



MINUTES  
THE TOWN OF INDIAN RIVER SHORES  
6001 North Highway A1A, Indian River Shores, FL 32963  
(Held in the Community Center)

REGULAR TOWN COUNCIL MEETING  
Thursday, February 23, 2012  
3:30 p.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      Liz Mahon, Bldg. Dept.  
Nick Schauman, PSD Captain      Lyndsay Bryant, Bldg. Dept.  
Mark Kubilus, PSD Officer      Darlene Wiltzius, Bookkeeper  
Chuck Justice, PSD Officer      Ed Morris, Public Works

**OTHERS PRESENT:** Residents Bill Beardslee      Christian Hendricks      Bill Ahrens  
Jack Mitchell      Cay Wiegner      Barbara Palumbo  
& His Daughter      Bill & France Kenyon      David Becker  
Allen Ludlum      Barbara & David McKenna  
Bob Bowman      Helen (Lollie) Stone      Joan Cadden  
Brian Kroh      Barbara Tilney      Doris Brandy  
Jim Moller      Tom Slater      Milt Benjamin

Reporters Press Journal, VB 32963 and VB Weekly News

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 and Invocation recited. The Town Clerk called the roll and noted the attendees as reflected above.

2. **Consent Agenda**

- a. Acceptance of Planning, Zoning & Variance Board Minutes dated January 9, 2012
- b. Approval of Special Call Utility Workshop Minutes dated January 23, 2012
- c. Approval of Regular Town Council Meeting Minutes dated January 26, 2012

Mayor Cadden asked for comments or changes, and hearing none, Councilmember Atchison made a **motion to approve the consent agenda as presented**. Vice Mayor Weick seconded the motion, which **passed 5-0**.

3. **Proclamation Presentation (Mayor)**

Much to Colonel Jack Mitchell's (USAF, Retired) surprise, Mayor Cadden announced that our next item was a Proclamation honoring him for his lengthy involvement with the Town of Indian River Shores. The Mayor read it in its entirety, which was presented in a framed format, and announced that the portion of Fred R. Tuerk Road, beginning at the sharp curve heading North-bound into John' Island, has been renamed as "Colonel Jack Mitchell Way." Many friends, former elected officials, coworkers and fellow PZV Board members joined his daughter and staff in a hearty applause and cheers of

*Please Note: The Town of Indian River Shores does not routinely keep verbatim minutes. Any party interested in 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.*

congratulations. Mr. Mitchell joked “I didn’t know I was looking that bad!” He then thanked the Mayor and Council, former Council and all of the residents of Indian River Shores for making this such a wonderful town, and thanked everyone for being there to honor him. Mayor Cadden asked Mr. Mitchell to accompany staff to hang the sign immediately, which was followed by a standing ovation. Mr. Mitchell thanked Lollie (Ecclestone) Stone and her family for making this Town possible. Mayor Cadden thanked many who departed at that time for coming, and the Town Clerk said there would be light refreshments following the meeting.

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

a. Draft Minutes from February 13, 2012

Chairman Beardslee mentioned that he has had the pleasure to serve with Jack Mitchell for seven (7) years on the PZV Board, and he is always looking out for the Town.

At the February meeting they reviewed the Florida Friendly fertilizer ordinance. It is mandated for watersheds such as the Indian River Lagoon in Florida Statute 403.9337(2). Its goal is to regulate phosphorus and nitrates from entering the lagoon, and establishes Best Management Practices (BMPs) with requirements for training and permitting by professionals who apply fertilizers. They must be licensed, as would one person from an institution (such as a golf club). Individuals who maintain their own lawn also must understand and follow the rules. There is a requirement to monitor and enforce the ordinance by the Town. The PZV determined these issues for the Council to consider:

1. The Town has to adopt this or a more severe ordinance **by December 31, 2013**. The County agricultural agent will assume the training and licensing function for those who are required, possibly at no cost. A 6-hour class, test and license appear to be required annually.
2. Greg Pheneger, JI Golf Club Manager, suggested two DEP publications to follow for BMPs.
3. For public notification, someone in the Town will have the responsibility for this, and must be able to explain it to residents. That person or persons may also benefit by being licensed and familiar with the process.
4. For enforcement, Mr. Clem has included some penalties in our Ordinance which are mild compared to those in St. Lucie County, which approached \$300-\$500. We would have a Code Enforcement issue with warnings issued first.
5. A means to determine who the violators are, whether Code Enforcement or self-policing, was mentioned.

