the past 30 years, there was a large initial outlay. From here forward the requirements should be minimal.

MPO. Councilmember Atchison said MPO did not meet this month.

TCRLC. The meeting this month was in St. Lucie Village, just east of Norris' Ribs on a dirt road to the right along the water's edge. It was a wonderful history lesson, with old houses and the site of a small Seminole War. The original inlet was here until 1921, and when it filled in the new inlet was dredged in Fort Pierce.

Affordable Housing Advisory Committee (AHAC). This Committee did not meet.

Treasure Coast Regional Planning Council (TCRPC). Vice Mayor Ahrens said the next meeting will be on March 18 with an orientation program. He gave a notebook for that purpose to Mrs. Aldrich for the next designee to the committee.

Economic Development Council (EDC). Councilman Weick said the EDC met last Tuesday and had a presentation by Mankind Development, who developed Port St. Lucie and now is focusing on the industrial development. Martin Memorial Hospital is building there in 2014, and the Life Science Industry is the area's focus.

Indian River Mayor's Meeting. The Mayors and County Commissioners met and discussed economic development. Our Indian River County Chamber is charged with the economic development for the county, and Mayor Kenyon told the group that there should be someone on the County staff who has this responsibility as well to attend meetings, even around the country, to develop business growth. He gave a general overview of his feelings about business and economic development in our county.

TCCLG. Mayor Kenyon said that the presentation was on New Horizons, which helps people who are overcoming addiction to drugs or alcohol. They have a facility on Midway Road that handles the overflow from the hospital or other facilities. There is a growing problem with substance abuse in this county, while other counties are stable. The Mayor thinks it could be tied to unemployment, which is probably about 8% higher than the reported 13% because some have given up looking for jobs. We need to be aware of this and asking the County Commissioners to also support their efforts.

6. **Call to Audience**

Mr. Phillip O'Reilly, Ocean Colony, asked for an update on the negotiation status of utility service. Mayor Kenyon said the Town has been working on this for two years, and the two major utility services are separated into water/wastewater/reuse water and the electric service.

The water research is a little further progressed at the moment. We have asked the County to respond several times as to what their terms might be to provide water service to the Town. We have been told that the documents have been created, but they will not release them until the County Commissioners are ready. Another letter asking for a response will be mailed tomorrow. The Mayor explained that the deadline is October 26, 2011 to announce that we are in negotiations, and until then we are fact-finding. There is a 5-year gap between that date and the termination of the current agreements in 2016. If we could secure a better service ahead of that date, we could ask the current provider to release us from the obligation.

Electricity is much more complicated, as the Public Service Commission in Tallahassee has set service areas based on geographic boundaries that cannot easily be changed, one of which encompasses the south end of the Town. That portion was given to the City of Vero Beach and the north end is in Florida Power and Light's (FPL's) service area. We asked a high-ranking legal firm in Tallahassee about a year ago for their opinion of our chance to redo our territorial agreement, to which their answer was "None." The City of Vero Beach is not in a healthy financial position and has been using funds from utilities as part of their General Fund tax base. The current Mayor is proposing not servicing anything that is outside the City limits, which is allowable by the PSC.

The City's obligation to employees, bonds, political committees and other general discussion followed. Mr. O'Reilly asked if the water and electric rates from the City of Vero Beach are the highest in the State, and Councilman Ochsner said that we are pretty far down the list of high fees. FPL is the lowest for electric rates. Mr. O'Reilly asked if we can negotiate with FPL, and the Mayor said we have not been able to, they are unwilling to talk to anyone or to make any commitment, and just reply that they are working on it. Mr. O'Reilly thanked the Mayor for the answers.

John Steiner, Ocean Colony, said the Council is doing a good job here, and they appreciate the fact that (the Council) is taking good care of the residents. He is Treasurer of the 30-resident association, and is concerned that up to half of their budget is for reuse water. Mayor Kenyon asked how much they use, and he thought it was about 2 million gallons a month. Bermuda Bay uses 5 million gallons a month, and John's Island uses a million gallons a day. Councilman Weick reminded them that the individual homeowners associations have the contract with the City for this, not the Town. Mayor Kenyon said we are a relatively young town, and we are trying to make sure our new contract is more encompassing with the individual homeowners associations included under the same negotiated umbrella. Mr. Steiner said they are here to register their dissatisfaction with the Vero Beach Utilities, and to encourage the Council to do everything they can. Mayor Kenyon thanked them for coming, adding this is the only way the Council knows how the residents feel.

Mr. O'Reilly asked the Council if this meets the U.S. Fair Trade Requirements of pricing. Chester Clem replied that once you get into this area of water, sewer and electric, it is very monopolistic; one might just as well throw away the rule book. Over the past two years, we have gotten a lot of knowledge, and realized that we don't have the same flexibility you would have in a normal contract. The state can override the local contracts, the electric territories are unmodifiable by the Town, and there are similar characteristics in the water franchise agreements. Having potable water is not a big issue, but irrigation water is a demanding issue that needs to be reviewed. St. Johns River Water Management District overrides all local government (county, city and town). Our job is cut out for us in finding the best possible solution. Mayor Kenyon agreed that whatever you learned in business does not apply, and there are new regulations and laws almost every day to live by.

Mr. Jack Mitchell, 220 Sandpiper Point, asked the Council not to invest in the Bee Gum Point property unless something practical or functional such as acreage is received in return for it. Mayor Kenyon said that the Council voted the issue down.

7. **Adjournment**

There being no further comments, the Mayor adjourned the meeting at 4:46 p.m.

Respectfully submitted,

/s _____
Laura Aldrich, CMC, Town Clerk

(Approved by the Town Council at the February 24, 2011 Meeting)