

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

REGULAR OCTOBER TOWN COUNCIL MEETING
Thursday, October 27, 2011
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
Judith Lewis, Town Treasurer
Bill Schauman, Director, Public Safety
Mike Jacobs, Captain, Public Safety
Lou Puchala, Sergeant, Public Safety
Nina Osbahr & Mauricio Chavez (briefly for Item 2)

OTHERS PRESENT: Town Residents David Becker, Jack Mitchell, Buck Davis, Nancy & Ed Raftery; Guests Glen Herran, Todd Westover (TCR), & Jim Moller (JJ); Reporter Janet Begley, Press Journal

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, Invocation and Roll Call as noted above.

2. **Consent Agenda**

- a. Approval of 2nd Budget Public Hearing Minutes dated September 22, 2011
- b. Approval of Regular Town Council Meeting Minutes dated September 22, 2011
- c. Approval of Special Call Town Council (2nd Reading Ord. 506) Minutes dated September 29, 2011
- d. Approval of Medicare Billing Effective Date of January 1, 2010 for Ambulance Transport
- e. Approval of Invoice from Ten-8 dated September 28, 2011 for Repairs on Pumper Truck
- f. Approve Purchase of 16 Bullet-Proof Vests as Budgeted for FY 11/12
- g. Approve Purchase of 2011 Braun Ambulance & Rugged Stretcher as Budgeted for FY 11/12
- h. Approve Renewal of Medical Director Agreement for One Year, January – December 2012
- i. Approval of Invoice from Town Attorney dated September 30, 2011
- j. Approval to use \$2,253 of Forfeiture Funds for Weapons

A **motion** by Councilmember Atchison, seconded by Councilman Ochsner, **to approve the consent agenda as presented** was made. Councilman Ochsner asked what the potential Medicare billing will be for ambulance transport. Representing the transport billing company McKesson, Mr. Mauricio Chavez explained that based on the unit transports, the Town can anticipate receipt of \$83,000 in revenues. Since it took so long for Medicare to assign a number, Mr. Chavez insisted that they be allowed to bill back to January 2010. Mr. Haverland asked if we could expect about \$50,000 per year, and was told that \$83,000 is for 2010 revenue.

Vice Mayor Weick asked if they planned to go out for bid or use the trade in number of \$6,000 mentioned for the ambulance, and Chief Schauman said that they will, and hope significantly more.

Councilman Haverland asked what our medical director does, and Chief Schauman explained that the Department operates under his medical license, and he provides the tutelage and staff training. Councilman Haverland asked approximately how many hours per year he provides. Chief Schauman said that Dr. Mattice comes at three times a month and spends a lot of time reviewing every report, which is very unusual compared to most medical directors. Councilman Haverland said that this is a reasonable amount of money involved, and there are surely others who are qualified to be medical director. Chief Schauman agreed, adding that Dr. Mattice is very thorough, and Mayor Cadden interjected that this is an avocation for him, having been the head of an emergency room in Miami. He had attended some of the Doctor's training sessions, and he is very good and up-to-date, and keeps our people on the cutting edge. With no further questions, **the motion to approve the consent agenda passed 5-0.**

3. Mayor's Items

Mayor Cadden mentioned that he and Chief Schauman had attended a memorial service for Dr. Don Murray, who was the Vice Mayor for the Town when Mayor Cadden was first elected to the Council in 2001. He was a very dedicated individual.

a. Utility Update

Mayor Cadden continued by addressing a Special Call meeting at the City of Vero Beach (COVB) regarding the electric utility. Mr. Glen Herran spoke there, and was asked by Mayor Cadden to also report to this Council. He thanked the Council and this Town in general for their support of the Citizens for a Brighter Future and the Vote Yes campaign for the electric referendum. This is an "issues only" political committee which does not endorse or oppose any candidates.

The FP&L update was very important, with two critical issues: the referendum and the fair price for the utility. Florida Power & Light (FPL) is capped by how much they can offer the City because they cannot negatively impact the 55,000 Indian River County and 4.5 million state-wide customers. They have offered to pay \$100 million in cash, to cover the \$17 million in underfunded pension for the City employees, and to fund transmission upgrades. The power plant has to be run in order to avoid brown-outs, and in order to decommission the power plant it requires an upgrade in transmission lines at a cost of about \$30 million. Of that, \$17 million would be FPL's responsibility, and the \$7.5 million that the COVB is responsible for FPL has offered to pick up. Additionally, FPL offered to relocate the substation at a cost of \$6 million and to pay the COVB \$1 million/year in a 5-year lease for the power plant site. This is the purpose of the referendum. The lease would begin when the transfer is made to FPL. The estimated \$5 million in cost to decommission the power plant would also be borne by FPL. Adding all this it totals \$136 million. A two-year employment guarantee for the COVB electric employees is another benefit. The land the plant sits on will always belong to the COVB. It costs the community \$20 million/year to be in the COVB utility. A five year delay is another \$100,000,000 cost.

