MINUTES

THE TOWN OF INDIAN RIVER SHORES

6001 North Highway A1A, Indian River Shores, FL 32963

REGULAR TOWN COUNCIL MEETING

Wednesday, December 14, 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 Richard Jefferson, Town Manager

STAFF PRESENT: Richard Jefferson, Town Manager

Laura Aldrich, Town Clerk Chester Clem, Town Attorney Judy Lewis, Town Treasurer

Bill Schauman, Director, Public Safety Rob Stabe, Captain, Public Safety Mike Jacobs, Lieutenant, Public Safety Nina Osbahr, Records/Admin., Public Safety

Lou Puchala, Sergeant, Public Safety

OTHERS PRESENT: Town Residents Jack Mitchell, Bill Beardslee, David Becker and John Porta

Jim Moller, JIPOA General Manager

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. Planning, Zoning & Variance Board Minutes dated November 14, 2011
- b. Approval of Regular Town Council Meeting Minutes dated November 16, 2011

A motion by Councilmember Atchison, seconded by Councilman Ochsner, to approve the consent agenda as presented was made. Following discussion regarding minor changes to the Council minutes, the motion to approve the consent agenda passed 5-0.

3. Mayor's Items

None

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

Mr. Beardslee reported that the PZV met on December 12th and approved the removal of a tree of special concern and also a variance for a vinyl chain link fence. He had attended the Sunshine Law meeting, and suggested that each member of the PZV Board get a copy of the disk from the Town Clerk.

Councilman Ochsner asked the status of the request for a sign at Bee Gum Point, with Mr. Beardslee replying that the landscape architect has completed the plan for the front entrance. They anticipate this item to come before PZV in January. The Town Attorney affirmed that he has seen the latest draft plan, and Mayor

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.

Cadden asked the Chairman to remind the Land Trust manager that he had promised to show the plan to him prior to presenting it to the PZV.

5. Town Attorney

a. Resolution 11-08 Supporting Banning of Texting While Driving

Mr. Clem said that he and the Town Clerk have responded to the request to prepare a resolution as follows, as has been approved by other municipalities in Florida. He read the proclamation as printed in title below, and provided slightly more detail from the "Whereas" statements:

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES IN INDIAN RIVER COUNTY, FLORIDA, SUPPORTING A BAN ON TEXTING WHILE DRIVING; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Atchison explained that this resolution was brought to the Florida League of Cities by the City of Port St. Lucie, and Vice Mayor Weick said that there are already 40 states that ban texting while driving. A motion by Councilmember Atchison, seconded by Councilman Ochsner to **adopt Resolution 11-08 supporting the ban on texting while driving as presented, passed unanimously 5-0.**

6. Town Manager

a. Pedestrian Way Update

Mr. Jefferson said as requested at the last meeting, he has since confirmed that the Town may use Road & Bridge funds, which are currently slightly over \$500,000, for the Pedestrian Walkway. Estimated measurements show that 5,214' needs to be replaced beginning at the South entrance to John's Island extending to past Amy Ann Lane. The total estimated cost is close to \$100,000 to do the entire measured area of only the asphalt-paved portion of sidewalk. Councilman Haverland and Mr. Jefferson discussed the impact fees collected for the sidewalk funds briefly. Vice Mayor Weick and the Town Manager agreed the width would be uniformly 6' wide. Councilmember Atchison asked about doing the entire sidewalk, with Mr. Jefferson replying that a 422' portion of sidewalk had just been completed a few months ago for about \$5,000, with bids received then for separate sections. Mayor Cadden said we have to go past Peppertree, and three elected officials agreed that the whole sidewalk (south of John's Island) should be in safe, walkable condition. Sections of the sidewalk would be closed during the replacement for safety consideration, and the contract selected by staff would be presented for Council's approval at the January meeting.

7. Call to Council

- a. Council Items
 - 1. Finance Committee Structure (Atchison)

Continuing the discussion on the Finance Committee structure, she said that they had previously agreed that seven members might be too many, and Councilmember Atchison said she was looking for Town participation from the residents as an oversight committee from the time the budget is drafted through the time it was presented to the Council. She had no problem with a council member sitting ex officio, but they should be a non-voting committee member. The Mayor asked if there were any more volunteers for committees, and Mr. Jefferson said that we have received applications from two people who have expressed interest in the Finance Committee. Rather than putting them on the committee, we had planned to call and invite them to the next Finance Committee meeting as observers. It's a five member committee now.

