



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

REGULAR TOWN COUNCIL MEETING
Thursday, December 13, 2012
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: Jeff Lantz, AT&T
Residents Bill Beardslee (PZV), John Porta (Finance Committee)
27 Residents from Bermuda Bay, Johns Island, and The Estuary
Jim Moller, John's Island Club
Janet Begley (Press Journal)

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation
- 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 November 13, 2012
- b. Acceptance of Finance Committee Meeting Minutes dated November 14, 2012
- c. Approval of Regular Town Council Meeting Minutes dated November 15, 2012
- d. Approval of Special Call Town Council Meeting Minutes dated November 27, 2012

A **motion made** by Vice Mayor Weick **to approve the consent agenda items as presented** was supported by Councilmember Atchison. Councilman Ochsner noted two minor corrections to the header of the Minutes for November 27, which Town Clerk Aldrich agreed to revise for the record. Councilman Haverland asked her to also check the record for who was present at the meeting. The motion **passed 5-0**.

Mayor Cadden noted the large number of members present in the audience who were there for the cell tower update, and received permission from the Council to amend the agenda to move that item for discussion next.

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.

6. a. Cell Tower Update

Mr. Jefferson said AT&T flew a balloon to perform a study on tower height at 130 feet. The tower is mainly to give the Public Safety Department better mobile coverage, as we are in a place with no communication (signal). The study (checked for reception) between Sea Oaks and the Spires and found no reception with AT & T in this area of town. As an aside, there would be better service for the residents. The best recommendation they could make is to install a 110' tower behind the Public Safety building. The balloon was flown two times, once 150' back in the proper location first and then it was moved forward.

Councilman Ochsner asked about the monopole, which Mr. Jefferson said is not 360 degrees coverage in all directions. A variation that goes north and south may not be an investment option for the installation company, who would be paying for the entire installation and rent the land from the Town. Mr. Jefferson said the Town's Public Safety Department (PSD) uses Verizon, and the 85' tall pole at Sea Oaks will not reach us. Two Council members noted that Verizon has not come to provide input yet. We are trying to remedy the Town's problems and also help the community.

Mayor Cadden said the PSD needs Verizon, and had Chief Stabe explain that they use a Verizon air card in the computers in the vehicles to receive the IRC Sheriff's silent dispatch with details of the call and where to go for police, fire and medical response calls. This ongoing issue of connectivity is getting worse with dropped connections on the computers 8 - 10 times during a few hours. It is not impossible to change to a different carrier; however, Verizon has said they are anxious to have a tower here because they admit that we are in a dead spot.

Mayor Cadden said we went through this exercise a few years ago, but this time it is driven by a need by our Public Safety Department. Councilman Haverland reported he has had two or three calls from those who are unhappy with their cell phone service and would be responsive to improvement.

Public comments

Mayor Cadden asked them to not be repetitious, as the Council was in possession of the emails that had been sent to the Town on this subject.

- Lionel Lowry, 102 Hidden Oak Drive, was concerned with the safety issue, having a handout addressing the electromagnetic radiation as dangerous to your health as a radiation hazard. He read parts of the handout regarding cancer risk and other health issues. His son-in-law was with him, who is facing stage 4 brain cancer. It was not the cell tower he was concerned so much about as its placement, which the oncologist said he thought the EMF (electromagnetic frequencies) might be a contributing cause for cancer.
- Susan Mehiel, 131 Laurel Oak, said she can see the Public Safety building from her house which she just bought in September. She was not happy with the location, and asked if the Town-owned land west on Fred Tuerk would work instead. She was concerned with having an aesthetically pleasing community, and really does not want 110' tower in her front yard or to have an impact in her community. Her AT&T service works fine, and Public Safety might be well serviced just by switching carriers.
- Louann Lindsay, 103 Hidden Oak, said her AT&T cell phone service is horrible. Lionel is her neighbor, and she appreciates his health concerns. Ms. Lindsay asked if there is a good reason the tower cannot be placed way back on Fred Tuerk where it is more aesthetically pleasing and not damage property values. She agreed with Ms. Mehiel. Mayor Cadden said the people in The Estuary and John's Island probably don't want it there, and the Land Trust just spent a tremendous amount of money to buy Bee Gum Point, and are screening everything with vegetation to avoid seeing anything not natural.