Councilman Haverland asked when the residents could see a change in their bill. Mr. Herran said that they will move as fast as they can once the referendum passes. Negotiating a COVB Council-approved contract, obtaining approval at State level, and getting out of the OUC & FMPA contracts could collectively take up to two years. Following the transmission upgrade, the power plant could be torn down around 2017.

Mayor Cadden mentioned the savings from which everyone would benefit by a reduction in hefty electric costs incurred by the Sheriff's Department, the hospital, the County administration building and the schools. The potential savings impact by using FPL rates versus the City electric rates for the school board are about \$800,000; the County government about \$500,000; the hospital about \$200,000 - \$300,000; and the Shores customers about \$2,000,000 per year.

Vice Mayor Weick estimated the City would save about \$5 million by switching to FPL, which would only cost about \$1 million in additional taxes. Mr. Herran briefly addressed that his could be covered by smaller government or an increase in property taxes. He spoke about various savings and expense scenarios, and the \$1.5 million in revenue to the COVB from the taxable T&D, plus the taxes to

Indian River Shores and to the COVB for the electric poles. Mayor Cadden opened the floor to questions from the audience.

Mr. Jack Mitchell, 220 Sandpiper, confirmed that Mr. Herran said that the City could not shut down their power plant because they have to take care of brownouts. Mr. Herran said that FPL wants a 5-year lease and will construct larger Transmission & Distribution lines, which are needed. He also clarified that the employees don't necessarily get fired after two years, it just guarantees jobs for two years.

The Vice Mayor added that FPL will be keeping the plant as a backup and will see how it is used in the five-year period.

Dr. David Becker, Bermuda Bay, commented that the rate is being regulated, to which Mr. Glen Herran said today it is higher, and the City Manager of Vero Beach said they are looking at raising the rates. They are currently 22 % higher than FPL, and are losing \$16.5 million a year. Dr. Becker asked if FPL has artificially low rates, and was told that they are not. The FMEA shows the COVB rates have averaged 22% higher for eleven (11) years straight. There are thirteen (13) municipalities in FPL territory that are watching this deal, as they also have high rates. FPL has 4.5 million customers in Florida, the COVB has 33,000 customers. This deal is not going to make or break FPL. In four years, the COVB electric customers have lost \$80 million while deciding.

Mayor Cadden invited another speaker who was at the City meeting, Ted Robinson, Sea Forest. He said he was concerned about the bickering that has gone on for years. One of "the government legal and philosophical issues at stake" he cited was that the City of Vero Beach Utilities is arbitrarily price-fixing, using price discrimination, and imposing taxation without representation for the residents in the Shores, which he named as three big issues that are illegal for government. Having FPL come in will end the situation of mingling and manipulating government funds between the government and utility operations, he added, which has been a paper crime against the citizens.

Mayor Cadden said that the franchise agreement with the City for water/sewer is totally different than the one for electricity, which says the Town can add taxes to their electric rates. We have no control over any other part of this utility in the current franchise agreement. With the water and sewer we do own infrastructure and have somewhat of a say. This Council never has and never will add taxes to the electric rates, he added, and encouraged the audience to please influence anyone they know who is able to vote in the City to vote yes to the referendum.

- b. Set Meeting Dates for November & December (Requesting Wednesdays, 11-16 and 12-14)

Mayor Cadden asked the Town Clerk to cover this topic, and Mrs. Aldrich said that the current dates are for the Thursday before Thanksgiving and Christmas. A request was made to move them to Wednesday, November 16 and Wednesday, December 14 for the Regular Town Council meetings. Mayor Cadden added that he has had long-standing functions scheduled for those two Thursdays, and would appreciate it if the Council had no objection to moving them back a day. **A motion to set the dates for the next two Regular Town Council meetings to November 16 and December 14 was made by Vice Mayor Weick, supported by Councilman Ochsner. The motion passed 5-0.**

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

Mr. Beardslee reported that there was no meeting this month.

5. Town Attorney

- a. First Reading Ordinance 507, State Firearm Laws

Mr. Clem said that this ordinance is to remove any reference to firearms from our Code, as the State had recently enacted legislation that superseded the Town's authority. We only had two points referencing firearms in our ordinances, both in 95.03. One was a reference to carrying and discharging a firearm and the other concerned hunting, which have both been addressed. He then read it by title as printed below:

**AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES RELATING TO
FIREARMS, AMENDING PORTIONS OF SECTION 95.03, RULES AND**

REGULATIONS, TO BRING TOWN ORDINANCES INTO CONFORMITY WITH FLORIDA STATUTE 790.33, WHEREIN THE STATE PREEEMPTS ALL FIREARM LAWS; PROVIDING FOR CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

He said that one other correction to a reference to obtaining permission for fireworks from the Public Safety Director rather than from “the department” was made. A motion by Vice Mayor Weick and second by Councilman Ochsner to **approve the first reading of Ordinance 507 bringing the Town Ordinances into compliance with Florida Statute 790.33 regarding firearms, which passed unanimously 5-0.**

6. Town Manager

a. Treasure Coast Waste Hauling Agreement Amendment

Mr. Jefferson said that the Treasure Coast Refuse Waste Agreement expires in December, and it has two 3-year commitments following this current agreement unless there have been any unresolvable problems. He said he has not heard of nor seen any problems, and asked the Council to approve the Amendment.

