

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

**REGULAR TOWN COUNCIL MEETING**  
**Thursday, June 23, 2011**  
**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  
Judith Lewis, Town Treasurer  
Bill Schauman, PSD Director  
Robert Stabe, PSD Captain

**OTHERS PRESENT:** Jim Moller, JIPOA  
3 Indian River Shores Residents  
Reporters from Vero Beach 32963 and the Press Journal

1. **Call to Order**

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

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

2. **Consent Agenda**

- a. Acceptance of Planning, Zoning & Variance Board Minutes dated May 9, 2011
- b. Approval of Regular Town Council Meeting Minutes dated May 26, 2011
- c. Approval of Invoice from Town Attorney Chester Clem dated May 31, 2011

A **motion** by Councilmember Atchison, seconded by Councilman Ochsner, **to approve the consent agenda** was made. With no comment or questions on the three items, the **motion passed 5-0**.

3. **Mayor's Items**

- a. Revisit Council Committee Appointments

Mayor Cadden asked if everyone was happy with their committee assignments, and Councilmember Atchison said she would be happy to fill in if anyone had a need. Councilman Ochsner asked for a better method for alerting the back-up if they need to attend, and Mayor Cadden suggested that they tell the Town Clerk to pass the word on. Mayor Cadden also said his TCRPC doesn't meet until September. Councilmember Atchison asked if Councilman Haverland was going to the MPO meetings, and he said he was not planning to, and they had cancelled the past two meetings. It is set for Tuesday, July 13, and Mayor Cadden said he would attend as the alternate.

*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.*

b. Town Representation

Mayor Cadden said that he had watched the DVD of the joint utility meeting recently held at the City of Vero Beach at which Vice Mayor Weick had attended, and he had no comments regarding anything that was said except that each time he spoke at the podium, he had introduced himself as "the Vice Mayor of Indian River Shores." When Councilman Ochsner spoke at a similar meeting, he did so and stated his name as a citizen of the county. People will misread and they may misunderstand that it infers Town representation. Mr. Clem echoed the Mayor's concern, and cautioned everyone to be cognizant of televised settings, which have perpetual existence versus recorded and played-back media. Vice Mayor Weick said the only reason he went was that our Utility Committee representative was not going to be there. The Mayor appreciated their attendance, adding that this is a critical position, and we need assurance that our representative will attend or at least let us know if an alternate is needed. Mr. Clem said Mr. Wiegner would be there as a resident of the Town rather than a representative of the Town Council, which is important. Councilmember Atchison said Bill Grealis, who was President or General Counsel for Cincinnati Power and Light, and Ted Price, who was helpful to Mayor Cadden when he first got involved with the Utilities Committee, were mentioned about potential Committee members. Mayor Cadden said he would be glad to call candidates and provide a background on the Committee, and encouraged the Council to talk to residents and see if anyone is interested.

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

Jack Mitchell, Vice Chairman of the PZV Board, reported in Mr. Beardslee's absence that there were three items on the agenda at the June 13, 2011 Meeting. The first two were approved, the removal of three ficus trees at John's Island entrance and approval of a black aluminum fence. The third item was a request by the Indian River Land Trust for a sign at Bee Gum Point, which was tabled until more information is provided. Vice Mayor Weick asked what the size of the sign was, which is 5' x 4' and meets the requirements of the ordinance. Councilmember Atchison asked for a mock-up of the sign so people can visualize it. Mr. Clem said that they are asking to place both the sign and landscaping on Town property, and it will have to come back to the PZV Board. He added that the restrictions on the property are not specified as directed at the real estate closing. Councilman Haverland asked where the sign is to be placed, and Mr. Mitchell said it is not specified yet. They discussed the wording on the sign briefly, with Mr. Mitchell adding it has been delayed until October for approval. Councilmember Atchison asked if the Land Trust will make the presentation to the Council as well as the PZV, and Mr. Jefferson affirmed.

5. **Town Attorney**

a. Proposed Ordinance 505, Town Boards and Committees

Mr. Clem said that there has been some discussion about limiting consecutive terms to two and removal from the board for failure to attend. We have three formal boards: the Planning, Zoning and Variance Board (PZV), created by the Code of Ordinance, which is very active; the Code Enforcement Board (CEB), which meets infrequently, and is in our Ordinances and is required by Statute; and the Pension 175/185 Board, also created by Florida Statute. In addition there is the Finance Committee, which is set up by Town Resolution, and is not as formal.

