



MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963
SPECIAL CALL WATER UTILITIES MEETING
Monday, February 20, 2012
9:30 a.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

OTHERS PRESENT: Residents (67 counted)
Vero Beach City Manager Jim O'Connor, Mayor Pilar Turner, &
Councilman Dick Winger
Indian River County: Commissioner Bob Solari, Manager Joe Baird, Utilities
Director Erik Olson, Finance Director Jason Brown
Jim Moller, JIPOA
Reporters Press Journal, VB 32963 and Vero Beach News Weekly

1. **Call to Order**

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

Mayor Cadden called the meeting to order at 9:32 a.m., with the Pledge and Invocation recited. The Town Clerk called the roll and noted the attendees as reflected above.

2. **Council Discussion of Water, Wastewater, Reuse Water Proposals from the City and County**

Review Proposed Agreement from the **City of Vero Beach (COVB)**

Mayor Cadden announced that Mr. O'Connor would speak first, followed by Mr. Olson and then public comment will be welcomed. The Council will be discussing options before concluding.

Mr. O'Connor read the one-page synopsis that was requested last week (Attachment A as part of the minutes). He explained that all items are in response to requests made by Indian River Shores, and Item 5 follows the philosophy that if they can't be competitive in their pricing, they should not be in this business. Item 11 allows for regionalization should it occur. Concluding, he said he appreciated the January Workshop, as he heard for the first time some of the concerns of individual Council members, which are addressed in this proposal.

Mayor Cadden said that Option A appears to be a clear 10% decrease with the surcharge dropped for potable water for all residents, and Option B mirrors the County rates that add a 6% cost, so the net effect is a 4% decrease. Mr. O'Connor said there are two different rate structures, so larger customers pay more and City rates favor less consumption. The Mayor continued that some of our residents would have no decrease, while others have an increase, and smaller-use customers may have a smaller bill. He surmised that Option A would benefit all with a 10% drop in potable water cost. Mr. O'Connor said that conclusion is correct. Mayor Cadden said that Item 12 leaves it open for the County to provide reuse water service from Old Winter Beach Road north, and Mr. O'Connor concurred.

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.

Councilman Haverland asked for more definition on using a customer base as the qualifier for the reuse water trunk line installation north of Old Winter Beach Road, and when and how it could happen. Mr. O'Connor said this would be a matter for the negotiating committee to review, and have a mutual agreement. The infrastructure ownership was discussed briefly, with Mr. O'Connor and Mr. Jefferson agreeing that there is no question about anything except the reuse structure, which Mr. O'Connor said was all owned by the COVB as it was installed after the 1986 agreement. The Town Manager, Councilman Haverland and the Vice Mayor disagreed, contending that the reuse infrastructure was excluded. Councilman Haverland discussed the 10-year one-way versus two-way opt out clause, which he wanted as one-way. Finally, he asked if the COVB was willing to lower the rates prior to October first, to which Mr. O'Connor said they have to build in the rate structure; this model anticipates a 30-year period.

Mayor Cadden asked if they could build in a reuse water rate before October, and Mr. O'Connor said it is negotiable, and would have to be system-wide.

Vice Mayor Weick mentioned the effective date for the contract is anticipated to be October 1, 2012. Mr. O'Connor replied that they need a three-month lead period to put the rate structure in the software. The Vice Mayor also affirmed that it (potable water) would be a 50 PSI minimum, and was told that was correct, at the meter. He also received clarification that the rates could be guaranteed for 30 years for either Plan B or Plan A, and also that all pipes (excluding the four specified items) including reuse become the Town's after 30 years.

Councilman Ochsner mentioned the ERC methodology as was suggested by the consultant as a way to raise revenue, which Mr. O'Connor explained was an option to the City Council. There is an estimate that there would be an increase of revenue from within corporate limits, and outside corporate limits, it would be revenue neutral. It would be converted by taking the County ordinance and consumption history and applying it to that rate structure. Going to a regional system would be a simple process if the ERC rate structure were implemented.

