



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

REGULAR TOWN COUNCIL MEETING

Friday, August 29, 2014
8:00 a.m.

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

ABSENT: Brian M. Barefoot, Mayor (*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; Mike Ochsner & John Porta, Finance Committee; plus about 20 residents from Sunrise Terrace, Beachcomber Lane, Park Shores, The Estuary, Bermuda Bay, The Victoria, & Pebble Bay

OTHERS PRESENT: Jim LaRue, LaRue Planning & Management Services; Becky Vose, Vose Law Firm; Les Solin, BSP & Associates; Nikki Nate & Sarah Sinatra, Bryant Miller Olive; Vince Burke, Indian River County SWDD; Himanshu Mehta, IRC SWDD; Peter O'Bryan & Bob Solari, IRC Commissioners; Dylan Reingold, IRC Attorney; Bruce May, Holland-Knight Law; Charlie Wilson, VB Council Candidate; Pilar Turner, Councilwoman – Vero Beach; 32963; Jim Moller, JIPOA; Janet Begley, Press Journal

1. Call to Order

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

Vice Mayor Weick called the meeting to order at 8:00 a.m. with the Pledge of Allegiance and Invocation performed, followed by the Council roll call by the Town Clerk as reflected above. Mayor Barefoot was present via telephone.

2. Proclamations / Presentations

- a. Recognize Passing of Fred "Fritz" Gierhart, Elected Official 1977-1993
Councilman Slater mentioned that Mr. Gierhart had passed away on August 3rd, having served the Town well as Councilman 1977-1981, Vice Mayor 1981-1983, and Mayor for the next 10 years, and condolences were offered to his family. A remembrance service is scheduled for 10 a.m. this morning.
- b. Land Development Code Update – Bidder's & Town Manager's Comments

Mr. Stabe said there were four companies who responded to the Town's request for proposal to update the Land Development code, and invited Mr. Jim LaRue to speak first. Mr. LaRue said they have been involved with and specialize in local government since the mid-70's, and have served numerous waterfront communities like Sanibel, Melbourne Beach, and Indiatlantic. He addressed their experience and ability to tie in new legislation such as medical marijuana from a zoning standpoint. Vice Mayor Weick ascertained they are from Ft. Myers.

Ms. Becky Vose from Vose Law Firm spoke next, who has worked with local government since 1973 as Assistant City Attorney in Orlando and subsequently as attorney for eight (8) other municipalities. Two years ago she was hired by Deltona to review their zoning code, which has been a challenge, and the Town of

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.

Oakland on Lake Apopka as well. Councilman Haverland asked if she has reviewed our code, and she said she has given it a precursory look.

Bryant Miller Olive representatives Sarah Sinatra Gould and Nikki Nate submitted a joint proposal, for which Ms. Nate is representing as attorney and Ms. Gould as a planner. They currently serve as planners throughout Florida with four municipalities. They not only draft but implement codes, which is unique in that it helps to prevent variances and provides relief for the Town Attorney. Ms. Nate said her firm has specialized in local government since 1935, and is currently updating the St. Petersburg Beach Code. Everyone who has responded to this RFP is well qualified, but this firm is the only one that offers both an attorney and planning. Their proposal is broken down in terms of hours, and the timeframe committed to complete and submit a draft is within 3-4 months, which is substantially shorter than other proposers. Bryant Miller and Olive offered to cap the price at \$45,000, which is competitive with other proposers with a shorter time period. Councilman Slater asked if they have reviewed our codes, and they said yes. Mr. Stabe asked if there is a possibility of doing a partial revision this fiscal year and completing it later, and they said yes if it spans across the fiscal year line.

Mr. Les Solin from Barry S. Porter & Associates stated he has been working with the Town since 1983. He prepared the State required Comprehensive Plan for the Town in 1990. Mr. Solin said Building Official Jose Guanch informed him that the Town's code doesn't help him to do his job, as it says what the Town should do, but not what the developers should do. Mr. Solin discussed his achievements in winning 13 state or national awards with comprehensive plans and LDC's, working with 65 local governments in Florida. Mr. Haverland asked about his suggested timeframe for completion, which Mr. Solin said after speaking with the Town Manager and reading the minutes of our meetings, he provided a split schedule with sympathy towards our fiscal constraints. Mr. Haverland asked about the price, and Mr. Stabe clarified the quote was \$35,000 to \$45,000. Mr. Solin said he believed in a memo it said it would be \$36,000 for one year, and for two years it would be capped at \$45,000.

