

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

REGULAR TOWN COUNCIL MEETING

Thursday, February 24, 2011

3:30 p.m.

PRESENT: E. William Kenyon, Mayor
William H. Ahrens Vice Mayor
Frances F. Atchison, Councilmember
Michael B. Ochsner, Councilman
Gerard A. Weick, Councilman

STAFF PRESENT: Richard Jefferson, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney
Judith Lewis, Town Treasurer
Bill Schauman, PSD Director
Robert Stabe, PSD Captain

OTHERS PRESENT: Bill Beardslee, PZV Chairman
Council-Elect Tom Cadden & Dick Haverland
Indian River County Commissioner Flescher
4 Residents
Mayor Kramer, City of Vero Beach
Indian River County Attorney Polackwich
& Utilities Director Erik Olson
Jim Moller, John's Island
Reporters VB 32963 and Press Journal

1. **Call to Order**

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

Mayor Kenyon called the meeting to order at 3:30 p.m., with the Pledge and Invocation given and the Town Clerk calling the roll for the Council as reflected above.

2. **Consent Agenda**

- a. Acceptance of January 10, 2011 Planning, Zoning & Variance Minutes
- b. Approval of January 27, 2011 Regular Town Council Meeting Minutes

A motion by Councilman Ochsner, supported by Councilmember Atchison, to approve the consent agenda as presented was unanimously approved.

3. **Mayor's Items**

- a. Elections

Mayor Kenyon said he has had several people ask why there are not elections in our Town, and after giving it some thought, he concluded that there should have more publicity prior to the

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.

qualifying period. It is also good to make the residents aware of who is running for the office and why, so when they are voted in, the residents know what they have.

b. Auditor Presentation (Berman, Hopkins Wright & LaHam, CPA's and Associates)

Ross Whitley, partner with Berman Hopkins Wright and LaHam, said that the Auditors Report is for the period ending September 30, 2010. It is a governmental financial statement, with two sets of numbers included to represent the full and modified accrual basis of accounting. Municipalities use the modified accrual to reflect cost for a period of budgeting, and the full accrual accounts for long term assets and long term liabilities. The full accrual method records capitalized and depreciated costs over its lifespan.

New this year is the implementation of GASB 45, which references non-pension related post-employment benefits. Mr. Whitley's opinion statement, the Independent Auditors' Report, is on page 1 and 2. Pages 3 -11 summarize the Town's financial statements using words rather than numbers, and explains what was accomplished. Staff prepares this and the auditors make sure that the numbers agree. It is referred to as the Management's Discussion and Analysis, or MD&A. It's a great tool for quick reference, Mr. Whitley added.

The first Financial Statement is on Page 12, Net Assets, showing \$8.7 million in total assets, \$751,818 in total liabilities, and just over \$8.4 in net assets including \$4.2 million of capital assets. There are \$600,000 in funds restricted to road construction and maintenance expense and close to \$400,000 restricted for Building Department use. On page 13, Mr. Whitley discussed the Statement of Activities, with a negative change in net assets of \$372,535. The Balance Sheet on page 14 is shown in the full accrual basis, with the General Fund showing just under \$4 million in assets, and the other major fund, Road and Bridge, showing \$619,000. Page 15 shows the reconciliation of the fund balances on a full accrual basis, \$4.2 million in fixed assets, future compensated absences and the GASB 45 requirement for post-employment benefits of \$192,000. Councilman Weick asked about the depreciation schedule, which Mr. Whitley explained referencing page 24, usually using 5-7 years for equipment, 40 years for buildings, 3-5 years for cars, and 10-15 years for fire trucks. To the question that we use the same system every year, Mr. Whitley explained that the GASB 34 was initiated about four years ago, which required governments to start depreciating fixed assets, and the Town had to provide catch-up amounts. Councilman Weick and Mr. Whitley discussed this briefly.

Continuing on the Revenues versus Expenses in each of the fund balances on page 16, Mr. Whitley briefly mentioned the highlights of the General Fund and Road and Bridge Fund, and another reconciliation page on a modified accrual basis on page 17.