Councilmember Atchison said her main concern was who determined the adequate customer base (in order) for infrastructure to be installed north of Winter Beach Road and how soon the City would act on reuse water in that area. Mr. O'Connor said they anticipate sending out flyers to see if the demand was there before adding it to the Capital Improvement Plan (CIP). Councilman Haverland questioned how many customers are needed to justify the \$700,000 investment, mwhich Mr. O'Connor said would have to be put in the business model to determine a specific number.

Councilman Ochsner asked about negotiations being reopened unilaterally or bilaterally for any reason, and Mr. O'Connor said the agreement could be opened by just one party with a two-year notice for the terms and conditions, such as the rate structure or another supplier was found.

Vice Mayor Weick received confirmation that the readiness-to-serve charge would be the same as the County's, with Mr. O'Connor adding it would be paid with the impact fee. He asked if the rates would be system-wide, and Mr. O'Connor said only if the Town chose the City rates.

Mayor Cadden asked when the reduction in rates would begin if we stay with Plan A. Mr. O'Connor said this would have to be taken to the Council after a signed contract was received.

Councilman Haverland asked about rate guarantees and discussed the City's financial health, the potential loss of South Beach customers and the history of adding significant utilities revenue to the City's general fund. He noted the County's history of stable rates, whereas the City has raised rates. Mr. O'Connor said there are no guarantees, and to alleviate concerns about the City's financial health, he recommended that the Town auditor contact the City auditor, and the Council should read the CAFR. He concluded that the City feels like they are in very good financial health, and they have enough to make the capital investments that are necessary to stabilize the rates.

Review Proposed Agreement from **Indian River County** (IRC)

Mayor Cadden then invited Erik Olson to come forward, who said they recognize the importance of this decision for the Town. He stated that the County is consistent with its rates, which have not been raised for 13 years and the only projection is to reduce the rates. Several points mentioned include an offer to protect the Town if any legal issues arise; an active contract to expand reuse water at no cost to the Town; all infrastructure is at the County's option with no cost to the Town; reuse water was given away until a couple of years ago and now is sixty-seven cents (0.67); County's fiscal prudence with \$60 million in the utility's growing escrow fund; and over

\$105 million in cash has been spent since 2001 in projects. Mr. Olson urged the Town to look closely at the principle reuse line that serves the Town, and consider that the proposals are silent about South Beach customers. He said he believes regionalization is a good goal for later, and asked that the Town consider what the rates might be five years from now with either entity. In reference to a question asked by a Town Council member regarding the City's consultant recommending a change from its current process of meter size to ERC's, this translates into a \$12.8 million expense. Mr. Olson asked who would pay. The County has no upcoming software costs; they just spent \$500,000 for a new state-of-the-art software system. Mr. Olson concluded by commending the Council for the two-year process thus far.

Councilman Haverland asked Mr. Olson to elaborate on the reuse line just mentioned. There are two projects related to this, Mr. Olson replied, a new pump station to pull canal water out, and an existing pressurized pump station on 77th Street that goes all the way to A1A. They have installed piping north to Windsor, and a contract from 510 to Old Winter Beach Road is ready to go to serve the Town. There was no cost analysis, just planning to provide reuse water capacity and infrastructure to the Town.

Vice Mayor Weick asked if the Town could contract with the City with a non-exclusive clause and still go with the County for reuse water. Mr. Olson referred to the optimization report provided by the Consultant, GAI, which suggested a series of things to stabilize the City's water utility. The readiness-to-serve charge has been taken off the table. Other opportunities such as serving north of John's Island as a revenue source was spoken about in this study, which also noted that a necessary part of this study is the meter change. Mr. Olson noted that the \$9 million initial estimate for the meter change grows to \$12.8 million over a period of time, asking how certain one could be of their financial stability. He cautioned it's the transition, not the rate, which is the concern.

Mayor Cadden thanked both gentlemen for their presentations and answers to questions.

3. Public Discussion

Mayor Cadden said he had been asked by some already for a chance to speak, and would call on them first, then open it to questions from the audience.

Ed Wiegner, 151 Shores Drive, has been the appointed member of the COVB Utility Advisory Committee for the Town for two and a half years. His neighborhood, The Shores, has City electric and City water, and no reuse water. As a former executive of electric, gas and water utilities in the Midwest, he hoped to offer practical facts on the matters at hand.

