



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

REGULAR TOWN COUNCIL MEETING

Thursday, July 24, 2014
1:00 p.m.

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

ABSENT: Thomas W. Cadden, Councilman (*excused*)

STAFF PRESENT: Robert Stabe, Town Manager
Chester Clem, Town Attorney
Jose Guanch, Building Official
Capt. Mike Jacobs, Public Safety
Laura Aldrich, Town Clerk
Heather Christmas, Finance Department
Lt. Mark Shaw, Public Safety
Lt Tony Dudley, Public Safety

RESIDENTS: Barbara Palumbo, PZV Co-Chairman; Ralph Evans, Stewart & Evans

OTHERS PRESENT: Lisa Zahner, Vero Beach 32963

1. **Call to Order**

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

Mayor Barefoot called the meeting to order at 1:00 p.m. with the Pledge of Allegiance and Invocation performed, followed by the Council roll call by the Town Clerk as reflected above.

2. **Proclamations / Presentations** –None

3. **Consent Agenda**

- a. Acceptance of Finance Committee Minutes dated June 6, 2014
- b. Acceptance of Planning, Zoning & Variance Minutes dated June 9, 2014
- c. Approval of Regular Town Council Meeting Minutes dated June 26, 2014
- d. Approval of Special Town Council Meeting Minutes for Legal Update dated July 18, 2014

The Mayor asked if there were any questions on any of the minutes, and Councilman Haverland asked about a reference on page 2, fourth paragraph of the Finance Committee meeting minutes stating that \$184,000 of the salary increase was related to promotions rather than the staffing levels. Mr. Stabe explained that there was a promotion to lieutenant, one for a Public Safety Officer (PSO) to a sergeant, and a replacement employee for that promotion, which is net one new staff member.

A motion made by Councilman Slater with a second by Vice Mayor Weick to approve the four sets of minutes as presented passed 4-0.

4. **Discussion with Possible or Probable Action**

- a. Variances from Planning, Zoning and Variance (PZV) Board (Barbara Palumbo)
 - 1) 403 Silver Moss Drive, 11.27' (South), 6.46' (North) and 17.61' (NE) Encroachments

Ms. Palumbo reviewed the PZV actions from June 9th which required Council approval. The first was for 403 Silver Moss Drive, a lot line variance of 11.27' on the south, 6.46' on the north and 17.61' on the northeast. The property is under contract for sale and must have variances approved and recorded prior to the sale. The PZV Board recommended approval.

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.

A motion to approve the setback variances of 11.27' to the south, 6.4' to the north, and 17.61' to the north was made by Vice Mayor Weick with support from Councilman Slater, which **passed 4-0**. Mr. Ralph Evans, representing the applicant, questioned the encroachment dimensions on the south, believing it to be 12.5' north to south, which are within the 3' exception variance. The SW and NE variances he thought were more appropriate.

Mr. Guanch had the survey that was submitted with the application, and carefully checked the setbacks. Any variance over 3' has to be approved by the Council, which is only two of those listed. The correct numbers were determined to be 11.27' south as stated and the northeast should be 22.61' rather than 17.61'. **The motion was amended to 11.27' on the south and 22.61' on the northeast** by both Vice Mayor Weick with the support of Councilman Slater, which **passed 4-0 pending confirmation by the Building Official that the measurements were correct.**

2) 151 Silver Moss Drive, 10.6' (South), 20.3' (front), and 25.3' (rear) Encroachments

Continuing, Ms. Palumbo said the property at 151 Silver Moss Drive is also a John's Island golf cottage under contract for sale that requires approval for variances of 10.6' on the south, 20.3' at the rear and 25.3' at the front. The PZV Board recommended approval. **A motion to approve the variances of 10.6' on the south, 20.3' at the front and 25.3' at the rear as presented** was made by Vice Mayor Weick, seconded by Councilman Haverland, that **passed 4-0**.

3) Spectrum Office Building

- a) Rezoning Southern Parcel from R1A (residential) to C1A (commercial)
- b) Site Plan Variance for 10' Buffer with 6' Hedge on Eastern Side in Lieu of 6' Wall
- c) Site Plan Hardship Variance to Allow 4 Parking Spaces to be Designated as Compact
- d) Site Plan Hardship Variance to Allow 45 versus 47 Parking Spaces

Ms. Palumbo introduced this project as an executive, non-medical, non-retail office building proposed at 9,400 square feet at the intersection of Beachcomber Lane and A1A. The developer, Mr. Gibb, is requesting a variance for rezoning the southern lot from R1A to C1A. Neither Mr. Gibb nor his representatives were present at the Council meeting.