Financial Statement Notes begin on page 20, and Mr. Whitley skipped to page 28 to touch on the capital asset depreciation expense detail by different categories. On page 35 he explained that the note relating to the GASB 45 requirement to recognize Other Post Employment Benefits (OPEB) expense on a current basis is a benefit earned as they work. The liability has to be recognized, but not funded. Florida requires all governments to offer health insurance to all retirees at the same rate as current employees receive. Councilman Ochsner asked if vesting recognition begins at employment or after 7 years, and Mr. Whitley said it is based on the actuary. Council-elect Dick Haverland asked if the \$192,000 on page 37 would be a recognized liability if it were a business, and Mr. Whitley said it is based on what is vested. Mr. Haverland asked if the \$1.8 million in Actuarial Accrued Liability would be recognized as a liability, and Mr. Whitley said it would not. They discussed this further, with Mr. Whitley agreeing to write a paragraph explaining it in more detail. Mr. Haverland referred them back to page 26 regarding how the Defined Benefit funds are invested, which are predicting a 7.75% investment return, calling it incredible and almost irresponsible. Town Treasurer Judy Lewis said that there were discussions years ago about it being too aggressive of a rate, and it was established when markets were higher. We have been lowering the rate slowly at the Pension Administrator's advice. Mr. Whitley said the last actuarial report was two years ago, and Mrs. Lewis said that the Pension Board decides when to bring the rates down

again. Mr. Haverland said that 85% of the companies have a Defined Contribution Plan rather than Defined Benefit Plan now, if you go to any major company in private sector, you will find portfolios with 90% invested with anticipated returns of 6 or 7%. This statement appears to be incredibly wrong. Mayor Kenyon said the Town had been in the hands of another company who had the rate of return expectations set very high (Principal), and the FLC has been reducing it but not all at once. We agree with you, he added, and they discussed it further, with Mrs. Lewis saying that last year the Pension Plan did perform at approximately 9%. Mr. Haverland believed we have a grossly under-funded pension plan. Either the taxes have to go higher or the expenses have to be lowered. Councilman Weick said we have to reach a balance, and the plan has been performing at about 7½ % return. We are trying to average out over a period of time. Mr. Whitley said that the investment term you are looking at is not one or two years, we must take long term approach.

Continuing on page 40, another new pronouncement will be addressed next year, GASB 54, which is similar to non-profit reporting requirements. Page 42 is the budget to actual statements, which shows the Town received \$5,300 less revenue than projected for the year, and the Town expended \$278,000 less than final budget, leaving a positive variance of \$273,022 for the year. The Road and Bridge received more revenue than anticipated, with a net positive variance \$87,000. As discussed earlier, the figures on page 44 show the progress in funding the OPEB and Defined Benefit retirement plan.

Individual fund details continue through page 58, and on page 62 the findings for the compliance audit begin, where grants, internal controls, laws & regulations, contracts and certain ordinances are reviewed. Mr. Whitley reported that there were no findings raised to this level.

The Management Letter on page 64 reviews comments from prior years, of which four were corrected and one was repeated regarding the personnel manual, which is in the process of being revised. On page 69, one finding concerning a gas tank reconciliation process was noted, which is not about finding something wrong, just a suggested improvement of documentation for oversight of fuel usage. Finally, the last page is the Town's response to the findings.

Mayor Kenyon thanked Mr. Whitley for his usual fine job in reviewing the audit. Following no questions, a **motion was made to accept the Audit** by Councilman Ochsner, supported by Councilman Weick. **It passed unanimously.**

4. **Planning, Zoning and Variance Board Report**

Bill Beardslee, Planning and Zoning, said there was no meeting in February. Mayor Kenyon asked about the fence on the beach that people have been calling about. Mr. Beardslee gave the historical account that the fence had been approved by the PZ&V Board as well as the Town Council, and the owner had also presented a permit from DEP for the fence in question. It is one of the reasons that the Ordinance 502 was presented to the Council and passed recently. It is a 200' long wooden fence that the neighbors do not like. It did seem to meet all of the Town requirements and those from the State of Florida. There is no room to add plantings to soften the fence, which was approved while the Ordinance was in process, with no requirements for installation (e.g., poles being set in cement). Mr. Clem said there is a "pending ordinance" rule that grandfathers the item in. The installation was permitted and approved as being able to go forward, with the application being made prior to the Ordinance being put before the Council. Mayor Kenyon commended Mr. Beardslee for doing a good job as Chairman of this Board.

