



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

REGULAR TOWN COUNCIL MEETING

Thursday, May 23, 2013

9:00 a.m.

PRESENT: Brian M. Barefoot, Mayor
Gerard A. Weick, Vice Mayor
Richard M. Haverland, Councilman
Thomas F. Slater, Councilman

ABSENT: Thomas W. Cadden, Councilman (Excused)

STAFF PRESENT: Robert Stabe, Town Manager
Chester Clem, Town Attorney
Mike Jacobs, PSD Lieutenant
Tim Dempsey, Det. Sergeant, PSD
Jose Guanch, Building Official
Darlene Wiltzius & Heather Christmas, Finance Department
Elizabeth Mahon & Lyndsay Bryant, Building Department

OTHERS PRESENT: Charleston Estates Representatives (5)
Bill Beardslee, Chris Hendricks & Barbara Bunney, PZV Board
Retiree Virginia Gilbert
John Porta, Finance Committee Member
Residents Frannie Atchison, Patricia Gundy, John Brady
Janet Begley (Press Journal)

Laura Aldrich, Town Clerk
Lt. Mike Jacobs, Public Safety
Charlene Hall, PSD Admin.

1. **Call to Order**

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

Mayor Barefoot called the meeting to order at 9:00 a.m. with the Pledge of Allegiance and Invocation, followed by the roll call by the Town Clerk as reflected above.

2. **Proclamations / Presentations**

The Mayor first wished Councilman Tom Cadden a speedy recovery from his surgery. The agenda was reordered to allow for **item 4.e. to be discussed first.**

4. e. Charleston Estates Subdivision Preliminary Plat Approval (PZV Chairman Beardslee)
(Wetlands, Site Plan, and Boat Dock for Separate Approval)

Mr. Beardslee said they had their regular PZV Board meeting on May 13, and the only item on the agenda was this subdivision plat. The preliminary site plan was reviewed, and it is the last open tract of land we have, which is zoned R2A multi and R1A single family. It includes 34 acres and a 3+ acre island in the river. Its bordering neighbors are Palm Island to the South, Ocean Pearl and Indian Trails on the North, A1A to the East, and on the West are Jungle Trail and the Indian River. He mentioned those present being Joe Schulke representing the developer, Christopher Marine and Chris Stoddard of Gould Cooksey for legal advice, and John Miklos of BioTech Consulting. There are about 14 layers of government that the developer must get approval from before the project is permitted by the Town.

There are three separate items being considered today: Filling in and mitigating wetlands, using large lots 1 1/3 – 2 2/3 acres, and having a marina, with a gate and walkway. The Town Council determines how the developers proceed.

1) Wetlands. Mr. Beardslee said 167.01 of LDC describes how the Town is to protect our pristine wetlands. The developer is requesting to fill in 2.758 acres of wetlands, which has been studied at our request by BioTech

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.

Consultants, Inc. Their conclusion is that the wetlands are marginal, having been damaged over the years by mosquito culverts, insufficient flushing from the estuary, and excessive fresh water from an approved community drainage system. They recommended that the developer be allowed to fill this land in, which was also approved when Providence requested this during their planned development several years ago. They propose that the developer mitigate by purchasing 1.57 units at a St. John's Water Management Mitigation Bank called Bear Point. Additional permits are required by the DEP and the SJRWMD before proceeding.

Vice Mayor Weick asked where the mitigation area is, and was told it is in St. Lucie County just across the county line. We have no available approved mitigation sites in Indian River County. St. Johns River Water Management District will be the governing authority on mitigation, Mr. Beardslee added. The PZV approved the filling of wetlands with one stipulation: that the applicant provide drainage calculations to determine that there will not be any adverse impact from the filling on the abutting subdivision. This will be added to the St. John's Water Management District Application.

A motion to approve the wetland mitigation as recommended by the PZV Board was made by Vice Mayor Weick, seconded by Councilman Slater, which **passed 4-0**.

2) Mr. Beardslee continued that Town Engineer Bo Reardon began an analysis the first of December when we received the plans. He identified 27 concerns that required clarification to ensure compliance with our Land Development Code (LDC) regarding the site plan regulations (Section 168-04). The plans now in our possession meet all requirements with just a few issues remaining: ADA parking space at the marina, sidewalks in the subdivision, detail on grading from finished floor to lot grade elevation, the tie-in to sewer planned for Indian Trails subdivision, and the 100-year flood event discussion. The Board is now looking at the second set of plans, and their advisors feel it they are in accordance with Florida law and our LDC. The PZV Board evaluated the site plan and received clarifications. All of Tetratex's issues have now been resolved. With Charleston Estate's base elevation more than 2' higher than the abutting communities of Ocean Pearl and Indian Trails, much time and discussion was involved. Section 167.09 of the LDC requires that all drainage is handled on site in accordance with state and local law. A revised swale system with a protective berm around the development's perimeter ensures the drainage works even though lots are not filled. Also all mangrove trimming must be done in accordance with state regulations.