Mr. Stabe said we are not ready to make a decision today, and he will consider their comments and references prior to coming back to the Council with staff's recommendation.

c. Presentation by IRC, Countywide Solid Waste Update

Mr. Vincent Burke, Director of Utility Services for Indian River County (IRC), reviewed the Solid Waste Disposal District (SWDD) management plan update. In 2013 an update was done on their master plan, and the tentative timeline to go before the Board of County Commissioners to adopt the master plan is September 23. Prior to that he is gaining resident comments on recycling from the municipalities.

He reviewed the creation of the Solid Waste Disposal District (SWDD), its responsibilities, and the status of the landfill on 58th Avenue already topping 120' tall, with expectations to reach the height of 162' by 2016. There will be no more space at this rate after 2058, so they are looking for ways to reduce deposits into the landfill. A chart showed that 46% of what is currently being added to the landfill is recyclables. Legislature passed a bill in 2010 requiring a 75% reduction statewide for recycling. Using dual stream recycling we only have 37% (of the available recyclable waste not going to the landfill), and Indian River County is supposed to be at 50% by January 2015. One way to help achieve this is to switch from the current two recycle bins to a proposed single stream cart. Wheeled carts with lids (35, 65 and 95 gallon) for single stream recycling were displayed for the public's informal opinion as to which size they would most likely use if this is implemented.

The Town, the City of Vero Beach and the Town of Orchid have a mandatory approach towards universal collection service. Mr. Burke said there is not a choice in the matter, there will be curbside collection. Fellsmere has only 2% voluntarily subscribing to curbside pickup, and all new homes constructed require universal pickup. The unincorporated County areas have 34% voluntary universal collection, and in Sebastian 53% have chosen pickup.

Mr. Burke mentioned 2-1-1 collection service, which is twice a week garbage and once a week recycling and yard waste. Part of Indian River Shores only has bi-weekly recycling, and *he is recommending that it be uniform with the rest of the County for weekly service*. Also, to increase participation, he suggested going to the industry standard that more than 4 million Florida residents have of once a week services for garbage, yard waste and recycling.

To reduce the 30% cost of the SWDD budget for operating financially ineffective customer convenience centers, he is considering limiting their use to county residents or closing one or more of them. The County retained ownership but privatized the centers' operations with Treasure Coast Refuse a few years ago.

Mr. Burke addressed the Town's participation and Franchise Agreements, which expire September 30, 2015. The Town has an option to renew its contract (with Treasure Coast Refuse), and he mentioned the

possibility of piggybacking with the County for one year and see how this works out. The Town has a very high level of service and a very good rate. A matrix of the current costs was provided. If possible, Mr. Burke asked to leave an option to join with the County. There is no suggestion to change the schedule or our current contract rate of \$11.94 at this time.

Sorting with a 1-1-1 system was explained with increased participation and lower costs as the goal. Contractors would be required to go to a single stream recycling bin also. Mr. Burke said it would only require one person driving a truck with a hydraulic arm, which cuts manpower, insurance and liabilities costs in half. Discussion about one combined pickup for all recycling and garbage resulted in an explanation by Himanshu Meta that there is no facility here, it's a transfer process, and to build a facility would require a \$20 million capital investment and about three years to implement. Mr. Mehta echoed that it would be helpful if the Town would go to weekly recycling now, and the County would pay the hauler for this.

Vice Mayor Weick noted that we have back door pick up, and a lot of streets have a low canopy that the trucks cannot move on. A survey a few years ago of our residents showed they did not want to go to once a week garbage collection, as a lot of owners are part time residents.

Mr. Stabe said he has met with the County and Treasure Coast Refuse, and he is in the process of putting together recommendations for the Council. The current franchise agreement is at the end of the first 3-year extension in December. For the sake of time, he said he will present to the Council in September.