Rebecca Merriman representing American Tower Corporation and AT&T spoke next, saying each carrier is on an individual array on a tower provided by them. This particular position works

within a cell (coverage area). There is a distinctive lack of coverage in the Town, she added, with both good and bad coverage with AT&T. Verizon and AT&T would go on the same tower, and within the network this is the optimum site, as the canopy cover would keep most people from seeing the tower.

About radiation, she continued, there is ionizing (x-rays and gamma rays) which is cumulative and causes health issues, and non-ionizing radiation that is not cumulative. The cell phones and cell towers use non-ionizing radiation below certain levels prescribed in 1996. She also said they can't put two towers together, but could put multiple arrays on a single tower.

Vice Mayor Weick asked about the 25' or 50' warning at the base, which she said is to warn the public that there is equipment inside a telecommunications tower with radiation, and to stay away.

- Walter Davis (Buck), 100 River Oak Drive, HOA President of Bermuda Bay, spoke on his own behalf. He is confused since Ms. Merriman said this is the optimum choice, yet did not look at the Fred Tuerk Drive location. He did a study and found within 600 feet of this (west) Fred Tuerk Drive site, only 11 homes are within the circumference of the site. At the PSD location, there are over 100 homes within 600' (Village Shores, Bermuda Bay, The Estuary, Park Shores, Sea Forest, etc.). The cluster here is much denser than on Fred Tuerk. If we put a monopole with a flag, it would work aesthetically, environmentally and from a health aspect it would be much better. His Verizon works better here than AT&T, although it could be improved. He also has researched the health issue and guidelines, which have too many conflicting studies. He asked rhetorically how many providers we would have on the pole and how high it could be. This issue was raised in 2003, and discussions began again in August this year. He asked that the Council slow down.
- Jesus Diaz, 300 Lakeview, said he looked at the Sea Oaks tower which looks nice with the flag at 85' tall with one provider, and asked that the Council consider having only one provider.

Mayor Cadden said he has no problem with the flagpole, addressed shooting a (signal) wedge 20 degrees that is directional from an engineering viewpoint. The Sea Oaks pole is aimed straight north, which does not do us any good. We need one that goes straight north and straight south. We have a lot more research to do and no decision to be made this afternoon.

Councilman Haverland said the major issue seems to be the site issue rather than the health issue. The Federal government generally doesn't under-regulate, and he accepted the AT&T representative's statement. He proposed finding out how many have a visual problem at each location (Bee Gum Point or behind PSD) with the tower. Mr. Davis said that was a valid point.

The time the balloon was flown was addressed by Mr. Jefferson who said the first day it was not up long enough, so it was up two more days after. There are photos taken of the balloon from many angles. Vice Mayor Weick said only one photo was from within Bermuda Bay. The big issue is aesthetics, and doesn't see that it fits the image of the Town unless it is something like the flag pole. Mayor Cadden said he wants to sit down with Town Manager, Chief Stabe and Verizon and AT&T. We are not driven by making money with cell tower, but to improve Public Safety's access.

Mr. Diaz asked why multiple carriers and Mr. Jefferson said initially we were looking just at Verizon, but then residents from all over Town said we have a different major provider.

Personal boosters were discussed, which are already in place for Public Safety and in the Town Manager's office, but they do not help the vehicles. Boosters for vehicles were mentioned briefly.

Jeff Lantz, AT&T, said he is working with American Tower on this. They would be happy to have a community meeting. The height of the tower is strictly driven by engineering criteria and is a matter of mathematics. With respect to type of pole, there could be a flagless flag pole with the antenna limited to a flat panel. There was a discussion about Public Safety, which extends beyond the police department to hurricane coverage (AT&T, Sprint and Verizon all need service).