Councilmember Haverland thought that at the last Council meeting they had discussed having Councilman Ochsner "step aside" if we had more volunteers willing to serve, and mentioned his upcoming agenda item of multiple committee memberships (Rubin Skyler sitting on two committees). Councilman Haverland also was not in favor of a council member serving on a committee. He concluded by suggesting that the Council select one new Finance Committee member to replace Councilman Ochsner, and have Mr. Skyler choose one committee to stay on.

Mayor Cadden and two of the Council said he had expected to see the committee applications today. Mr. Jefferson offered to email them this afternoon, and then they asked for the applications immediately so the Council could interview them individually and then considered for appointment after the audit.

2. Postal Center - Future Plans (Atchison)

Council member Atchison said this service to the residents was discussed in July, and wanted the Council to begin considering options such as an automated service or two part-time staff members. After stating that it had a huge impact on the budget, Councilman Haverland discussed it with her. Vice Mayor Weick said he thought it was the consent of the Council to keep the Postal Center, and she said that was last year, and she brought up today to keep it in their thoughts.

Councilman Ochsner commented that he did not think the Postal Center, at less than one percent, is a huge impact. It serves a Town much like Public Safety, not as a money-making or break-even operation but as a valuable service to our residents. He added we don't have parks or schools, and this is an important service, which Vice Mayor Weick echoed. Councilmember Atchison said she loves it, too, but what will it look like with full time or part time staff. She agreed that if at all possible, we should keep it, but perhaps not as it stands. Councilman Ochsner said the whole conversation in July centered on what we would do when the current Postal Clerk retires, which would be decided once that time was near, maybe in the next budget year. Councilman Haverland said his suggestion centered on equipment replacing staff, and thought Councilmember's Atchison suggestion of exploring multiple options was valid. Reduced hours was also mentioned for consideration after the current Postal Clerk retires.

3. Update on Investments of Cash (Haverland)

Councilman Haverland asked if there was any potential to receive interest on some of the money that is not invested. In this month's report, we have \$1.6 million in the checking account, and questioned how much we should have there for operating expenses. Town Treasurer Judy Lewis said about \$500,000, and by keeping the larger sum in this account, we avoid paying \$600 - \$800 in service charges, and they give us a credit for supposed interest earnings. She said she will be speaking with PNC in February, but having the convenience of Bank of America across the street is a consideration as we walk across the street for cash for the Postal Center and are able to hand-carry our deposits. Councilman Haverland said it would be worthwhile talking to someone else for comparative figures.

Vice Mayor Weick asked what the minimum to avoid these fees would be, and she said that ten years ago, it was only \$200,000 - \$300,000 with lower fees. Last month we only paid \$6. They discussed spreading the funds to different places, which Mrs. Lewis said the Town did a couple of years ago when we invested in CDs. She agreed to further investigate, with interest rates on CD's 0.55, 0.64, or 0.70 for short term, with a high of maybe 1%. Councilman Ochsner explained banking operations pertinent to commercial accounts, with earnings credit given and fees charged to offset those credits. It all balances out to no monies earned.

4. Pension Plan Update (Haverland)

Councilman Haverland said he went to the Pension Board meeting on November 17, and they had presentations from two banks, Northern Trust and PNC. They essentially agreed that a reasonable amount to expect as a return on the portfolio over the long term pre-expenses was 6.95% - 7%. We are using 8.75 pre-expenses, with 0.96 - 1% expenses. The Councilman discussed Paul Shamoun's absence and unavailability for six weeks. He supposed Mr. Shamoun will not be in favor of the Town lowering the expected rate of return to 6% as we will be out of line with everyone else, which is not the issue, but rather continuing to significantly underfund the pension plan. Chief Schauman said Paul Shamoun was at the prior meeting. We cannot get a pension report until we provide a rate of return the Council selects.

The Mayor and Councilman Haverland disagreed on who and how the expected rate of return on the actuarial report would be set. The Mayor said we agreed to wait for the actuarial report, which Councilman Haverland insisted could not be done without an assumed rate of return.

Vice Mayor Weick said we do have an assumed rate of return, which Councilman Haverland said is unrealistic. The Vice Mayor asked if the banks understood that this is a government pension plan, which on average return 9%. They went into deeper detail about our conservative portfolio estimate return, with the Councilman stating that our last 10 year actual return has been 4%. Chief Schauman said we earned 9% last year, to which the Councilman replied we lost 4% last year. Vice Mayor Weick said we also discussed not taking the fee out of the pension fund, but using General Fund monies instead.

Councilman Haverland asked the Council to please look at the report, stating that our assumptions we have been using of 7.75% net are totally wrong; it should not say \$2.9 million underfunded, but \$5

million. He said our expenses will require a higher contribution over a period of time to make up the difference, and called it a travesty.