The economic options of the Town are relatively straightforward. Reuse water prices can vary greatly, inexpensive as a byproduct or very high as many costs can be allocated to the process. Marketing strategies are a consideration for future costs. The current County and new City rates are at the low end, but are not money losers.

He believes the best reuse water solution for the Town is to take the new **City** water proposal and retain the City reuse water for south of Old Winter Beach Road, and allow the County to provide reuse water north of Old Winter Beach Road. He recommended letting the economics play this out. The City provides advantages to its existing customers, such as a very good quality of water and water pressure. The reuse water rates exclusive of John's Island (JI) implicit to the City proposal can only be achieved with a new City proposal, as they cannot be matched by the County or granted in the current proposal. There is also an advantage to the Town and to JI in having two good sources of reuse water. The County can provide it pretty quickly, he added, and did not think the City will give a better offer for north of Old Winter Beach Road for reuse water.

Regarding potable water, Mr. Wiegner continued, the City has offered to match County rates, which will be lower without the 10% surcharge. He agreed that the County has a stabilized rate, which could ensure that the City rates go no higher or lower than the County's prices. He doesn't think the water utility is in any distress at all, and they will be fine with the planned cost reductions and waiving the franchise fee.

Mr. Wiegner suggested minor contract modifications, such as a contract length longer than 10 years rather than a one-way or two-way offer. He urged the Council to pay attention to the metering discussion, but did not believe there's a \$12 million issue on the table. It could be specified in the contract that no one in the City or the Town gets any retroactive impact fees.

The one open issue is a piece of property installed after 1986, which needs to be determined if it was designed simply for the City's reuse water or the Town's potable water provision.

If the Council chooses the County, they should require them to also be open to competition. A consolidated water system may not lower rates, whereas competition rather than economies of scale keep rates lower than anything. Concluding, he stated he did not think embracing the County this week will help the Town, but it would be devastating impact to the sale of the water utility. It doesn't need to be a regionalization vote today.

Jim Moller, General Manager of John's Island Properties, said he knows what the City can do; they have been doing this for 30 years. The County, as far as he knows, has no experience with running a pressurized reuse water system. Bringing water and sewer is no problem, but reuse and irrigation pose special issues. The peak demand at 2 a.m. is unusual, and he doesn't see where the County infrastructure in place could meet this demand. John's Island and most of our homes have hundreds of thousands of dollars in landscaping, and we don't have the luxury to give them the learning curve in delivering reuse water. Mr. Moller concluded that if we go with the **City**, we get immediate savings versus waiting four years.

Philip O'Reilly, Ocean Colony Representative, said they have analyzed the cost differential, and the cost of waiting from April until a contract could be undertaken with the County for each Ocean Colony resident would be \$5,000 using the City rates of \$0.67, and would cost the development almost \$150,000. He also thought that eight (8) months to make a few changes to the software program is a long time. **John Steiner, Treasurer for Ocean Colony**, said in January they were more in favor of going with the County, as they liked to have representation and felt violated by the City with increasing water rates. However, it would mean waiting until 2016 for the County rates, when they could get them now with the City at a 67% reduction. Each year the reuse water costs each resident \$2,000. There would be \$1,400 savings per year per resident (\$1,400 x 3 + 800 for a partial) or \$5,000 savings per resident for staying with the City. Therefore they support the contract with the **City**.

Bill Shankland, 201 Seaside Pathway, Mariner Village, said they also support the **City** proposal as they could take advantage of the lower rates immediately if it is in fact, true. He added that the line item for reuse water was the first cause for an assessment increase in three (3) years.

David Taylor, 109 Park Shores Circle, said they would also have substantial savings of \$19,000 year by using the City's proposal, strongly recommending that the Town go with the **City** at the new rate as soon as possible.