The Council was curious if the rates would stay the same, and Mr. Westover said they would, although it is allowable and the rates have not been raised in four years. If a rate increase was desired, it would have to come before the Council. Vice Mayor Weick asked about two rates with or without yard waste, as many communities do not have yard waste. Mr. Westover explained that there are four different rates: with or without brush removal, and with recycling every week or biweekly. They have recently moved brush pickup from Friday to Wednesday to coincide with the rest of the county. Vice Mayor Weick asked questions about brush trucks and if brush is taken with regular garbage, which was explained that there are two separate places to take them, one where the regular garbage is buried in a landfill and another for the vegetation to be sold as mulch to Palm Beach for burning to make electricity. It saves space and helps to keep resident rates low.

Councilman Haverland asked the approximate value of the contract annually, which Mr. Westover estimated to be under \$500,000. Councilman Haverland then asked if it was normal to bid the contract, to which Town Manager Jefferson replied it would be if the contract did not have the renewal clauses.

Councilman Ochsner said they provide a great service, and it is one of the few bargains we have in this town. Mayor Cadden added that the service has been excellent. Mr. Westover thanked them, and said he wanted to clarify the one question that keeps surfacing. The reason they are an exclusive contract here, including the roll-off construction, is because the Council decided that they wanted the lowest rate possible, and this was in exchange for an exclusive contract. The residents have the lowest rate in the County. Treasure Coast Refuse does not charge any more for roll-off containers to contractors in the Town than they do for contractors in the Moorings. A **motion** by Councilman Ochsner supported by Councilmember Atchison **to approve the Treasure Coast Refuse Extension Agreement as presented passed 5-0.**

b. Treasure Coast Regional Planning Council (TCRPC) Member Appointment Request

Mayor Cadden asked Mrs. Aldrich to report on this, to which she said the County sent a rotation schedule showing the current term expired in December, and the Town would be the primary member for 2012-2014 term with Orchid as our alternate. Mayor Cadden agreed to be the primary representative for the Town, and Councilmember Atchison offered to be an alternate should the Town of Orchid be unable to back him up.

c. County **Beach & Shore Preservation Advisory Committee Appointee from the Town**

Continuing, Town Clerk Aldrich said that this was just to affirm that **Councilman Ochsner with alternate Vice Mayor Weick** would continue representing the Town for this County committee until 2014. Both agreed, and a **motion was made** by Councilman Ochsner supported by Councilmember Atchison **to approve the appointments to the TCRPC and County Beach and Shore Preservation Advisory Committee as discussed, which passed 5-0.**

d. Personnel Manual Revision

Mr. Jefferson said that the Personnel Manual needs to be approved for the Town Audit. He is aware that some have mentioned making changes to the sick leave policy, which will be considered when the collective bargaining agreement is negotiated next year. Councilman Ochsner said he had made a lot of comments that were not yet submitted. Mayor Cadden agreed that we do have to wait until the union contract is finalized next year. Councilman Haverland did not think it was necessary to wait since there are employees who are not in the union that these changes could apply to now. He added that the treatment of unused time off had financial implications, and recalled an earlier discussion by the Finance Committee that dealt with some of these issues. He thought the Finance Committee should make recommendations to the Council on what they think should be implemented. Mr. Jefferson said that they had changed one thing so far, the vacation leave, and Councilman Ochsner said the Committee had discussed the Vacation and Sick pay, but due to the desire to treat all employees the same, wanted to wait and allow the PSD Union contract negotiations to be the driving force since it applied to the majority of employees. Vice Mayor Weick said there are changes he would like to see also, and agreed that it should start with the union contract. Councilman Ochsner reiterated that he would rather not have the minority treated differently. The current contract expires in September 2012, with negotiations commencing next spring or summer.

Councilman Ochsner asked why overtime was paid after 37.5 hours rather than 40 hours, and Mr. Jefferson said that was the workweek. This was discussed briefly with no noted changes. A **motion to approve the Personnel Manual as it is for now** was made by Councilman Ochsner, seconded by Councilmember Atchison, **which passed 5-0**. Councilman Ochsner asked if there was anything stopping them from revising it a month from now, and Mr. Jefferson said there was not.