Mr. Haverland asked about drainage to the sewer, and Joe Schulke responded that all lots are designed to grade to swales, and inlets to lakes, which outfalls eventually over a structure to a pipe. Then the south pipeline crosses Jungle Trail. Vice Mayor Weick asked how deep the lakes will be, and Mr. Schulke said no deeper than 12' and no shallower than 8'. He also asked what type of road material they would be using, and Mr. Schulke said the developer will go with asphalt with shallow swales to either side of the pavement.

A motion to approve the site plan with all permits and these qualifications, made by Councilman Slater and supported by Vice Mayor Weick, **passed 4-0**.

3) The developer requested a 26-slip marina with two day slips on the island. The boat docks use a submerged land lease from the State, which is controlled by the State (they control the river bottom). Several authorities are involved in approving the marina, including the Florida Fish & Wildlife Conservation, the Department of Environmental Protection (DEP), the Army Corps of Engineers, etc. The County's Manatee Protection Plan has this location designated as being in Zone 4, which is one of the top manatee killing zones in the State. It is problematic for marinas as they are permitted one powerboat slip per 100' of river frontage. This is theoretically adequate for up to 6 power boats. The island purchase was added to the existing frontage and now could include 28 boat slips. This is not under the Town's jurisdiction. Our LDC Section 161.07.B5e is relevant to this discussion regarding the Jungle Trail Narrows. The PZV recommendation to table this request until the permits have been resolved.

Councilman Haverland asked if the number of slips were excessive with only 17 lots. Mr. Beardslee said the developer also has a piece of land across A1A which may have an additional 21 units; it has not been discussed. Vice Mayor Weick said there would be a restriction that the marina would be for homeowner use only, not commercial use. The Vice Mayor was also concerned that the island is not in our Town. By tabling it they allow the developer to proceed, on the advice of counsel. The recommendation is that the Town Council table the request for the boat docks. Councilman Slater asked if the docks or marina is essential for the development to go forward. Attorney Chris Marine said they do believe it is, as they are trying to intermingle conservation with development by placing a permanent conservation easement on the island, removing exotic plants and revegetating the Jungle Trail area with non-invasive varieties, coupling conservation and owners for day use of the marina for picnicking and kayaking. All of this is solely for the residents. The use of the oceanside parcel has not been determined by the developer yet. There is no reason to have excess boat slips unless they were dedicated to

Marine Patrol or a public agency. Vice Mayor Weick asked how many acres are on the oceanside property, and was told it is 4.5, zoned multifamily up to 6 per acre. This is the north half of the Corrigan property, Palm Island Plantation has the balance on the southern portion. Vice Mayor Weick **made a motion to follow the Planning, Zoning & Variance Board recommendation to table the request**, which was seconded by Councilman Haverland, and **passed 4-0**.

Mayor Barefoot congratulated this Board for the amount of time and effort spent on this project. Mr. Beardslee said they think it is a quality development, and are very impressed with the reduction in requested units on the river side by 70%. Vice Mayor Weick said it is definitely an asset for this community.

Continuing with Item 2, Town Manager Stabe said there is a **Proclamation** that was brought before them referencing **May as being Civility Month**. It has been adopted in the past, and the Local Government Law Section of the Florida Bar asked for the Town to consider adopting it again this year. A **motion to approve the Civility Proclamation** was made by Vice Mayor Weick and supported by Councilman Slater, **passing 4-0**.

Second, a Proclamation recognizing National Police Week May 12-18 was mentioned, as Chief Stabe and some of his staff had participated in the Law Enforcement Memorial Day on May 13th. He was honored to have announced the names at Indian River County's ceremony of the 12 law enforcement officers who died in Florida in 2012.