Commissioner Solari said it costs about \$20 more for single stream per ton than dual stream recycling. The County would have to increase total recycling with single stream by 70% to break even on a cost basis, but this would increase recycling significantly. This road show is to present that increasing recycling by 15% is not going to meet the goal of 75% recycling by 2020, which is why they are adding other options like universal recycling to help to achieve the goal at a break even cost.

Councilman Cadden asked if Republic could give us a number now for where the Town is for recycling. His neighborhood participates, compared to the Vice Mayor's neighborhood having 4 of 17 homes participating.

Councilman Slater said his opinion is that the Town will not be able to have anything other than the back door service Republic provides. Most of the residents keep their garbage in the garage, and no trash is left on the streets from the trucks.

Mr. Mehta said there will be specific requirements the Town has included in the agreement, such as back door service and twice a week garbage pick up. The only change they would recommend is weekly recycle pickup rather than biweekly. October 1, 2015 is when the pick up of the wheeled carts by truck would begin, Mr. Mehta said. All recycles are currently going out of the County, and this would continue. Mr. Meta asked if they could provide bins and get information out.

Gail Shepherd, 220 Lake View Way, asked about convenience centers being easily accessible. She goes to Old Dixie (Oslo) frequently. Mr. Burke said that one would not close, nor would Fellsmere as they both have had multi-million dollar renovations. The convenience center(s) that do close could be used for an alternate purpose such as hazardous waste disposal. Ms. Shepherd said there should be some kind of explanation for cost accountability other than increasing the volume.

3. Consent Agenda

- a. Acceptance of Finance Committee Minutes dated July 15, 2014
- b. Acceptance of Planning, Zoning & Variance Minutes dated July 14, 2014
- c. Approval of Regular Town Council Meeting Minutes dated July 24, 2014
- d. Approval of Town Council Budget Workshop Meeting Minutes dated July 24, 2014
- e. Approval of Attorney/Consultant Bills Associated with Electric Utility Litigation

With no discussion, a **motion** made by Councilman Haverland with a second by Councilman Slater **to accept two sets and approve three sets of minutes as presented and the bills associated with the electric litigation, which passed 4-0.**

4. Mayor's Items

- a. Update on Conflict Resolution Process (Bruce May)

Participating by telephone, Mayor Brian Barefoot clarified that a reporter had questioned the estimate in the Town's lawsuit that residents would pay \$2 million a year more than they would otherwise pay if Florida Power & Light (FPL) were our service provider. After the lawsuit was filed, that reporter emailed Councilman Haverland asking him how the estimated \$2 million rate differential was calculated. Councilman Haverland

relayed the question to the Mayor by email, who sent the email back explaining that that rate differential was based upon our consultant's analysis and calculations. Mayor Barefoot stated that there were no decisions made during the email exchange, but they simply discussed the basis and language of a lawsuit that the Council had already voted to file. He also pointed out that this email exchange had nothing to do with any official business that would be coming back before the Council. The Mayor said in an abundance of caution, he wanted to make the Council and the public aware of these email communications so that the Council and the public could have the opportunity to discuss the reporter's question and the facts relating to that question during this open and public meeting. Mayor Barefoot asked if Mr. May would explain to the Council and for the record, how this \$2 million differential was calculated.

Mr. May reported that the \$2 million rate differential that was estimated in our complaint was developed by the rate consultant, a former Chairman of the Public Service Commission (PSC) who is also an accountant and a rate expert, retained by Holland & Knight. The consultant analyzed the tariff rates of FPL which are on file with the PSC and compared those rates to current City of Vero Beach's rates. The consultant then ran his analysis based on that difference and came up with what he estimated at the time to be about a \$2 million rate differential, which goes to part of the damages for refund claim in the lawsuit. Without going into the intricacies of the lawsuit, Mr. May said the consultant believes that the assumptions he used were very conservative. For example, the rate consultant assumed that all of the customers in the Town are residential customers, when in fact some of the largest customers in Town are commercial customers. Mr. May pointed out that at the last Conflict Assessment Meeting, the largest employer in the Town, the John's Island Club, a commercial entity, stated that in the last 12 months it has paid in excess of \$700,000 in electric bills, and that the rate differential for commercial customers is actually larger than for residential customers. Another conservative assumption was that the consultant used the current \$6.95 fuel charge to calculate the City's rates, which was much higher prior to that. The consultant also assumed that FPL rates will not go down, which is conservative since last week FPL announced its rates would be reduced by \$2 per 1,000 kW hours. The consultant also asked that Mr. May share that the City is not subject to Florida Energy and Efficiency Conservation Act, so no rebates or incentives available from FPL are available from the City.