Mayor Cadden did not see the urgency, saying if we act within the next 90 days, we can fix it. Councilman Haverland continued that the Pension Committee is doing all they can to defer action. The Mayor said that he understands what Councilman Haverland is saying, and promised that the Council will get it done within the next 90 days. Councilman Haverland wanted this on record: he demanded that the Pension committee meet in the first half of January and resolve this issue. They need Paul Shamoun there, and hopefully he will shed more light on the issue.

Councilman Haverland made a motion requiring the Pension Board to meet within the first two weeks of January to resolve this issue, which was seconded by Councilmember Atchison. In the discussion following, Councilman Ochsner said that prior to Mr. Haverland becoming a Councilman, it had been decided to lower the assumed rate of return to 7.5 last year, and to take the fees out of the Town operating budget. Had we done this, at 7.5 net we would be fine. The Pension Board is relatively new to this process, and the actuarial report is done every other year. These two decisions were made on the inbetween year. The Mayor said the actuarial report will be done as soon as the audit is done. There was more discussion about the Council's prior direction to change the rate to 7.5 from 7.75, but since no actuarial report has been produced since then, the rate has remained. Councilman Ochsner said since the Council had discussed lowering a quarter point per year, they may want to lower it by a half point this year to compensate for this.

The Town Attorney advised that the five members of the PSD Pension Board of Trustees are established by the State, and it is a legal entity that operates outside of the Town Council. The Council can only request, not demand, that that they meet. Councilman Haverland, seconded by Councilmember Atchison, made an **amended motion to request that the Pension Board meet within the first two weeks of January was made**. Councilman Haverland insisted that the Pension Board had all the data they need, and the Chief thinks it is critical to have Paul Shamoun, enough for waiting on him and the actuarial report. The Board has to meet and decide; we (the council) have no say on their decision on the investment or discount rate. Let them make a decision soon. His concern is our raising expenses and possible decreased revenue from property tax, which could go down 5-10% next year. With 77% of our revenue coming from real estate, if the valuations go down, it has significant impact. The mayor called **the motion**, which **failed 3-2**. (AYES: Councilmember Atchison and Councilman Haverland; NAYS: Mayor Cadden, Vice Mayor Weick, Councilman Ochsner)

There was more discussion about the two Defined Benefit pension plans, one for Public Safety and the other for General Employees. The Council is the Board for the General plan, which has two employees participating, and can decide the discount rate for that plan anytime. The Mayor remained in favor of waiting for the auditors and the actuary reports, agreeing that 7.75 is too high. Councilman Ochsner asked about the scenarios, which the Mayor said will be based on end result of the audit. Chief Schauman said that is what they are also waiting for in January, with the entire board voting at the September meeting to wait for the scenarios, including Paul Shamoun. Councilman Haverland said that the scenarios are 7.5% net, 7.25% net, and 7% net, none of which are realistic. Chief Schauman said that somehow another request was submitted for a different scenario, from outside the Board.

The Vice Mayor said that at the last meeting Paul Shamoun attended, he asked him if we were in any imminent danger, and Paul said no, we have 5 - 10 years before there starts to be any signs of a problem. Vice Mayor Weick and Councilman Haverland discussed the timeline for payout, with one firmly believing that a pension plan is supposed to be fully funded, and the other declaring 88% is considered fully funded for government pensions. Councilman Haverland said we are 65% funded.

The Mayor concluded that we will do the audit, and then see where we need to go. Councilman Haverland said the audit tells you where you've been, and we need to look forward if we intend to pay in the long run and stop digging the hole. Today we are technically insolvent, he said, with the Mayor and other elected officials disagreeing.

5. Individuals with Multiple Committee Assignments (Haverland)

Councilman Haverland and the Mayor discussed briefly that Rubin Skyler was the only individual, and by this time next month he will only be on the Pension Board.

6. Quarterly Financial Reporting vs. Budget (Haverland)

At the last meeting, they were asked to approve final budget amendment, which he asked the Town Treasurer to come and explain. Mrs. Lewis said a budget amendment in government is the way to report the reality of what happened during the year. Since budgets are best guesses and no one knows what the real expenses will be, the final budget adjustment is statutorily legal. Councilman Haverland asked if it adds what it takes to have a balanced budget, and she clarified it could be an addition or subtraction. Normally it is resituating expenses and adding deferred revenues that weren't showing up on the income statement from balance statement. Councilman Haverland said that there have been five upward budget adjustments in the past six years, and we ought to know when we are over budget. She said that we are not like industry in that we have to adhere to a revenue-expense basis; we are here to provide services of a perpetual nature. We only adjusted once this year, and many governments do this several times a year. His concern is finding out about them much later when there is nothing you can do about them. She said that the Council actually knows when they are approved on the consent agenda. He asked for a quarterly report to the Council comparing budget to actual, and she said it has been done, and will be preparing them on a monthly basis now.