**PZV:** If the Council would like to limit the term to eight (8) years, he would have an Ordinance adding language similar to "A member may serve for two consecutive four-year terms only" and could add that he or she could additionally serve out part of a term for an open position. He also has prepared language that after more than three consecutive unexcused meetings one may be subject to removal by the Town Council.

**CEB:** This Board has three (3) year terms, so the member may serve two consecutive three-year terms. The Florida Statute has language stating if they miss two of three successive meetings they are subject to removal. We may just want to address two consecutive terms.

**175/185 Pension Board:** This board is a little different, as two members are police/fire, two members are appointed by the Town Council, and fifth member is seated by the other four seated members. We could only address the two members the Council appoints.

**Finance Committee:** This committee has been less regulated, and the Council may not want to address it. Councilman Haverland suggested that the Council does address this Committee, as it should be more active and should be treated as the others. He added that he was all for having a two consecutive term limit, and with regard to attendance, that they include telephone attendance as being present, as it won't impair their ability to make judgments if they use the same documents. Mr. Clem said if this is the desire of the Council to count phone attendance as being present for this Committee, it would possibly be acceptable, but it would not count

for other committees as they have to be **physically** present. Councilman Haverland asked if that were a legal requirement, and Mr. Clem said it is, and exceptions should be narrowly defined. Councilman Haverland and Mr. Clem discussed telephone attendance and the law, with Mr. Clem stating that if one could not be at a meeting it is okay, so long as there is a quorum. Mr. Clem said there is a difference in participating by telephone and not being counted as present as part of the quorum, and not being able to vote. One has to be here to be counted present and be able to vote. It's the same as being a member of this Council, you have to be present in order to participate and in order to vote. You can participate to some extent by telephone, but you are not here. If a member is in the hospital or in an emergency situation, under this very limited situation that is counted as present. Councilman Haverland asked to see a state law as well as the Attorney General Opinion from Mr. Clem, who concluded that the Government in the Sunshine law requires that you be present so they can see you, which is different from a corporate setting.

Councilmember Atchison asked if there are two different Code Enforcement Boards in this Town, and Mr. Clem explained that there are Code Enforcement officers and a Code Enforcement Board, which is quasi-judicial. Most violations are handled by discussions and do not go this far. Councilman Ochsner clarified that the Code Enforcement Officer goes and issues a warning, and Mr. Clem finished that if the person fails to comply, this Board is State-authorized and has the power to levy fines, which Mayor Cadden affirmed has been done before. Councilmember Atchison stated that one of the problems in getting the people to volunteer is there is no set schedule. Mayor Cadden explained that this board is unique in that they only meet when there is a dispute and it is necessary, with plenty of notice given before meetings.

It was explained that the difference between having three-year versus four-year terms is because the CEB falls under the statutorily-set three-year terms. Vice Mayor Weick suggested that we make language consistent regarding missing two of three consecutive or successive meetings. Councilman Haverland asked if this referred to excused or unexcused meetings, and Mr. Clem said that is another whole question. Normally a request is made to the Chairman to excuse an absence. If someone calls to request an excuse, it shows concern, where regular failure to notify us may be reason for dismissal.

Mr. Clem said for the July Council meeting he would have an ordinance that covers the three Boards (PZV, CEB and Pension) and a Resolution that covers the Finance Committee.

Councilmember Atchison agreed with Councilman Haverland, she would like to see the Finance Committee be more formalized and meet at least quarterly. Councilman Ochsner said he viewed the Committee as being an ad hoc committee, but it is not a bad idea. Mr. Clem said that the Finance Committee should meet and determine their rules, then the Council could adopt the rules by Resolution. Vice Mayor Weick asked for consensus from the Council as to attendance requirements, and he, Councilman Ochsner and Councilmember Atchison agreed that 1) two of three unexcused meetings; 2) the definition of excused is "at the discretion of the chairman;" and 3) to use the word "successive" rather than "consecutive."