Mr. Diaz asked about additional height being driven by additional carriers, and Mr. Lantz explained that the coverage suffers towards the canopy. It's a balance considering the zoning laws, and they do their best to get maximum coverage.

Mr. Lantz also spoke about the health issue, which comes up every time. The Telecommunications Act does specify that health affects of the tower are specifically excluded from any zoning requirements because they go so far beyond the minimum standards.

Vice Mayor Weick questioned the height as these signals run parallel to the earth. Our largest canopy stops at 40', and eighty feet is 40' above the canopy. Mr. Lantz said some building materials are hard to penetrate.

Mr. Jefferson asked if they could put two carriers inside the same pole, and Mr. Lantz affirmed. Once the tower is up, other carriers cannot demand to be included in the tower. In the Telecommunications Act, discrimination is not allowed among providers, they must accommodate other carriers and co-locate on one pole. As a provider they could build a tower that only holds two or three carriers. Say AT&T at 90', the next carrier may not want 80' height. American Tower would be the "owner" and provide the tower, and AT&T provides the real estate rental service. Mayor Cadden said there should be a homeowners meeting when we are closer to making a decision.

Bill Seawright, 102 River Oaks Lane, asked how much rent will be for each carrier, and the economics of negotiations regarding revenue sharing (American Tower, AT&T representative) was discussed briefly.

Mayor Cadden thanked everyone for coming, adding the Council appreciates it. They will continue to process the information in a public and transparent manner. (most of the crowd departed)

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

- a. At the December 10, 2012 meeting they discussed the Marine Lab sign that was carried forward from last month. It was tabled again until February because the procedure calls for a week to analyze the request made to the Board, and the requestor actually changed the sign the day of the meeting. Last month they wanted to put it on the north side, this month they wanted to use the south side of the road, which is covered with water mains and electric utilities. Mr. Beardslee suggested four conditions: 1) a definitive location; 2) properly sized sign; 3) involve participation by 7-11; and 4) the Town to be held harmless for the sign.

Regarding the sign placement, Mr. Clem said the roadway is in the Town limits, the land is in the unincorporated county. He explained that the old Tracking Station site was owned by the Federal government, and the north half was given to the County as a park, the south to FIT. They have been there 20 years. This research facility plans to expand dramatically, and they would like to put on a presentation on what they plan to do. It is a prestigious thing for the Town, and it has been good to have them here. We have been tough with other entities, and can't give special consideration for this. Councilmember Atchison asked if there was any sense of partnership, and Mr. Beardslee said yes, the Town wants CVS and 7-11 involved.

4. **Mayor's Items**

- a. Advanced Institute for Elected Municipal Officials Completion Recognition

The Mayor announced that Councilman Haverland had attended the Advanced Institute for Elected Officials, sponsored by the Florida League of Cities Institute of Government, and presented him with a Certificate from them.

- b. Town Manager Evaluation Status

Mayor Cadden said he has prepared the evaluation, and will go over it with Richard within the next few days. Every Council member rated him, and there is a final tally of the scores.

5. Town Attorney (Nothing to report).

6. Town Manager

a. Cell Tower Update *Discussed at length pages 2-4*

Mayor Cadden said he was very happy that the residents came to discuss this.

b. Post Office Box Pricing

Mr. Jefferson said that about 75% of the Postal Center boxes are not used, and was thinking about advertising until he discovered the cost and how long it would take to recoup the expenditure. Councilman Haverland asked how much our boxes are, and Mr. Jefferson said the small boxes are \$90 per year. Mr. Davis, Bermuda Bay, said he had heard there was a long waiting list. This is a community misunderstanding, which Mr. Davis said he would make sure they knew. Councilmember Atchison said she also didn't think many people were aware that the Postal Center would forward mail on the box holder's instructions, whether it is daily, weekly, etc. Mr. Jefferson added they also receive non-postal packages (Fed Ex, UPS) here, which the Post Office can't do. It's very difficult to get the word out. There should be an article next week in Vero Beach 32963. Councilman Ochsner asked what the cost is to mail the ad, and Mr. Jefferson said he always includes an ad with the FEMA annual mailing. Mailing just the Postal Center ad did not result in any new box rentals. Having a sale for new box holders was discussed, which was determined to be unfair to existing customers. Councilman Haverland suggested that we e-mail our residents, and the Clerk said we do have a mailing list, but it is very small compared to the number of residents. Mr. Jefferson said he can email each community, but it may be the rest of the barrier island who needs to know. Councilman Haverland said lowering the box prices won't help, and Councilman Ochsner said we should run the ad. Councilmember Atchison suggested waiting until January.