3. Consent Agenda

- a. Acceptance of Planning Zoning & Variance Minutes dated April 8, 2013
- b. Approval of Retiree Benefits and Organizational Structure Minutes dated April 10, 2013
- c. Approval of Regular Town Council Meeting Minutes dated April 25, 2013
- d. Approval of Special Call Town Council – Sale of Vehicle Minutes dated May 8, 2013

Councilman Haverland said that at the April 10 meeting, on page 3, item 3, the third paragraph on actuarial requirement was recommended to be clarified that the rulings require unfunded liability are reported each year, and gets amended every three years. Mrs. Aldrich agreed to change it in the minutes to make it clearer. Councilman Slater added, if it is a requirement for every three years, may be it would be better to do it more frequently. It is paid for, Mayor Barefoot added, by the fund, and the Town Council could order them more frequently but would have to pay for it. Ms. Christmas said it should be done every two years. Town Manager Stabe said they are currently ordering one because of the change in Fund Management and because of the changes with retirees, to have it as accurate as possible, as recently as possible. Mayor Barefoot asked if it might be better to recommend that it be done September 30 this year. Mr. Stabe said rather than going to September 30, 2012, it is the intention to have it as current as possible (maybe March 2013). Everyone seemed happy to hear this. A **motion to approve the consent agenda with the changes to April 10 minutes as recommended by Councilman Haverland** was made by Councilman Slater, seconded by Vice Mayor Weick, which **passed 4-0**.

4. Discussion with Possible Action

- a. Committee Appointee – Code Enforcement Board (Town Manager)

Mr. Stabe received the Council's approval to postpone action on this item until next month.

- b. Finance Committee Alternates Paul Johnson & Jerry Solin (Town Manager)

Paul Johnson and Jerry Solin have submitted applications for the Finance Committee as alternates. Councilman Haverland asked if they were able to vote if sitting in place of a regular member, which was affirmed. He suggested that the alternates be designated as Alternate 1 and Alternate 2. Seniority could be determined by application date, Mayor Barefoot suggested, with Mr. Johnson as the senior alternate. A **motion to approve the appointment of Paul Johnson as Alternate 1 and Jerry Solin as Alternate 2 to the Finance Committee** was made by Vice Mayor Weick, with support from Mayor Barefoot, which **passed 4-0**.

- c. Replacing Circular Driveway at Town Hall (Town Manager)

Town Manager Stabe asked the Council to postpone action on this as well, as he is in the process of obtaining bids. He has found that there are a lot of options available for this large project, including the concern on the part of the Council with parking inadequacies. Vice Mayor Weick offered to work with Mr. Stabe on it, and the removal of the tree with the uplifting roots that has been approved by Tree Protection Officer Gary Doyle. Mayor Barefoot asked Mr. Stabe to consider the cost versus benefit process, which he said he would, and will narrow it down to two or three options.

- d. Goals and Objectives for Town Manager (Mayor)

Mayor Barefoot said that as was requested, he and Mr. Stabe had drafted a set of Goals and Objectives to use as a basis when evaluating the Town Manager. Councilman Haverland had several concerns, stating they are very general, not measurable, and don't deal with what he perceived to be the major functions expected by our government. If they all were met perfectly, and our EMS departed on average after 10 minutes rather than 4 minutes, it would indicate poor performance. This may be the most important service offered by our Town, and any evaluation has to take into account the timeliness and quality of that service. Second is rapid arrival of other agencies, and third is the budget. These are really important to the Town, he said, and provided a simple format for the performance review.

Mayor Barefoot said the objective was standards that are measurable and agreeable. Councilman Haverland and the Mayor discussed objective versus subjective results, and what can and should be measured. Mayor Barefoot said this was a very specific format, with a rating scale, and agreed to try to work through these suggestions with Mr. Stabe. Councilman Haverland said the percentages are certainly movable, and not meaningful. This was intended as a template. Vice Mayor Weick said this is all subjective, it's not like making widgets. The extenuating circumstances must be considered, and Councilman Haverland agreed that common sense must be taken into consideration. Councilman Slater said the template provided by the Councilman was good, and the Town Manager should be involved with setting the other goals and objectives. Mayor Barefoot said to combine both his and Councilman Haverland's ideas and come back with a recommendation before the next meeting, then in June they can approve it with no further discussion.

- e. Charleston Estates Subdivision Preliminary Plat Approval (PZV Chairman Beardslee) (*see Item 2, page 1*)
- f. Account Signature Cards (Finance Department)

Ms. Christmas said this is a formalized way to get signatures without waiting for minutes to be approved. Mr. Stabe said there are several items related to this that require Council signatures before they leave today.