## 6. Town Manager

### a. Request to Attend September Council Meeting Telephonically (Atchison)

Councilmember Atchison said that she will be traveling in September, and plans to attend the first Budget Public Hearing on September 9. She knows the meeting on the 22<sup>nd</sup> is important. She also recognized some Council members are not in favor of telephonic attendance and requested to be excused from the meeting for travel hardship reasons and attend telephonically. Mayor Cadden said he had no problem approving this, but if there is anything that is earth shattering, which Councilmember Atchison completed by saying she will be here. The Mayor voiced his appreciation. A **motion** was made by Vice Mayor Weick and supported by Councilman Haverland **to approve the telephonic attendance of Councilmember Atchison at the September 22<sup>nd</sup> Regular Town Council Meeting and Final Budget Public Hearing meetings, which passed unanimously.**

### b. Code Enforcement Board Opening Status

Continuing, Mr. Jefferson said that we also enforce the Building Codes that fall under the Code Enforcement Board regulation. It is not a separate board, it just has broader powers. We are short three members, two regular and one alternate, the Town Clerk added, stating that it has been advertised in the paper, on the website for more than a year, and on the bulletin board. It has met a total of 15 times since 2000, with the latest meeting in 2009. Former Vice Mayor David Becker, who was in the audience, volunteered to be a member. Councilman Haverland asked about the amount of time needed to call a meeting, and Mr. Jefferson

said that the schedules of the Board members are coordinated to accomplish this.

A **motion to appoint David Becker to the Code Enforcement Board** was made by Vice Mayor Weick and seconded by Councilmember Atchison, which **passed 5-0**. Councilmember Atchison asked if the other prospective members could be interviewed by the Council, which they could. The Town Clerk said she also had emailed everyone who had applied for the Finance Committee and Pension Board to see if they would be interested in serving on the Finance Committee or Code Enforcement Board, and received one response from Tom Slater, who said he would be interested in serving on the Finance Committee. Councilmember Atchison said he would be an excellent person on that committee, and Mr. Jefferson said the problem is that he is also out of town from June until October. She said that they have to understand that they have to come back for these meetings. Mayor Cadden thanked Dr. Becker sincerely for volunteering.

c. Resignation of Finance Committee Member Bill Cairns

Mr. Jefferson said that we had received a letter of resignation from newly appointed Finance Committee member Bill Cairns, who had sold his home and moved outside the Town limits. Councilmember Ochsner said there was not a residency requirement, and Mr. Clem said being one is standard operating procedure for the Finance Committee and by Statute on the other Boards. Mr. Clem replied to Councilman Haverland's inquiry that it's legal not taxpaying residency.

d. Utility Status

Mr. Jefferson continued that we are still in limbo while the City awaits GAI's report, which may be in September, in order to determine a price and terms.

7. **Call to Council**

a. Committee Reports

*(Mayor Cadden asked Councilman Haverland to proceed with 7. b. before the Committee Reports)*

**Beach & Shores.** Councilman Ochsner said he attended this advisory committee on June 20, with three discussion points. First, there is a tsunami warning system through NOAA in place for the East Coast and the Caribbean, with the likelihood of one occurring in Florida almost nil (never been one documented). We are at a low probability but with a high risk. Within one hour of a seismic event, we would be notified. Second, Sector 7 Beach Renourishment, which has been monitored for three years now, was the first no impact design renourishment (no impact on the hard bottom of the reefs). It has 55% of the sand left, and more is needed with no monies available. Sector 3 was discussed about it not being finished on time, how much more sand is needed, and they are working on a change order to complete the contract which would extend it until May next year.

**TCRLC.** Councilmember Atchison reported that they did not meet.

**Elected Officials Oversight Committee.** Vice Mayor Weick attended this meeting for public schools, at which the five-year capital plan was discussed. Indian River County expects flat growth for schools, with an expansion and traffic flow project at Beachland Elementary School. Other schools will be cleaned up and repaired, and only one new school is planned at Point West. They have saved close to \$1 million in electricity costs overall in schools, and are retrofitting them to become as much as possible like Storm Grove Middle School's green program.

**EDC.** No meeting.

**MPO.** No report.

**TCCLG.** No report.

**Indian River County Mayor's Meeting.** Mayor Cadden said there was a presentation featuring an impressive computer program for sand tracking at their June meeting, when concrete PEP barriers were discussed once again. Jim Egan was the presenter, and the group requested the cost to implement from Windsor southward, which he thought would be fairly inexpensive. They may take it to the County to see if they will help to pay for it. Councilman Ochsner said that both groups, the Mayors and the Beach and Shores Preservation Committee, are looking at beach erosion, and that the PEP reef has gone cyclical in acceptance. A lot of technologies are available, with some that are probably more effective. He personally talked to the Army Corps of Engineers about what works, and it still is a big expense with any renourishment project.