The second item is to allow a 6' green hedge in lieu of a concrete wall. Vice Mayor Weick asked if the neighbors have been contacted to the east regarding the hedge, and Ms. Palumbo said according to Mr. Gibb and Mr. Knight at the meeting, they were to contact them, and according to the minutes, it says with the approval of the lot owners on Beachcomber Lane. We have not heard that they have been contacted, Mr. Guanch added. Mr. Clem asked if they were noticed of the meeting, and Mr. Guanch said they were noticed at the PZV meeting that this would be on the agenda today. Mr. Clem noted that these are major requests. At the PZV meeting, there was a letter to Mr. Guanch that Mr. Gibb provided stating they were undertaking an obligation to maintain the drainage, which Mr. Clem said he recommended should be included as a condition.

Vice Mayor Weick asked for the drawings of the building that show its location and size, and was told that there are no blueprints prepared to date. Mr. Guanch suggested that the rezoning be tabled, as it cannot be accomplished without the neighbors within 300' being notified and responding that they approve.

Because of the configuration of the two lots and the placement of the building, Ms. Palumbo continued, the requestor is asking for four (4) compact parking spaces and a reduction from the required 47 to 45 parking spaces.

Mr. Clem noted that this is quasi-judicial, and there would normally be a representative from the requesting party appearing before the Council to determine if there is a hardship necessitating that the variances should be granted. The public should also be present to make comments whether or not it should be zoned.

Councilman Slater asked if the Town had an architectural review board, and was told that we do not. Mr. Guanch said they have not borne the expense to have plans prepared due to the uncertainty of the project's approval. An artist's rendition of the two story (approximately

22' tall) building with architectural features was provided to the Building Department. Councilman Slater said there are two story buildings at Village Shops, and it should blend in with that complex as it is contiguous. Mr. Guanch offered to provide the artist's rendering to the Council.

Councilman Haverland asked how we would know if the neighbors approved this, and was told that a letter should have been provided to the residents. Ms. Palumbo said there was a gentleman at the PZV Board meeting who said they would contact the neighbors. Mr. Clem said that the people within 300' of the project would have to be identified, notified of the request and of the date and time of the upcoming meeting, notified of the deadline to respond, and evidence that this had transpired would have to be presented. This has not been done.

Mayor Barefoot asked Mr. Guanch to get with Mr. Gibb and notify them that they must be at the meeting in August with the Council with evidence that the residents support the plan. Mr. Guanch said he has had a few phone calls from the neighbors, but no one came to the PZV Board meeting. Mayor Barefoot asked who is responsible to send out the notices, and Mr. Clem said it normally is the applicant who would do this. The Mayor said he has always received a notice from the municipality, at which Mr. Clem noted we have not had any requests for rezoning, especially for commercial property, in the last 10 or 15 years. The Mayor asked Mr. Guanch to take the responsibility to notify the neighbors and ask them to indicate support for or against the project, inviting them to the Council meeting as the Planning & Zoning has already heard about the project.

Mr. Clem said the Council also has to take a close look at the plans and see if there are any conditions that should be applied, because once it is approved, there is no going back. Certain things should be a part of the approval process, Mr. Clem added, such as the drainage letter from Mr. Gibb to Mr. Guanch, and parking issues and landscape maintenance issues addressed, and something on record if the building is ever sold that shows the plans and conditional attachments. PZV also approved this provided there was proof that the residents were notified, and there is no evidence.

A motion to table the requests 4.a. 3)a), 4.a. 3)b), 4.a. 3)c) and 4.a. 3)d) associated with the Spectrum Building was made by Vice Mayor Weick and seconded by Councilman Haverland, which **passed 4-0**.

Ms. Palumbo also reported other items discussed at the June 9th meeting were a 96" tree of special concern, which was approved for removal with mitigation of 48" combined live oak trees. A minimum size was not specified in the minutes. Also presented and approved was a modular maintenance building for the John's Island Golf Course, which would be heavily landscaped.

b. Auditor Engagement Letter for Berman Hopkins Wright & LaHam (Town Manager)

Mr. Stabe said this agreement was presented to the Finance Committee, which was recommended for approval by the Council. **A motion to approve the Auditor Engagement Letter extending their service through the fiscal year ended September 30, 2014** was made by Councilman Haverland with support from Vice Mayor Weick, which **passed 4-0**.

c. Set Tentative Millage Rate Ceiling for FY 14-15 (Town Manager)

Mayor Barefoot said they just discussed the budget this morning, and now must approve a millage rate that reflects a dollar amount, not staffing at Public Safety Department. The Council all knows the goal is the best service at a reasonable cost. The timing impact for hiring PSO's as discussed this morning was examined by Ms. Christmas, and the Mayor pointed out that if we hire in October or later, it would increase the pension costs by \$53,482. Ms. Christmas explained that it would have to be paid at 54% of their salary versus 48% of the salary if they were hired prior to the fiscal year end. It does level out long term, so this is a timing, not an economic question. We would have to increase the budget if we delayed the hiring.