c. Mutual Aid Agreement With Indian River County Sheriff's Office

This is identical to the current agreement, Mr. Jefferson said. **A motion** by Vice Mayor Weick to **approve the Agreement as presented** was supported by Councilman Ochsner. **The motion passed unanimously.**

d. Employee Handbook Update (& General Employee Benefits as Result of CBA)

Mr. Jefferson said the employees and Council all have a copy of this brief rewrite done by Councilman Ochsner. The Council is welcome to have input, then the Finance Committee will review. Vice Mayor Weick asked if all employees are treated the same, meaning the benefits are mirrored to the PSD contract. Mr. Jefferson said they cannot be treated the same as there are things in the contract the general employees cannot receive. Vice Mayor said the vacation, sick leave, personal leave should be mirrored. Mr. Jefferson said this is Town policy, above and beyond the handbook. Councilman Ochsner said the handbook states the PSD Personnel are covered by their contract. Vice Mayor Weick and Councilman Haverland said they were referring specifically to the personal days that were eliminated from the Public Safety Officers.

Councilman Haverland asked about the increase in contribution from employees for dependent medical care, which he thought would be addressed in this for general employees as well. Mr. Jefferson said they can do it at any time; it is not part of the handbook. Councilman Haverland and Vice Mayor Weick both thought Personal Leave and the medical insurance contribution increase would be implemented October 1, assuming they all agreed, asking that these two policies be implemented now. The issue, they said, is what the PSD employees get, the general employees also get.

There was an attempt to make a motion to remove the personal days and increase the health insurance contributions for the general employees, which was not specifically on the agenda and recommended by Mr. Clem to be brought forward to another meeting. The Council could make it retroactive to January 1st or whatever date they choose.

e. General Employee Pension Plan

The letter was received from the Southern Actuarial Services regarding buying out the General Employees in the Defined Benefit Plan. There are two of these employees who are active and would be rolled over to another type of plan.

Vice Mayor Weick asked if the employees are agreeable to this. Councilman Haverland said upon terminating the plan, the employees would be able to participate in the same plan as other employees, as they would not be disadvantaged; it's just a different plan. Vice Mayor Weick said retirees could roll their investments to IRA and not have a tax problem.

Mr. Clem asked if they were talking about cancelling the plan, and asked if they were speaking about notifying the retirees also. Mr. Jefferson asked what they would do if they are not happy with it. Councilman Haverland said it would be good if they were agreeable, but the reason the Council is considering it is to get rid of a future liability. It is fair to just do it; it's for the benefit of the Town. As a courtesy, we should inform them before taking action and ask them to let us know about reasonable objections before the Council meets. Vice Mayor Weick said the advantage to them is if they take lump sum, they have the money. If they die tomorrow, the money ends. Mr. Jefferson said we will send a notice to each one of them.

7. **Council Discussion**

a. Council Items (all items submitted by Councilman Haverland)

1) Council Meeting Date Change to March 19th

Councilman Haverland asked if the Council would consider changing the March meeting date to either March 19th or the 26th. After discussing the swearing in of newly elected Council, they decided to move it to Tuesday, March 26th.

2) Retiree Health (Insurance) Update

Councilman Haverland asked if there was a decision from the Finance Committee on this, and Councilman Ochsner said they will discuss it at the January 22nd meeting. Mayor Cadden said Committee Member Tom Slater is very optimistic that there will be better options.