7. Indian River Shores Forecasted Appraised Values – 2011 Sales (Haverland)

In discussions with the Appraiser's office, Councilman Haverland said that there is a significant likelihood that our appraisals will go down by \$75 million - \$100 million based on every sale that was made through the 12th of December. The gentleman he spoke to said that the estimate Councilman Haverland presented to him was realistic. He said his concern is a potential for \$300,000 less in revenue. Vice Mayor Weick said he had estimated a \$125 million decrease, which he believed would be offset with growth. Vice Mayor Weick, Councilman Haverland and Councilman Ochsner discussed the homesteaded values and the Town's stability of value. Directionally, future income appears to be going down, Councilman Haverland concluded, and was concerned that looking forward that we will be forced to raise taxes or cut expenses. Vice Mayor Weick said this is what they face each year.

b. Committee Reports

<u>Coastal Structure Subcommittee of Beach & Shores.</u> Councilman Ochsner said the Coastal Structure Subcommittee met on December 5th and determined to recommend hiring FIT to do modeling on Sector III. They then found that they had been misinformed regarding CCNA, and this had to go out for bid. James Gray with Indian River County is preparing an RFQ for coastal modeling to go out sometime in January. The next meeting is January 9th.

Beach & Shores. Councilman Ochsner said the net effect of beach renourishment for Sectors 1 and 2 is that there is a net gain of 290,000 cubic yards more sand than at the end of the project. One place will be filled with about 150,000 cubic yards by the Sebastian Inlet River District. The second part of Sector 3 renourishment will start January 9th.

<u>Treasure Coast Regional League of Cities (TCRLC)</u>. Councilmember Atchison reported that she missed the excitement at this meeting while attending the Florida League of Cities conference on 11-17.

<u>Florida League of Cities Legislative Conference.</u> Continuing, she reported that one of the top legislative priorities adopted was to reform the city police officer and firefighter plans and disability presumptions to make the pension sustainable, sound and secure.

<u>Metropolitan Planning Committee (MPO)</u>. Councilman Haverland attended MPO today which discussed the various transportation systems the County provides. There are 14 routes, which costs \$1.29 per rider and collects no fare. Seventy-five percent subsidies from the Federal and State governments cover most of the cost. They also discussed the traffic congestion due to resurfacing on A1A below 17th Street.

Treasure Coast Council of Local Governments (TCCLG). No report.

Economic Development Council (EDC). Vice Mayor Weick reported that the EDC had a special called meeting to consider a property tax abatement for ENOS, the bio-energy company, for their buildings and improvements thereto. On November 2, 2010 the County voted to provide tax abatement for companies who increased in size, improved infrastructure and increased hiring. This is the first application to be approved, which grants a 10-year abatement with an increase on a gradient scale after the first three years. This is a tax abatement savings of \$10 million over 10 years. ENOS will also be hiring 53 people. The application goes before the Board of County Commissioners next week for approval.

<u>Treasure Coast Regional Planning Council (TCRPC).</u> Mayor Cadden reported that he had not attended any meetings, but will be going to TCRPC on Friday with the 585 pages included in the on-line agenda packet that Laura printed out for him. He said that these large agendas and attachments are now being distributed only via on-line sources, and many recipients are using an I-pad to read and transport it to the meeting.

7. Call to Audience

David Becker, 572 Sable Oak Lane, asked how long the bike path will take to complete. Mr. Jefferson said that bids will be before the Council at next meeting, and it probably will be completed in a month or so after that.

John Porta, 130 Island Cottage Lane, The Estuary, said he is a member of the Finance Committee, and is concerned about the striping on Fred Tuerk Road. He has often turned off A1A and found people driving on wrong side, with very confusing markings. Mr. Jefferson said that the Town had already selected someone to restripe the road, which will hopefully be done this weekend.

Jack Mitchell, 220 Sandpiper Way, discussed the liability and responsibility for sidewalks along A1A with Mr. Clem. Mrs. Jackie Johnson said the State takes care of the sidewalks by Castaway Cove, which is in unincorporated Indian River County. Mr. Clem said that we have always taken care of what needs to be done, and will research this and will report back on this at the next meeting.

8. Adjournment

There being no further business, Mayor Cadden adjourned the meeting at 4:54 p.m.

Respectfully submitted,

<u>/s</u>
Laura Aldrich, Town Clerk

(Approved by the Town Council at the 1-26-12 meeting)