5. **Town Attorney**

Mr. Clem said that item b. below had been removed at the request of the applicant, as there will be a delayed closing on the purchase of Bee Gum Point based on an easement issue being resolved. It may be placed back on the agenda later. There were also restrictions placed on the purchase that caused an objection for financing by the lender. He asked the Council to let him know of any questions they wanted to be answered and he would provide them to the closing attorney.

a. Water / Sewer Franchises

Mr. Clem continued that the previous meeting this afternoon allowed for the Water/Sewer franchise discussion, and now they just needed to set a date to meet as a new Council. He would be out of the state from March 8 – 10, and the consensus was to follow the Town Manager’s recommendation for Thursday, March 17. Councilman Ochsner asked if we were inviting the City or County, and the Town Manager said although they are welcome to attend, it is intended to discuss changes in the proposal from the City of Vero Beach. Mr. Clem said it would be wise to ask the other reuse water users to come, such as John’s Island and Bermuda Bay. Mr. Jefferson said we will invite them to attend. They set the time for the March 17 meeting at 8 a.m.

~~b. Easement Related to Bee Gum Point (see above)~~

6. **Town Manager**

a. Replacement ATV for Public Safety (Chief Schauman)

Mr. Jefferson asked Chief Schauman to address the Council, and he said that the ATV is used for turtle surveys as mandated, and in October the one that we had completely rusted through and was dangerous to operate. With the turtle season beginning in April, it is important to purchase another one. Councilmember Atchison asked if this was not rusting in September, and Chief Schauman said it is unpredictable as the ATVs last from two to four years. The good news is that the turtle program is now being run by the County, which saves the Town about \$15,500 every year. Councilman Ochsner added that he has calculated that it costs us \$10 a day to have a Public Safety presence on the beach, which has resulted in beach problems with exhibitionists and other crime drop to zero.

Councilmember Atchison said she had a problem with this not being in the budget, as the PSD just got four new cars (which were budgeted), and the Town Manager got a new truck (which was not). The point was made by Councilman Weick that they are funded differently, not by the General Fund. **A motion to purchase a new ATV for the Public Safety Department was made by Councilman Ochsner, supported by Councilman Weick, passing 4-1.** The dissenting vote was cast by Councilmember Atchison.

b. Committee Appointment: Bicycle Pedestrian Advisory Committee
(George Sharpe - Primary, Barbara Tilney – Alternate)

A motion to appoint George Sharpe as the Primary representative for the Indian River County Bicycle Pedestrian Advisory Committee, with Barbara Tilney as the Alternate, was made by Councilman Weick and supported by Councilmember Atchison, which passed unanimously.

7. **Call to Council**

a. Committee Reports

Beach & Shores. Councilman Ochsner reported that the Committee appointed Bob Anderson as the new Chairman, and Bill Glenn as the Vice Chairman. An update for the replenishment for beach renourishment activity for Sector 3 is not in process as planned, and the next phase would require \$6 million in cost sharing from the State that is not going to happen, as we're ranked 29th in the state. There are no state cost-sharing funds coming in for beach replenishment this year. Sector 3 Phase II from last year was supposed to start Monday, and Ranger Construction does not believe they will be able to complete the project before turtle season begins due to lack of sand. Ranger said they can place about 200,000 CY rather than the 280,000 CY, and seemed to be angling for more funds although they have already been advanced some of the funds. Commissioner Flescher said when Ranger moved forward and got their funding, they said there would be no more change orders. Then they hit a negative vein that caused a delay, which is their problem. Mayor Kenyon said the County needs to stand behind their agreements and force the contractor to perform.

FEMA. Councilmember Atchison, with her other job as a Realtor, attended a County meeting regarding FEMA and the County's cooperation regarding flood plain maps, which are going to be

digitized with all aerial photos. It affects some houses in the Town of Indian River Shores, and some have been removed from the flood plain. Mr. Jefferson said the maps are not finalized, and there may be a reduction in insurance for some residents.

MPO. Councilmember Atchison reported that there are 15 pages of acronyms in the training packet, and another new one (USEA) was added due to the 2010 census. The Governor is leading the charge to have the MPO enlarged to consist of several counties, as many as four, which will take away some of the Federal funding.

TCRLC. No meeting this month.