3) Data on Impact of Revised Employee Medical (insurance) Incentives

Councilman Haverland asked what the employee response has been regarding the incentive to opt out of Town-provided health care. Mr. Jefferson said he has received one request to go over the comparison, and that person would have had to pay more.

4) Call for Medical Insurance Workshop Tied to Affordable Care Act

Councilman Haverland said he sits on the board of another small entity, and they had a presentation from an insurance corporation. It suggested the Affordable Care Act could have a significant impact on us, especially for employees who average over a 30-hour work week over a period of time who would be declared full time, as it may pertain to several per diem officers. He suggested the Council consider seeking advice since our renewal is May 1st, and it is complicated and potentially cost-destructive to the Town and employees who would face taxes on the benefit. Vice Mayor Weick noted we do not have over 50 employees, and there are no definitive answers to the impact yet with most of the implementation taking effect in 2014. Councilman Haverland expressed great concern that the benchmark of what is done this year may carry forward into 2014. He suggested that we get information by having a Brown & Brown representative from their office on Beachland in Vero Beach host a workshop. Councilman Ochsner said there is a lot of misinformation, and new regulations are released almost daily with new interpretations. He agreed it is a good idea to have a workshop.

b. Committee Reports

Beach and Shores. Beach & Shores met on November 19th with an update on Hurricane Sandy erosion. Indian River Shores was categorized as Condition 3, with a 3-10' escarpment and 8' loss of dune. North of Windsor it is Condition 4, and the Tracking Station and Turtle Trail accesses are closed. He will receive an update at the meeting next Monday. There is construction at Baytree and Ocean Pearl to repair damage to the pool area and dunes. There is a possibility they may get help from FEMA, with public lands eligibility up to 100% of restoration costs, and private lands up to 60%. Vice Mayor Weick asked when they intend to open Tracking Station Beach, and Councilman Ochsner said it should be soon, and he will pass the information on to Laura. Mayor Cadden mentioned that Councilman Ochsner wanted to attend the National Shore and Beach meeting in Jacksonville in February, and the Council was agreeable.

TCRLC (Treasure Coast Regional League of Cities). Councilmember Atchison said they did not meet.

City of Vero Beach (COVB) Utilities Commission Report. Councilmember Atchison had an email from Bill Grealis regarding the recent COVB utilities meeting, which she read. Paraphrased, it appeared that everyone on the Commission seems in favor of the sale, with Mr. Kramer providing a presentation with consequences of a partial sale and running the existing plant 24/7. The Commission voted against spending time on this option as no one had offered that type of purchase. The City Council has not asked the Commission to weigh in on the rate increase issues. If they did, he will raise the issue of revenue from that increase coming from outside the city limits making its way to the General Fund, and if so, what the City Attorney's legal justification is for taxation without representation. Language for the referendum in March was reviewed. If the referendum passes, it will have the force of law and the City Council will have to see it through. Some members expressed the need for input from customers outside the City limits regarding the sale. The FMPA has told the City it will take two years to complete the transfer.

TCCLG (Treasure Coast Council for Local Governments). Councilman Haverland Councilman Haverland attended TCCLG, which focused on the drug problem in various areas.

MPO. Councilman Haverland attended the MPO meeting yesterday, the focus being on road construction which does not immediately impact the Town.

EDC. Vice Mayor Weick reported that there was no meeting.

TCRPC. Mayor Cadden said his were meetings cancelled.

Other Council Matters.

Councilman Haverland said three or four people approached him about a letter received by residents in November from a PSD Officer. It implies that the Town is not taking care of its employees, as it asks for money to benefit the officers and their families, and contributes to community programs. He suggested that the Council consider its appropriateness. The Mayor and the Vice Mayor have both received it for many years, and have not had any complaints. Mayor Cadden said they can have their name removed from their list.

8. **Call to Audience**

No comments.

9. **Adjournment**

Hearing no further comments, the meeting was adjourned at 5:14 p.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the January 24, 2013 meeting)