Councilman Haverland asked about the status of the Finance Committee member search, and Councilman Ochsner said he would talk to Tom Slater. They just need one more.

b. Other Matters

1. **Budget Process** (Councilman Haverland)

Councilman Haverland said he was a bit confused with the budget process. He has figured the net asset, but not the funds estimating for Town, and believes that we will run a significant deficit next year on a net asset basis and probably on a cash funds basis as well. Rather than discuss this in September, it should be discussed with an estimate now, so we can talk about problems. He was concerned that this won't be discussed until mid-September. Councilman Haverland said he assumed to within \$50,000 where the budget would be, as it is pretty straight forward and the revenue is pretty well fixed. The Town has had two prior consecutive years where net assets have gone down \$500,000, and this can only go on for so long. He concluded that this is an inadequate process that puts off decision making.

Councilman Ochsner said historically, budget discussions begin in July. Regarding the use of reserves, we had a more than sufficient supply, and decided to use some of them the last two years. There are two issues he is not sure where we stand, and that is the increased revenue from Communications Sales Tax (CST) from last year and charging for (reimbursement of) medical transport. No funds have been received, but they are very good revenue sources. Councilman Haverland said that suppose we assume we will get the revenues, and after adding those, we are \$300,000 short. They agreed that ideally, the Finance Committee will go through this first, which Councilman Ochsner affirmed has been the practice. The PSD Budget Workshop was a little early. The Finance Committee looks at the whole budget in July, and then makes recommendations to the Council at the July meeting.

Town Manager Jefferson said we know fairly well where our budget will be now. Councilman Haverland asked what the net impact on net assets and cash flow will be, and if it is okay to take money out of contingency funds or raise taxes. With the desire to discuss this as soon as possible, he said he would rather have Judy go through the numbers, and Town Manager Jefferson said they will have the numbers in July.

Vice Mayor Weick asked if we have received any of the additional revenue from the Communications Sales Tax, and Town Treasurer Judy Lewis beginning this calendar year, we have received about \$10,000 extra per month from it. Mr. Jefferson said that if we set up the Budget Workshop for just prior to the July Council meeting, they would have all of the numbers. Councilman Ochsner said that the Finance Committee will also meet before the July Town Council meeting. Councilman Haverland said that would be great. Mayor Cadden said he would meet individually with Judy Lewis, as would Vice Mayor Weick and Councilmember Atchison, to discuss terminology and budget.

2. **Financial & Operational Reporting** (Councilman Haverland)

*(This was discussed after 7 a. 3)*

Councilman Haverland was disappointed that there were not more frequent, and more detailed financial statements. Since March, he has not seen any financial statements other than where our money is and some information on cash flow. He would like to see how we are doing on a fund statement and a net asset statement. Judy Lewis said the agenda packet this month has the March quarterly General Fund statement. It usually takes two months to get the information in, and since they are done on a modified accrual basis, it shows actual YTD information. Councilman Haverland confirmed that this deals with the General Fund statement, and asked if it is possible to also get reconciliation to the Net Asset statement. Mrs. Lewis said the Net Asset Statement is a function of the entire government-wide financial data, which is only pulled together once a year by the Auditor's, who have the necessary software. She may be able to give an updated Unrestricted Fund balance in the General Fund, which is our primary concern. Councilman Haverland said that is not his only concern, he is very concerned with Net Asset. Mrs. Lewis added that the State requires the auditors to provide this information in an annual report to them so that they are forewarned of any potential liquidity or solvency problems in a particular government. Reports on our Town have always shown that we have no problems. Councilman Haverland said this relates to the Fund Statement, while he believes the Net Assets is more important as a broad measure of the overall financial health. He is asking that the Council get a statement of Net Assets every quarter. Mrs. Lewis said she would have to purchase software to do that, suggesting that it is more meaningful to look at the net assets on a long term basis, year after year after year, rather than

quarter after quarter, especially since assets fluctuate depending on economic trends. Councilman Haverland said they are entering the fourth consecutive year of decline of net assets, and he perceives a problem and wants to track it regularly. He equates it to a profit and loss statement, and wants to see it more often than annually.