Mayor Barefoot said it is up to Mr. Stabe and Capt. Jacobs to manage the transition in a fiscally responsible manner to accomplish the quality service to our residents. Councilman Slater said the Council is patient that the right people are hired.

A motion to set the tentative budget at 1.6786 mills as recommended by the Town Manager was made by Vice Mayor Weick with a second by Councilman Slater, which **passed 3-1** with a dissenting vote by Councilman Haverland.

- d. Approve Tentative Budget for FY 14-15 (Town Manager)

With no further discussion, **a motion to approve the tentative General Fund budget as presented for \$5,579,846** was made by Vice Mayor Weick with support by Councilman Slater, who received affirmation that this was the maximum budget subject to reductions if necessary. The motion **passed 3-1**, with Councilman Haverland voting nay.

- e. Council Meetings and Holiday Schedule for 2015 (Town Manager)

Mr. Stabe presented the proposed meeting dates and holiday schedule for 2015 for the Council's consideration, which they noted as subject to change. The Vice Mayor Weick **made a motion to approve the Council meeting dates and holiday schedule for 2015 as presented** with a second by Councilman Haverland, which **passed 4-0**. Councilman Slater asked when the November Council meeting is scheduled for this year, which is Thursday, November 20. It was requested to move it for this FY to Wednesday, November 19 at 1 p.m. The Council agreed to **move the meeting for November 19, 2014 at 1 p.m.**

- 5. **Mayor's Items** - None brought forward.

- 6. **Town Attorney**

- a. Ordinance 515, Qualification Dates for Town Council Candidates

Mr. Clem said the Town had adopted the State election code, and by Charter our elections are specified to be held on the second Tuesday in March which works well for our residents. By State statute, the qualifying dates are 71-67 days before the election, which fall on the week between Christmas and New Years. To change this unreasonable period of time, we are suggesting that the qualification period be set for the second Monday in January of election years. He read the Ordinance 515 by title as follows:

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA,
AMENDING ARTICLE 1, SECTION 32.02 OF THE CODE OF ORDINANCES
BY PROVIDING FOR SPECIFIC QUALIFYING DATES FOR CANDIDATES;
PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND
PROVIDING AN EFFECTIVE DATE

Our Code of Ordinances, Section 32.02, would have this added:

(c) Each person seeking to qualify as a candidate for election to the office of town council member shall file the required paperwork and fee with the town clerk during the five day period commencing at noon on the second Monday in January of the election year and concluding at noon on Friday of that week.

This is the only change. Vice Mayor Weick asked how many days this is prior to the election, and Mrs. Aldrich said it is variably 46-57, adding that she has coordinated with the Supervisor of Elections, who has agreed that this is a good time period for her office. He said another alternative is to move our elections to November, to which Mrs. Aldrich said would be a charter change and require an ordinance and then an amendment on the ballot. Mr. Clem elaborated on the process, stating it would be late to accomplish this for the upcoming election cycle. Councilman Slater asked why we have our elections in March, and several replied that it is when the most residents are here. Councilman Haverland presumed there are more residents here on the first Tuesday in November, and asked if there is a financial benefit to having the elections in November. Mrs. Aldrich said it would be about \$2,000 rather than \$7,000 to hold them in November. Also noteworthy is that it would require that the qualification period take place in August, when the fewest residents are here.

A motion to approve the first reading of Ordinance 515, Candidate Qualification Dates, was made by Councilman Slater and seconded by Vice Mayor Weick, which passed 4-0. More discussion about moving the elections to November ensued with no action taken.

7. **Town Manager**

a. Life Saving Award for Five PSO's

Acting Director Jacobs said it gives him great pleasure to come before them and not ask for anything, and announced that a resident had experienced what appeared to be a massive heart attack, with our PSD responding via the 911 system within 3 minutes. The subject was clinically dead when our triple-certified patrol officer first arrived and initiated advanced life support procedures. Within 5 minutes the Public Safety crew had obtained a pulse and blood pressure, and he was transported to IRMC. This team was **Acting Sergeant Rick Sarcinello, PSO Mark Runge, PSO Geoffrey Hawkes, PSO Lou Puchala (Per Diem), and PSO Aaron Starkey (Per Diem)**. He mentioned that Geoffrey Hawkes and Aaron Starkey also were involved in two other "saves" that were non-residents visiting the City. One was a serious trauma call involving a cut by a saw from the chest to the abdomen while cutting concrete. The hospital called a few days later and credited them with the save. A few days later a gentleman walked into the front lobby not feeling right, and staff applied a heart monitor and realized a serious cardiac event was in process. He went into full cardiac arrest enroute to the hospital. Both of these gentlemen came back to thank their rescuers. The Council and audience applauded their efforts.

b. Public Safety EMS Random Emergency Medical Services Inspection

Capt. Jacobs said they had an inspection without warning for recordkeeping, supplies, cleanliness and certifications. We had a well above average report, and were told that our ambulances were the cleanest transport units they had seen in a long time. Lt. Shaw was recognized for his help with this area. We usually are inspected every three years, and this was much sooner than that. They were congratulated for doing a good job.

c. Public Safety Staffing Update

Captain Jacobs introduced newly promoted Lt. Tony Dudley, who has been with our PSD for 14 years. He was formerly with St. Lucie County as a Fire Rescue Lieutenant. He is in charge of training, and he is already tackling some of the issues they have planned to address.