7. Call to Council

a. Committee Reports

Treasure Coast Council of Local Governments (TCCLG). Councilman Ochsner attended this meeting on behalf of Councilman Haverland on October 5, highlighting the ordinance or resolution of support that Okeechobee and Port St. Lucie had passed following the fertilizer law discussion that was carried forward. A Go-Line presentation and a discussion about the Florida League of Cities using a Google ad-word campaign to drum up interest from the Northeast to the Treasure Coast were also discussed. The “presumptive disability” issue, which has a Florida Association of Counties committee on which Commissioner Peter O'Bryan is working on, was another topic, with unions trying to add more approved cancers to the list for this disability. Presumptive disability refers to police and firefighters mainly who have become disabled with certain maladies, which is assumed to have been contracted during their work and makes them eligible for workers' compensation. The Florida Trend Magazine will profile the Treasure Coast in the February 12 issue. They also elected new officers Richard Gillmor as Chairman and Peter O'Bryan as Vice Chair. There was a presentation on the solar energy loan fund, which is making loans who are interested in solar energy.

Beach & Shores. Councilman Ochsner said that the no-name storm that blew in here on the 8-9 October did cause some moderate erosion. It was worse at Conn Beach, Wabasso-Disney, Orchid, Windsor, but minimal in Indian River Shores. The last part of sand renourishment for Phase III, Sector 2 will commence in December. Also announced is a new offshore fishing reef to be placed 15 miles out, proposed by the Sebastian Offshore Fishing Association, and will be composed of concrete and at no cost to the County. There was a subcommittee of Beach and Shores appointed to look into options for erosion control, which will report back to this committee and to the County. Councilman Ochsner was appointed to this subcommittee.

TCRLC. Councilmember Atchison reported that they had no meeting this month.

Finance Committee Membership. Councilmember Atchison said she had a concern about the Finance Committee, suggesting that there be a few more members and have the leadership from within the Committee rather than from a Councilmember. This was in no way a reflection on Committee Chairman Ochsner, who was very obviously prepared during the budget process, but there were only

two other people involved. She thought it was more relevant that the residents of the Town defend the budget.

Mayor Cadden asked the Attorney what would be needed to further discuss this at a meeting, and he said it would need to be added to an agenda. They agreed to place it on the agenda for the next meeting.

IEMO. Councilman Haverland reported that he had attended a three-day Institute for Elected Municipal Officials (IEMO) this month in Tampa. There were 45 elected officials representing 35 municipalities, and much is gathered from talking amongst the group as well as from the formal training. Informal polls showed that 85% of the Towns, cities and villages prepare a 3-year plan, particularly in relation to assessed values and revenues. Ninety-five (95%) percent receive detailed financial reports quarterly, and 40% monthly. Ours is annually. About 40% of council members are compensated. The pension plan is a huge issue, with Atlantic Beach and another city down south already making major changes due to financial issues. He concluded that it was a very interesting and informative meeting.

Concern with Water Issue Letter. Councilman Haverland continued that there was a letter that was sent by Mayor Cadden to Joe Baird postponing discussion which was planned for this meeting on the water utility issue. He disagreed with postponing the meeting, and was concerned that one person on the Council could make a decision that is strategic in nature. Mayor Cadden said he had answered a letter that Joe Baird had sent to him. Discussion followed, and Councilman Haverland felt strongly about having the meeting now. Mayor Cadden asked if he thought we should wait until after the City of Vero Beach elections next month, with which he agreed that the Council should. Mr. Jefferson added there wasn't much to discuss at this point. Councilman Haverland disagreed, and continued his discourse. Councilman Ochsner said that they had given the letter to the City stating that we are not going to renew the agreement, and now have five years to come up with another agreement. Mayor Cadden reminded them that this was not on the agenda and they set the date for a utility workshop on Thursday, December 1 at 9 a.m.

MPO. Vice Mayor Weick said the MPO met and the Florida Secretary of Transportation was there to report on the 5-year plan and the status of I-95 expansion to 6-lanes. The State is now making agreements with the contractors to secure their own financing for projects and then being reimbursed by the State. Other items of discussion were a walking bridge over I-95 at the Fellsmere-Sebastian exit; a grant that the MPO received for bicycle safety for students; and setting up a Walking School-Bus Program whereby students walk in groups along the sidewalks, stopping along the way for more students to join them.

EDC. Another grant was approved for presentation for the County Commission to assist a company in payment for 20 additional employees at a cost of \$70,000.

Mayor. No meetings to report.

8. **Call to Audience**

Walter Davis, Bermuda Bay, stated that he supported Richard Jefferson's comment and the Treasure Coast Refuse decision that the Council had made.

9. **Adjournment**

There being no further business, Mayor Cadden adjourned the meeting at 4:52 p.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the 11-16-11 meeting)