5. **Town Attorney**

- a. Ordinance 511, Amend General Employees Defined Benefit Plan, Final Reading

Mr. Clem said this is the second reading of the Ordinance that amends our Defined Benefit Pension Plan, announcing it had been advertised as required. He read the title as printed below and the Ordinance in its entirety.

ORDINANCE NO. 511

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, INDIAN RIVER COUNTY, FLORIDA AMENDING THE TOWN OF INDIAN RIVER SHORES' GENERAL EMPLOYEES' DEFINED BENEFIT PLAN; PROVIDING FOR CONTINUITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

The Vice Mayor asked if there were any changes since the first reading, and Mr. Clem said there were none. Following a **motion to approve the second reading of Ordinance 511 as presented** made by Vice Mayor Weick with Councilman Haverland's support, the **motion passed 4-0**.

- b. Resolution 13-03, Amending Procedure for Movement of Funds over \$5,000

The Resolution was read by Mr. Clem in its entirety, beginning with the title as printed below.

RESOLUTION NO. 13-03

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES IN INDIAN RIVER COUNTY, FLORIDA, AMENDING THE PROCEDURE FOR MOVEMENT OF FUNDS OVER FIVE THOUSAND DOLLARS (\$5,000); PROVIDING FOR REPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Barefoot asked for any discussion, and hearing none, received a motion by Councilman Slater with support by Vice Mayor Weick to **approve Resolution 13-03 as proposed**, passing 4-0.

6. **Town Manager**

Mr. Stabe introduced Jose Guanch, the new Building Official for the Town, to the Council and the audience.

- a. Departmental Reports (Building, Financial Balance, Public Safety)

Heather Christmas noted that with the payment of the health insurance buyout, we have expended the contingency funds.

- b. Update on Health Insurance Buyout for Retirees (*Handout from Councilman Haverland*)

Mr. Stabe said that 6 of the 9 eligible retirees have agreed to accept the buyouts offered. Three declined at this time, but will be watching to see what happens in January with the new Federal Affordable Care Act.

Vice Mayor Weick said information will be out in October, and they must choose in order to have it be effective January 1, 2014. Preexisting conditions will not be the concern. Councilman Haverland asked that they leave the offer open for the other three until December 31st, 2013 on the same terms adjusted for the lapse in time. Mayor Barefoot asked if they can drop out before the end of the plan year, and Councilman Haverland said they could, and would not until they had another plan confirmed. The offer ends on December 31, but could be extended if needed.

Ms. Christmas said it is \$165,000 in total for the buyout. Letters have been received from them all, and checks are being cut as the payment is received for their final month of insurance coverage. Danielle has new quotes from United Health Care, and expects the Blue Cross quotes also to be lower.

Mayor Barefoot asked that they consider a new line item to replenish contingency funds over the next five or six years. Councilman Haverland said our expenses should go down so we essentially we are replenishing through this. Vice Mayor Weick agreed that we want to maintain our reserves.

Ms. Christmas said the contingency usually is used to add to the reserves. Vice Mayor said \$2 million is the minimum to maintain in the reserves.

A motion to extend the offer to the three eligible retirees through the end of this calendar year was made by Councilman Haverland and seconded by Vice Mayor Weick, which **passed 4-0**.

c. **Health Insurance Census for Town Employees Status**

Mr. Stabe said the revised census was forwarded to Danielle, and United Health Care provided a dramatically lower premium, and Blue Cross - Blue Shield may also be lower. He asked to forward it to the Council and employees in the health care plan. Councilman Haverland asked if there will be a timing issue, which must be agreed by the Council and then the employees would have enrollment in July. At the June 27th meeting they will be able to approve the plan.

Mayor Barefoot asked Mr. Stabe how everything is going with his new position at Town Hall, and he said so far, so good, and he is working with a good group of people. Mayor Barefoot asked that he keep the Council apprised of any changes contemplated in Public Safety in terms of shifting responsibilities.

Councilman Slater noticed that he noticed there will have to be a budget amendment at the end of the year, and asked if each area must balance or if it is overall. Ms. Christmas said we have to balance by each fund.

7. **Committee Reports**

a. **Planning, Zoning & Variance (meeting 5-13 report)**

Mr. Beardslee had nothing further to report.

b. **Council Committee Reports (MPO, EDC, TCCLG, TCRPC, Others)**

EDC. Vice Mayor Weick reported that the EDC met this Tuesday, and they are working on establishing a foreign trade zone in Indian River County. The closest foreign trade zones are in St. Lucie County and Brevard County. They also discussed expanding the enterprise zone.