After Mr. May provided a high level summary of the estimated \$2 million rate differential, Vice Mayor Weick stated that it was important to understand that over the past 12 months, John's Island Club alone would have saved \$250,000 if it had FPL rates.

There being no further questions or comments on this issue, Mayor Barefoot asked if Mr. May would update the Council on where things were left after the Conflict Assessment Meeting last Thursday. Mr. May said Florida law requires when two local governments are in litigation, the lawsuit must be set aside until the parties go through a 3-phase conflict resolution process. Mr. May explained that we are in the first phase, Conflict Assessment, where lawyers, technical staff, and the City, Town and County managers get together and each entity provides its own assessment of the dispute from its perspective and starts to frame the issues for the substantive discussions that will occur in the second phase. The second phase is a Joint Public Meeting, at which the Town Council, the City Council, and the County Commissioners will get together and discuss whether there is an opportunity to resolve this litigation short of going to a trial. If there is no resolution, the third phase would be formal mediation.

Mr. May then reported on the first Conflict Assessment Meeting, at which he provided an assessment of the dispute based on the complaint that the Town had authorized. He summarized that the lawsuit, at its core, was filed because the City continues to charge excessive rates to the residents of the Town and continues to disregard non-resident customer's opinions. Mr. May reviewed what the Town expected in order to settle the lawsuit. First, he advised that the Town believed the optimal solution to this rate crisis is for the City to sell its electric system to FPL, which would provide immediate and substantial rate relief, a boost to the local economy, and strengthen the City's financial position. He also stated that if the City abandoned its efforts to sell the utility system to FPL, then the Town would expect the City to do three things to settle this lawsuit: 1) provide immediate rate relief with rates comparable to FPL; 2) the Town would expect a refund of monies in excess of reasonable rates paid by the residents, including the monies the City is taking from utility revenue that were placed in the General Fund; and 3) non-resident customers need to have proportionate representation

on the Utility Board that sets the rates and makes other fundamental utility management decisions.

Mr. May said the County provided its assessment, and then the City's position was stated, which he summarized. First, the City's outside lawyer stated that the City's electric rates are higher than they would like them to be, but the City has not conceded that those rates are unreasonable. Second, the City claimed that they want to sell its system to FPL, but have reached an impasse largely due to FMFA. Although the City said it was committed to the sale, it also announced at that meeting that the transaction had been placed on the "back burner" and that the City is not actively pursuing it at this time. Third, the City said it is willing to work with the Town on a utility governance structure that will solve the Town's disenfranchisement concerns, but the City Council was very vague as to how or what those structural changes would be. And finally, the City said they are working on solutions to bring the electric rates down to meet the Town's concerns over the rates.

Since rate relief is a core of the law suit, Mr. May stated that he wanted the Council to understand exactly what the City's attorney said with respect to where they are with the rates. In order to do this in the most accurate way, Mr. May said he had Robbie and Laura transcribe the audio tape with the dialogue that took place between him and Mr. Wright. He provided a copy of that transcript and read it as follows:

Mr. May: Primarily one of the key issues is that 20% of the Town is on FPL's rates, and 80% of the Town has City rates, and there is such a gap between those rates that it's a problem within the community. So just to manage expectations, from our perspective, we're looking for reasonable rates. We're looking for rates comparable to FPL rates. Is that something you think is doable from the City's standpoint? Can you get your cost structure in line where you can be competitive with FPL's rates?

Mr. Wright: Bruce, off the top of my head, I don't think we can get to rate parity with FPL's rates where we are today. I think we can close the gap substantially. Exactly what that means, I really can't say today because it involves several potential internal rate reduction measures we may be able to take, and it also involves some yet to be had negotiations with OUC. Now do I think we can get to rate parity with FPL? No. Do I think we can close the gap substantially? Yes. The FPL rates today per 1000 Kwh for residential customers are \$99 and change, our rate is \$123 and change. That's, say \$24 difference. I'm optimistic that we can close that gap by more than half.