Vice Mayor Weick and Councilman Ochsner agreed that we only need this once a year, adding that it is not as meaningful on a quarterly basis. We get a majority of revenues in one fell swoop, and we could net the revenues against expenses and add or subtract as necessary at year end to get the number Councilman Haverland is looking for. It is less meaningful because there are budgeted expenses that have not materialized, while the revenues have been "cooked in." Councilman Haverland argued that we ought to know quarterly where we are. Mayor Cadden asked Judy if she could tell us the Net Asset values on August 1 or July 30, so if they have to discuss adjusting the ad valorem rate, there is information available.

They spoke briefly about last year when the millage rate was set, the level of the Emergency Reserves and its use for hurricane expenses, and the Pension fund shortage. They concluded by discussing the timetable for receiving budget information, with more details to follow in July.

Councilman Haverland also said that regarding the Pension Plan, he has not received any interim reporting other than the single page from the Florida League of Cities. He asked what our aggregate return is on the portfolio year-to-date, and opined that the Council should demand a much better statement from our Pension Plan manager.

Lastly, there is a lot of information from the Building Department and Public Safety, but reformatting the reports would make them more meaningful. He offered to assist with this. Mayor Cadden asked him to put down what he envisions for the Council to review.

As a point of interest, Town Manager Jefferson announced that he just got permission yesterday to piggyback with the County for **debris removal after hurricanes**.

Councilmember Atchison stated her concern about the dry brush that is stacked up on the **5-acre tract**. Town Manager Jefferson explained that we had many complaints on the appearance and sanitary concerns with the 5-acres, and found that there were 140 palm trees that needed to be trimmed. Bids to trim and remove the debris ranged from \$25,000 from three contractors to one for \$8,000, which we chose. That took twelve 40-yard dumpsters out of the property, and we have been bush hogging it as well. We have cleared all but that one area, and can continue spending whatever the Council directs. She was concerned about the fire hazard. Vice Mayor Weick also noted that the fence needs repair, and landscaping across the front of the property would do wonders for its appearance. Mr. Jefferson said he was on the property yesterday, and asked if the Council wanted him to expend about \$5,000 to finish the work. They said yes, that is within his authority.

Councilman Ochsner said that **46th Place** was repaved, and they left the parking barricades. Mr. Jefferson said he would call the County and ask them to pick up their **barricades**. They now want a sign for the Research Development property, Town Manager Jefferson said. It is within the Town, but on County property, so the sign has to conform to Town code.

3. **Committee Position Process & Application Recommendation** (Councilman Haverland)

Councilman Haverland thought the application process should be revised to add an interviewing step to introduce the candidate at one meeting and then vote at the next meeting. This would allow time for any interested Council to meet with them in between the meetings. Town Manager Jefferson said he had invited all seven of them to come, of which two did. Councilman Haverland the people who applied didn't know how important their attendance would be, or maybe exactly when the meeting would be. Councilmember Atchison thought it was embarrassing for the candidates. Mr. Jefferson offered to change the application and the process. Vice Mayor Weick asked if the candidates should be asked their age or years attended school, and Councilman Haverland said they could ask about what years they had attended school. He then made a **motion to change the process to include an interview step prior to voting and to add the year they had acquired their education**, which was seconded by Councilmember Atchison. The motion passed unanimously.

8. **Call to Audience**

Jack Mitchell, 220 Sandpiper, said he is here as a private citizen with concern about the proposed sign for Bee Gum Point. He has been active in many endeavors such as the Concerned Citizens Group, Residents Association, etc. for 40 years, and is very much in love with the Town of Indian River Shores. He said he is supportive financially and vocally of what the Indian River Land Trust wants to do with the area they own. He was concerned that this was proposed during õoffö season, and preferred that it have some indication that this property is within the Town. Mr. Mitchell distributed a color rendition of two versions of the proposed sign, one from IRLT and his proposed revised sign, with Indian River Shores represented prominently on the sign. He has heard that there is no way they will consider allowing our Town name receiving more recognition than the IRLT, which is a not-for-profit entity. However, he doesn't want to lose any identity as a Town, preferring to preserve what we have worked for over the years. Mayor Cadden thanked him for all of his work.

9. **Adjournment**

There being no further business, Mayor Cadden adjourned the meeting at 5:10 p.m.

Respectfully submitted,

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

*(Approved by the Town Council at the 7-28-11 meeting)*