Beach & Shores. The Vice Mayor also attended the Beach and Shores meeting, and reported that Governor Scott approved the \$4.8 million sand replenishment project north of John's Island to Sea View for post-Sandy storm damage in matching funds, which requires that the County also provide that amount.

MPO. Councilman Haverland said he attended MPO with a presentation on the Florida East Coast Railroad, a high speed line from Miami, Fort Lauderdale, Palm Beach, Cocoa Beach and to the Orlando airport. A Flagler company has been clearing the way. The County is doing long range planning to find a place for a station in the Vero Beach area.

TCCLG. Councilman Haverland had nothing of significance to report from this meeting.

TCRLC. Councilman Slater attended this meeting, which was at the FPL's center in the middle of the State. It uses solar energy. It was an interesting presentation, and they said they are excited to come to Vero Beach as our provider. Its actual meeting was more of an organizational meeting, as they are trying to give a bigger voice to Treasure Coast cities.

Truck Issue. Mayor Barefoot asked Mr. Stabe if there was anything we needed to do about the email regarding the truck parking issue, since the situation was in effect prior to amending the ordinance. Mr. Stabe said they are grandfathered in, and he had spoken to Mr. Clem and forwarded the email to the Council. He recommended responding to Mrs. Gundy, who spoke up from the audience. Mr. Clem said the ordinance related to parking was corrected in Ordinance 510, and in the future they can be addressed. It was problematic to enforce the old ordinance as it was the same truck in the same place as was in existence before the ordinance. The concept of grandfathering or enforcing the new ordinance is a real problem. Mayor Barefoot

said, according to what was sent, the owner has moved to another house in the neighborhood and replaced the truck with another truck.

8. **Call to Audience**

Patricia Gundy, Pebble Bay Estates, informed the Council that the homeowner association and individuals in the neighborhood had initially asked the truck owner not to park the truck outside. They had also been working with Charlene Hall for the past year and a half, when they were living in a rental unit with a different truck. He had expressed that he didn't care about the ordinance and then reconstructed a home with a new driveway and a two-car garage. They bought a new truck and still refused to obey the ordinance. He is a Deputy Defense Attorney for St. Lucie County on the public payroll. Many people in the neighborhood and the area garage their truck, and this sets a bad precedent. The whole neighborhood is very upset. No one spoke to Mr. Jefferson and said they support parking the truck outside. Everyone just wants it garaged overnight, she concluded.

Mr. Clem and Mayor Barefoot understood her situation, and Mr. Clem said he pointed out that no attorney opinion will be ruling but the Judge. He expressed regret that the neighbor is not acting neighborly, and with our modified ordinance, we can enforce it towards new violations. This one is much more difficult to enforce.

Councilman Slater asked if he has been visited by Public Safety, and Mr. Stabe said they have numerous times. Mr. Stabe said the initial understanding is that this man rented a house and then handled reconstruction of a house he purchased in Pebble Bay Estates. Now he lives in this different home and has purchased a new truck, and refuses to garage that. Mayor Barefoot said there is a timing issue, as the final reading was March this year, the new house and truck were both purchased prior to the new ordinance. The old ordinance was not enforceable, said Charlene Hall, formerly the Town's Code Enforcement Officer.

Mr. Clem asked about trucks restrictions in the subdivision, and Mrs. Gundy said they have no formal rules in their association, other than following Indian River Shores' code. Mrs. Gundy said the Town has really stringent rules, so they chose not to add to them. She asked if the old restrictive law would not apply, and Mr. Clem said it was just vague. Mr. Clem said it is not criminal, but comes close as an infraction. The decision is the Council's if they want to go to court on this. They discussed that the person also had installed a fence with a gate, and asked if it was the intent to park behind it and if it had a permit, as all front yard fences would have had a variance.

Frances Atchison, formerly on the Council, said in 2005 they discussed garaging trucks, and the Council's intent was that none of these types of vehicles are allowed. Realtors know that this is a caveat to buying in our Town that trucks can't be kept outside the garage.

Mrs. Gundy asked if anyone with a truck can park wherever they want, and Mr. Clem said it is on a case by case basis. He said he will discuss this with the Town Manager. Mayor Barefoot said to explore the fence issue also, as the intent of the rule was clear.

9. **Adjournment**

Hearing no further comments, the meeting was adjourned at 10:38 a.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the 6-27-13 meeting)