Florida League of Cities. Councilmember Atchison reported that the Legislature will review a proposed amendment to take the 10% assessment cap on homesteaded properties to 3%, as well as something regarding pension reform. The CCNA legislation that we supported with a Resolution was passed.

AHAC. Vice Mayor Ahrens reported that he had no meeting this month.

EDC. Councilman Weick also reported that his meeting was cancelled.

Even though this is the end of his term, the Mayor said he is attending a walk through at the New Horizons on March 3 with Ellie McCabe. He will find out as much as he can and try to get material for Richard to pass on to the Council.

b) **Other Matters**

Vice Mayor Ahrens said that he is concluding eight years of serving as a Council member, and has had the pleasure of serving on Beach & Shore Preservation for seven years, the Treasure Coast Regional Planning Council for seven years, Parks & Recreation for four years, Affordable Housing, and a few other committees, all of which he enjoyed very much. It has been a great pleasure to have been of service to this Town.

Mayor Kenyon continued that, like Bill Ahrens, he is at the end of eight years, which has been a very interesting experience. He said he thoroughly enjoyed it, although it didn't turn out like he thought it would be. There was a lifestyle and way of thinking change, an intentional plug into the way government works. He was accustomed to making the rules, and now had to compromise with four other people. Mayor Kenyon continued that he is extraordinarily proud of the employees of this Town. He commended the Town Treasurer, Judy Lewis, for what she does "dutifully knocking out those numbers" as sort of an unsung hero working behind the scenes. He appreciates that and always had a lot of confidence in her. He couldn't be more proud of Public Safety and Bill Schauman, adding that we have an extraordinary small amount of criminality. He said that the PSD is an obvious presence, and people are not as bad as they might be. The Mayor stated he is very impressed with the morale of the PSD staff, and how they work together with other departments in the City. He continued that (having) Richard Jefferson (as Town Manager) was like finding a piece of gold in the sand when you walk on the beach. He recalled the effort by Mr. Jefferson when there was a problem in funding the Town Christmas party, and was impressed that he put forth effort to pull one together. And when Robert Bradshaw decided to take leave of our Town, Richard Jefferson with his 12 certifications in the State came to mind, adding he is delighted to have brought him on board. Mayor Kenyon continued by recognizing the Town Clerk, Laura Aldrich, noting that she put up with a lot, adding that the Council always gets what they need before he thanked her. It has been a genuine delight, and the citizens have benefited a lot by this. The Mayor said he is convinced that this is the best little Town in the State by a long shot, and contrary to the concern with the finances, we are probably in the best financial shape. So much is done by volunteers in Public Safety and in our Town. It's just a delight, he concluded, and thanked the Town for having him.

Mr. Jefferson asked Mr. Ahrens to meet him before the dais, and presented him with a plaque of

appreciation while photos were being taken. Vice Mayor Ahrens said he echoes the sentiments of the Mayor, the staff is comprised of marvelous people. Chief Schauman came forward and gave the Vice Mayor a customized fireman's helmet, and said he is now an official volunteer of the Public Safety Department.

Mr. Jefferson then called Mayor Kenyon to the front as the Vice Mayor took his seat, and presented a plaque to him, which the Mayor said he would treasure. Chief Schauman then presented the Mayor with a customized fireman's helmet, welcoming him as a volunteer fireman also. Chief Schauman said that he appreciated the Mayor's care and concern for all of the employees of the Town.

8. **Call to Audience**

Mr. Jack Mitchell, 220 Sandpiper Point, responded to the opening comments about having an election. It is hard to get people to commit to giving their time and efforts in service to our Town. He said he has spent 30 years trying to get someone to consider running for office in the Town. Mr. Mitchell thanked Councilmember Frannie Atchison, who has been successful in getting younger people to be concerned with our Town, such as Mr. Haverland, adding that there is much more interest now by people he has come across. He recognized Bill Kenyon and Bill Ahrens for their service. Quite often, Mr. Mitchell continued, he has a person who is possibly interested in running for Council, until he tells them there is no monetary compensation. He concluded by stating that the Town owes Mr. Kenyon and Mr. Ahrens a debt of gratitude for what they have done in giving this dedicated service.

9. **Adjournment**

There being no further comments, Mayor Kenyon adjourned the meeting at 4:55 p.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the 3/24/11 meeting)