Peter Monoson, The Estuary, asked who owns the infrastructure at the end of the contract and who will maintain it now and in the future. Councilman Haverland stated that there is no question that the Town owns the infrastructure at the end of the new City contract, and the County thinks we own it if we go with them in 2016. Mayor Cadden mentioned the exception of the water tank and certain other infrastructure. Councilman Ochsner addressed the maintenance question, that the provider will maintain the pipes during the contact period. Vice Mayor Weick read the current franchise agreement, Resolution 412 on page 6, Section 14, to Mr. Monoson that all of the infrastructure except four items reverts to the Town.

Buck Davis, Bermuda Bay, said the City acted in very bad faith the past few years. Bermuda Bay spent \$120,000 in reuse water last year, up from \$40,000 a few years ago. Even so, the water delivery was haphazard, and they have had a lot of trouble. Although Mr. O'Connor has done a wonderful job, Bermuda Bay thinks the Town should contract with the **County** water, and that it could probably be sooner than 2016.

Joyce Van Nest, Vera Cruz, said their water bill is 25% of their assessment. Over the last five years as Treasurer, she has seen it going up. She personally has been pleased with the City's service in the promptness and care they take in fixing very old pipes, and the water quality, supporting the decision to **stay with them** at a lower cost. She congratulated the Council in getting this competitive bid and the City to reduce their rates, thanking them for the work they've done on this.

Michael LaPorta, River Club, commended the Council on their due diligence. His background is as a consultant in the utility rate-making process for public utilities in the Midwest, and the Council has done a great job. He said the Town has been in an abusive relationship for years, now they say they will stop beating us up. There are a million ways the deal can change, and

contracts can get contested by an event. He came in favor of going with the **County**. The City, South Beach and the Town would be great consolidates, but we must make sure we have the right contract so that unforeseen, unanticipated events five years down the road will not cause regrets.

Melissa Mittag, 112 Estuary Drive, asked if we had to wait until 2016 to have lower rates if we go with the County now. Mayor Cadden affirmed that our potable water and sewer contract expires in 2016, so we could convert in time to the County for reuse water. Per Erik Olson, a year and a half would be a reasonable amount of time to have reuse water available for south of Old Winter Beach Road. It is already in process north of CR 510. Mr. Ed Wiegner asked if the County owns the lines, and Mr. Olson said the critical one is the 12" line that goes to the South, which reverts to and is the Town's at their request. The reuse lines are independent of the water/sewer.

Herb Zydney, River Club, 1704 Lake Club Court, AT&T retiree who was called to testify at rate hearings and also was former councilman in New Jersey, respects and appreciates what the Council is doing. He found the handouts to be complex, without much firm information and a lot of uncertainties. For the benefit for Town residents, he suggested that we construct examples for communities with different circumstances, such as no reuse water and other scenarios.

Hans Van Zonneveld, John's Island, said he has lived here for 55 years. His concern was that the Town push the City to get the water utility off the river; seemingly concerned about water quality for swimming and fishing in the river.

John Steiner asked the County if they are able to hook up reuse water to Ocean Colony, The Estuary and Bermuda Bay in a year and a half, which Erik Olson affirmed, adding in order to hook up to the County, they will have to negotiate a short-term contract with the City granting permission.

Councilman Haverland recapped what he heard Mr. Moller of John's Island say is that he didn't think the County could deliver the reuse water; that the pipe is too small and the demand capacity can't be met. Mr. Olson said they have recently constructed and completed new lines, tank, and pump stations. At Sea Oaks there is an old wastewater plant that the County intends to convert to a pump station and storage tank for reuse water, which will give them tremendous capacity. The intention has always been to bore under the Indian River Lagoon and tie into the Town's 12" line. He said they would be able to serve north of Old Winter Beach Road in a short amount of time. Under development and design right now is a pump station at 66th and 57th that can add two million gallons to the capacity. If John's Island called today and requested to tie into the water line at CR 510, they could get one million gallons of reuse water in three months.

Jim Moller, John's Island, asked if the County is supplying any reuse water to the barrier island at all, and Mr. Olson said they are serving golf courses and limited areas. Mr. Moller said they have been asking for two years, and Mr. Olson said they just completed the project three months ago.

Buck Davis, Bermuda Bay, clarified that their issue is reuse water, and they are ready to take it from the County when it is available since the City doesn't provide it on a reliable basis.