The last three days they have had the reaccreditation mock assessment team assessing the Town's law enforcement, with assessors from the Florida Department of Law Enforcement (FDLE), two from the Rockledge Police Department, and a retiree from Sarasota County Sheriff's office on site. Staff has rewritten the General Orders during the past year, and everything seemed to be on track with some minor documentation items to address. The onsite accreditation is expected in November.

Finally, Capt. Jacobs mentioned Sgt. Tim Dempsey, who was paramount in the arrest for the break-in at the Oakpoint medical office recently. His persistence, DNA swabs, search warrants for additional DNA samples from Miami suspects, and endless video review were important in solving not only this case but for other crimes in south Florida. The Council appreciated this update.

Mr. Stabe said they have already discussed staffing updates at length, and reiterated that they are set to hire four additional offers for August 8, of which three are triple-trained. One is a K-9 handler from Utah who just moved back to the area, one was a police officer who was in Tennessee who moved back to be a Brevard County firefighter, one is well known through extensive family ties with local public safety, and the fourth is well known in the community and will be a great addition to our force. Capt. Jacobs said he is very pleased with these four.

d. Cell Tower Update

Council had requested a cell tower update at the last meeting, and per Indian River County's Manny Cabo, the property under consideration behind the CVS at the entrance to the Tracking Station Beach was deeded to the County with a number of serious restrictions. The Department of Interior has denied its use for a cell tower. The County is looking at other options with a company that specializes in high-end community siting and they are researching other potential sites for our

residents. Deputy County Attorney Bill DeBraal is working on other options that are not publicly disclosed at this time, and there was no timeline given.

Councilman Slater said there was one proposal for a slim flagpole at Town Hall, and Verizon chose not to pursue this but to wait for the County's tower. Now that the County is not able to use the planned location, Mr. Stabe said he has contacted the Verizon representative again.

Vice Mayor Weick asked if there are restrictions on using the Town's 5-acre tract on A1A, and Mr. Clem said there are probably not as we got it from the County, but it would tie up that piece of property if we used it. Vice Mayor Weick said we would get the revenue, and it is only a few feet away from the CVS site. There is a reverter or first right of refusal clause with the County on the property, and the City has a right of way for electrical use there. The Town Manager reminded the Council that the residents were not in favor of having a cell tower in our Town.

Councilman Slater said they just moved to the beach side, and they had to get a booster to use their cell phones at home. The Bermuda Bay objection was because of the visibility of the tower in their back yard. This was discussed in a positive manner by the Council, who asked the Town Manager to look into using the Southeast corner of the 5-acre tract, as there could be revenue.

- e. Departmental Reports (Building, Financial Balance, Public Safety)
No one had any comments.

8. **Council / Committee Reports or Non-Action Items**

- a. Council Committee Reports (MPO, EDC, TCCLG, TCRPC, Others)
Councilmen Haverland and Vice Mayor Weick had nothing to report.

MPO. No report.

Beach & Shores. No report.

TCRLC & TCCLG. The Town Clerk attended this joint meeting at the request of Councilman Slater, which was the Okeechobee annual barbeque. A presentation on Florida history by a retired judge who traversed the state 17 times on horseback was very interesting.

Mayor Barefoot said the first meeting for the Conflict Assessment has been scheduled for August 21, 2014. This public meeting will begin at 9 a.m. in the Town's Community Center with the Town Manager and Counsel Bruce May representing the Town as active participants. Mr. Stabe said it is a meeting to identify the issues that will be addressed during the mandatory mediation process and to set the ground rules. More than one councilmember can attend but cannot discuss or participate in the meeting. We are in litigation, Mr. Clem reminded the Council, and there are very limited parameters whereby they could meet, such as to discuss legal fees or settlement. Most of the time they will be updated individually with a report from Bruce May. Most likely late in the process a closed meeting could be called by Mr. May, and it has to have a court reporter with every word reported and sealed until the law suit is completed.

9. **Call to Audience.**

None.

10. **Adjournment**

Hearing no further comments, the meeting was adjourned at 2:21 p.m.

Respectfully submitted,

/s _____

Laura Aldrich, Town Clerk

(Approved by the Town Council at the August 29, 2014 meeting)