The one change the PZV recommended was implementing a 3’ mandatory setback in addition to the 10’ voluntary fertilizer setback zone in section 101.06, Low Maintenance Zone. The littoral zone, where plants at the water’s edge assist in keeping the lagoon clean by filtering phosphorus and nitrogen, is currently required at small lakes in developments. This ordinance does not have to be adopted today, but he encouraged the Council to consider it as it is.

Councilmember Atchison asked if the screening on 3’ setbacks applies to the lagoon only or everywhere, and Mr. Beardslee said it applies to any water body that has the potential to get to the lagoon. A spreader with a deflector acts as a screening mechanism.

Councilman Haverland and Mr. Beardslee discussed the enforceability, with having the residents made aware of the rules and the chance for self-policing, especially since the landscapers don’t want their business to decline. Councilman Ochsner said we do have ordinances on the books that are self-policing, and this is just another one that does not require proactive PSD involvement, but response to reported concerns.

Councilmember Atchison asked if the Agriculture Department will issue permits, and Mr. Beardslee said they would provide uniformly appearing permits in the County. Mr. Clem clarified that the license could be reissued, it may not be necessary to take the course annually, and the \$35 fee for the license is paid by the applicator. Vice Mayor Weick asked if this was the same as the ordinance passed by the City of Vero Beach, and he was told that it was.

5. Mayor's Items

a. Water Utility Discussion

Mayor Cadden announced that at the special meeting held Monday, February 20 the Council voted 4-1 to continue negotiations with the City. Chester is doing an analysis now, and then it goes to Richard. Councilman Haverland, Mayor Cadden and Vice Mayor Weick were all interested in being on the negotiating committee. Councilman Haverland was not convinced that there was a consensus yet. Councilman Ochsner suggested getting the rest of the contract squared away before choosing Plan A or Plan B. Mr. Clem said many provisions in the contract look perfectly fine as they are, but the rates are not clear. He thought they were looking at the County rates to start with, but there has not been a vote yet. Some key issues, including the term and opening conditions, are not resolved. Councilman Ochsner said he thinks the facilities and infrastructure should be clarified, and Chester agreed. Councilman Haverland thought it was more important to get the right plan, and has done graphs on the total population. Mayor Cadden said he already has a spreadsheet that has total population, meter by meter, which he has from four or five months ago to see three user groups, large, small and condo users. Mr. Jefferson was asked to provide an updated sheet for Councilman Haverland, who asked if he could take the new one and apply the City rates versus the County rates. Vice Mayor Weick said they have to do something by March 30.

6. Town Attorney

a. Draft Ordinance Number 508 Regarding Fertilizing Near the Water

The Mayor and Mr. Clem discussed having a first reading or tabling the ordinance, and getting it on the books early enough to notify the landscape contractors so they had enough time to get the license and permits. Councilman Haverland and the Mayor agreed it should be put on the Town website, and then brought back to the agenda in a month or two. The Town Clerk was directed to put it on the website.

7. Town Manager

a. Finance Committee Applicants

Councilman Ochsner said he had spoken with both applicants, and Mr. Jones had to withdraw his application due to family matters. Mr. Slater is here, and he has attended quite a few Council meetings lately. Councilman Ochsner **made a motion to appoint Tom Slater to the Finance Committee**, which was seconded by Councilmember Atchison, **passing unanimously**.