Mr. O'Reilly asked Mr. Clem if we have to wait four years for County reuse water or if it could be done now. Mr. Clem said we currently have two franchises, potable water and sewage. The City has also furnished some portions of the Town with reuse water, but it is not addressed in the franchise agreement. In his opinion, *the City or the County could provide reuse water*, as the only contractual obligation is to about 17 developments with one-year individual contracts, not the Town.

Mr. Steiner asked why this is part of the discussion, and Mr. Clem said it potential for the future contracts. Twenty-five years ago potable water and sewage treatment was the issue, not reuse water. A few years ago it became a profit center for the provider when potable water being used for irrigation was strongly discouraged. Mr. Steiner asked if the 2016 agreement will have anything for reuse water, and Mr. Clem said there has to be a reasonable time-line to transition which is subject to negotiation. Mr. Steiner just wants to get the rates down for reuse water earlier than 2016, and would prefer to go on with the **County** if sooner than 2016. Mr. Clem clarified for he and Mr. Zydney that their developments could negotiate with any provider who was ready to service for reuse water. Mr. Clem opined that he hopes the City, County and Town will work together for one service at a compatible rate.

Bob Landsman, Peppertree, said as issues have changed from 25 years ago, perhaps 30 years from now there will be different issues, and questioned a 30-year contract with 10-year options. His

is dissatisfied with no voting rights with the City, when there are voting rights in the County. Mr. Clem said that this contract length is the standard for 99% of the public utility franchises in Florida, is mandated in some states and also is fairly standard in the nation. The infrastructure cost and amortization the costs take a long time for the provider to recover, and short-term contracts are not in the best interest of the Town.

Mayor Cadden clarified that the Town has no franchise agreement for electricity; the territorial agreements are not under our control. The State mandated the City will serve the south end of the Town, and FPL has the rest. We have no say in the matter.

Debra Ecker, 550 Rio Mar Drive, wrote a book after researching water resources in our county, and addressed the long term aspects of this contract. The City is one of 14 communities that use the surficial (top level) aquifer, drawing 70% of its water from this resource. Others, including the County, use the upper Floridan aquifer. On a long term basis the City will not be able to continue to use this because of pollutants, septic, salt intrusion, fertilizers, sea rise, and pesticides. It would face major costs to dig a new deep well or contract to use the upper Floridan aquifer, and the City has not set aside much long term capital for this expense. She suggested the Town Council explore this more deeply.

John Peters, Old Orchid, presented photos of posts and valves that he finds objectionable which the County installs along the right-of-way, as are visible between SR 60 to CR 510 on 58th Ave.

David Becker, Bermuda Bay, said it is very seductive to stay with the City, as if we go with the County, we would not have lower rates until 2016. He asked if anyone has explored buying out the remaining four years in the City contract. Vice Mayor Weick said the reuse water becomes effective when the service is available, and the potable water and sewer rates go lower with the City effective October 1 or with the County in 4 years.

Vice Mayor Weick asked Mr. Olson about the 12" main that runs south of Town Hall, which Mr. Olson said was converted from a potable water line to a reuse line many years ago. Thee Town could ask for title to that line at any time. Mr. Olson mentioned variables to negotiate, such as the County providing additional quantity reuse water to the City and save infrastructure costs, and the City could supplement reuse water for other customers.

Recapping the discussion, Mayor Cadden said that if we sign the Plan A contract with the City by 1 May and stay with the City rates, everyone would have a 10% drop in potable water rates (surcharge removed), and the current customers for reuse water would enjoy a rate drop to 67 cents from \$1.97. Vice Mayor Weick added if we go to the County for potable water and sewer, the condominium potable and sewer rates would drop. Since the County bases their rates on consumption, if you use a large amount (over 10,000 gallons) of potable water, it could be a higher rate. The County also uses a different rate for irrigation with potable water, based on square footage. If you have two meters, the bill drops 10%.

The Mayor closed the public input, thanking them for their show of interest and input. He welcomed them to stay while the Council discussed their options.

(Transition break 11:21 – 11:28 as most of the residents left)

4. **Follow-up Action**

Councilman Ochsner said it was an interesting discussion. He believes in regionalizing, but not that the Town citizens should be the mechanism that forces the two parties to negotiate. Considering reuse water as the biggest issue, four years worth of current \$1.97 reuse rates between now and 2016 is \$850,000 a year or \$3.4 million over four years before exiting to a County contract. Therefore, the City seems the logical party with which the Town should do business. He hopes the City and County at some point do regionalize. The residents should not be forced to pay additional reuse charges, and today's discussion brought new variables to light that have not been considered before.

Mayor Cadden said don't get confused, it would be as fast as the County could provide reuse water to other parts of the county, and the Town is not between negotiations between the City and County. The higher reuse water rates probably won't last until 2016. Councilman Ochsner said it is still over \$2 million, and the Mayor agreed. Vice Mayor Weick asked what about the savings for potable water and sewer, which Councilman Ochsner said he was discounting, as the rates are not that

radically different. The 10% (discount) amounts to \$3-\$35 in terms of the average bill, and \$300,000 per year (10% of \$3 million) overall.

Councilman Ochsner continued, agreeing with comments that the City has been abusive in the pricing policies, but is hopeful with the changes in City staff and elected officials the abuse may be in the past. The County is stable, it hasn't raised rates, and there is the voter accountability component. There is a benefit to being part of the County, but cost of reuse is the big sticker.

Mayor Cadden said if we get a motion today, it should be to pursue negotiations with one or the other. We are not passing a motion to eliminate either of them, but to pursue the letter of intent and see where it leaves us.

Councilmember Atchison agreed with Councilman Ochsner that today there were many things not previously brought up for discussion. She questioned the history of the enterprise (utilities) money going to the General Fund in the City, and the actions taken at many City Commission/Council meetings. Twenty-five (25) years ago there was a real immediate need to have water and sewer, and today the needs and technology have changed. This Council is trying to bring the Town under one contract. One development, Baytree, is already served by the County for potable water. The Town needs to be served by one entity rather than northern section by one and the southern by another, she added, favoring the County because of its consistency. She agreed with the Mayor to continue negotiations and not close one or the other out.

Councilman Haverland said the numbers are straightforward, the saving for staying with the City are significant. He expressed concern that the rates today may not be the same as what we see five years from now, and is very concerned with the City's financial issues, which may convert to higher rates for us when they face up to it. The County is much more stable and professional. However, if we had a deal with the City with a 10-year out, and some protection on the rates, he'd take that, or if not, he would definitely go with the County.

Vice Mayor Weick stated that Plan B with the City is the County rates; therefore the County will govern our rates for next 30 years. A non-exclusive clause for reuse water is important, as it allows competition. The 30-year contract is important to him, not be opened in less than that. A malfeasance clause allows the contract to be opened.

Mayor Cadden said the costs are prohibitive to him to put the citizens with the County for the next four years. He said it would probably be at least 2015 before the reuse lines from Old Winter Beach Road south would be available for Ocean Colony, Park Shores, and Peppertree to connect. The \$2.6 million in resident savings, and Town tax savings of \$300,000 by going with the City are significant. The County has done a wonderful job, and he has no problem with the County buying the City assets and running a single system. We are here to see what we can do for our citizens today.

A motion to continue contractual discussions for water, sewer and reuse water with the City was made by Councilman Haverland with a second by Councilman Ochsner. Mayor Cadden added this doesn't prohibit anything the County wants to do with reuse water now. The length and terms of the agreement was discussed again (30, 20, 10 years, one-way out). Mayor Cadden called the question, with the **motion passing 4-1, with the dissenting vote cast by Councilmember Atchison.**

Mr. O'Connor said he appreciates the vote, and asked who the point person from the Town would be. The Mayor said we would let him know in a couple of days.

5. **Adjournment**

The Mayor adjourned the meeting at 11:44 a.m.

Respectfully submitted,

/s
Laura Aldrich, Town Clerk

(Approved by the Town Council at the 3-22-12 meeting)

Attachment A: 1-page COVB Synopsis, 3-page IRC Synopsis, 3-page Town Attorney Comparative Summary