8. Call to Council

a. Council Items

1. Scheduling Workshops and Council Meetings (Haverland)

Councilman Haverland said that the Special Called Water Meeting was a very important meeting, and as a process point, all the members of the council should have been polled to confirm availability prior to setting it. We have changed meeting dates at Council meetings before, and it should be the usual method.

He also said that as a related issue, he read in the newspaper that the Town Manager had initiated discussion with Sea Oaks and Island Club regarding annexation. While not suggesting it was a good or bad idea, it should be discussed by Council before it happens. Mr. Jefferson said the Town had no idea whether they are interested, and just asked the question. They discussed it as a possible waste of time if the Council or the neighborhoods were not interested. Councilman Ochsner commended Mr. Jefferson for taking the initiative, which was also the thought of Councilman Haverland. The Mayor agreed with Councilman Haverland that it should have come before the Council first.

Finally, Councilman Haverland said that two people complained to him about cell telephone service, asking for help by installing a cell tower. Mayor Cadden said they have considered it once in great detail, and turned it down.

b. Committee Reports

**Coastal Structures Subcommittee Meeting.** Councilman Ochsner reported they did not meet because the RFQ is in process regarding beach modeling.

**Beach & Shores Committee.** Councilman Ochsner said at the meeting last Monday, it was reported that the Sebastian Inlet Taxing District is pumping sand in Sectors 1 and 2 as part of their normal process. Sector 2B restoration is in hiatus because they ran out of sand, even with a year to get ready. It will be done by the end of March. The Councilman attended the National Conference on Beach Preservation Technology in Stuart, and it is interesting what is going on with modeling. There was a wide range of theoretical presenters, with the conclusion that modeling is of some benefit, but it doesn't always provide the answer. Dumping sand is still the cheapest and best process.

**TCRLC (Treasure Coast Regional League of Cities).** There was no meeting.

**MPO.** This meeting was cancelled last month.

**TCCLG (Treasure Coast Council of Local Governments).** Councilman Haverland said they had a special presentation on dealing with homes that have mortgages that are underwater, and discussed the government programs which have attempted to be helpful.

**EDC (Economic Development Council).** The EDC did not meet.

**TCRPC (Treasure Coast Regional Planning Council).** This group did not meet.

**Budget Overruns.** Councilman Haverland addressed budget overruns, which have been made for five of the last six years. He said by law, we can't have an unbalanced budget, so at the end of the year we make an adjustment. When this was discussed in November, the Treasurer agreed that she would provide monthly financial statements to help us understand if we are starting to get over budget. What we received has nothing to do with monthly budget, just annual budget, because our revenue is incredibly and predictably seasonal and our expenses are not. It gives no insight as to whether we are running above or behind budget. He asked the Town Manager if we could reconstruct the budget by month so we can tell in a meaningful fashion how we are following it. Mr. Jefferson said he will see that the changes are made.

#### 9. Call to Audience

Former Mayor Barbara Holmen-McKenna addressed the annexation discussion by stating that years ago, the Town looked at one group that wanted to come in, and the developer could not come up to our setback standards. Mayor Cadden added that the homeowners association of Island Club came to us after the developer left and told the Town they want to be in it. He and the Town Manager looked at the development, and said they would put it on the agenda. With a unanimous group, the Council could vote and they could be annexed. Without a unanimous vote, it would have to be a referendum. Days after the discussion and before the planned Council meeting, the newspaper headlines were that the Town of Indian River Shores was being SUED for \$95 million in association with the Lost Tree Islands lawsuit. A phone call requesting that they be removed from the agenda quickly followed, and there has not been another word since. It was about eight years ago, and it is a long way from being a done deal, the Mayor concluded.

Vice Mayor Weick asked about the water utility meeting, and the Mayor suggested that each councilmember sit with Richard and delineate the concerns. There needs to be a basic agreement on the big issues, clean up the small issues, get the City to agree on it, then the Council agree on it.

#### 10. Adjournment

The Mayor thanked everyone for coming and adjourned the meeting at 4:19 p.m.

Respectfully submitted,

/s \_\_\_\_\_  
Laura Aldrich, Town Clerk

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