Mr. May reported that the next Conflict Assessment Meeting will be on Friday, September 26th at 9 a.m. and will focus on the rate issue. We are expecting that the City will come back with more concrete proposals on how to address the rates.

Mr. May reminded the Council that the entire conflict resolution process is subject to the Government in the Sunshine Law, and there will be no opportunity to meet in the "shade," as is normal in most litigation. Accordingly, Mr. May said it was important for him to get some direction from the Council on how it would like to proceed in the subsequent phases of the dispute resolution process.

Councilman Cadden said that the comment about the rate reduction is totally unacceptable. He said that having 80% of our Town paying a significantly different and higher rate is not acceptable. Having an even greater commercial rate differential is also a problem, and doesn't do a thing to help the businesses in our Town, or our County, or even in the City. The Councilman concluded that the City merchants are hurting just as badly as every other merchant.

Councilman Slater asked if there was some idea of a timeframe for the dispute resolution process. Mr. May said that the statutory timelines call for about 100 days, but those timelines are also flexible and negotiable. The Town has agreed with the City and County to have another Conflict Assessment Meeting on the rate issue end of September and a possibly another follow up meeting on the utility structure issue in October. He hopes the joint public meeting may be held in November, and if this is not fruitful, a formal mediation phase may be entered into by the end of the year or first part of 2015. Councilman Slater said things always take longer to complete than what we imagine, and if we can't be making substantial progress in resolving this by the end of the year, the Town ought to move forward.

Councilman Haverland asked what the rate meeting would be about, since we know exactly what the rates are for both the City and FPL. Mr. May said that the City has indicated that they have some ideas as to how to address our rate concerns, and the Town is required by law to participate in good faith and listen to those proposals.

Councilman Slater asked when the 100 day process started, which Mr. May said was the process began

around the date they received the certified letter, which was approximately July 21st. Councilman Slater agreed that the intent is to try and work this out, but if it can't, we should stop kidding ourselves.

Councilman Haverland asked if it is possible to have meetings closer together. Mr. May said we can ask that at the meeting on the 26th. Vice Mayor Weick said we have to follow procedures.

Councilman Slater said our franchise agreement runs out November 2016, and we need time to make alternative plans. Time is critical if we have to pursue significant alternate plans.

Councilman Cadden questioned that the City is not actively working on the sale, and Mr. May stated that the City's attorney reported that the City does not have anyone working on the sale at this time. Councilman Cadden found this unbelievable, with two referendums in the City with 60% of the City residents voting by referendum in favor of the sale.

Vice Mayor Weick asked about the City stating that they would lower rates years ago, and now they are even higher than what FPL rates were back then, and FPL rates have dropped. He would like to see the Town totally released from the City of Vero Beach's electric system. It is unregulated, and we need to be totally separated from it. He said the Council and Mayor probably agree with this, if our negotiations do not succeed, we have to separate. Our main goal is having rates fair and equal, Councilman Slater added. The Vice Mayor said the rate structure is important, but the unknowns such as unregulated, unending contracts with other providers and FMPA concerns him.

Mayor Barefoot was amazed that the City's outside attorney stated they can get us closer to the rates by closing the gap by 50%, questioning why it took a law suit by the Town to get to this point. He pointed out that the City has been overcharging to fund their General Fund, and that is absolutely ridiculous. He added that we have to be very skeptical if not cynical about where we end up with this process. Vice Mayor Weick said instead of trying to lower their rates now and raise the taxes gradually, they added another million dollars from the Utility Fund to the General Fund. He asked Mrs. Pilar Turner, City of Vero Beach Councilwoman, if this was true. She answered it was a product of additional revenues from taxes.

The Vice Mayor invited audience comments, and Charlie Wilson, candidate for the CoVB Council, suggested that the citizens of the City and the Town should fight against the FMPA, not each other. For five years we made great progress, and we went from a done deal to a dead deal in six months with a change in Council. It would be helpful if the joint meeting in November was after the elections. Mayor Winger is on the record as saying, "I will oppose any effort by the Shores or the County to get out of Vero electric." The legal representatives from the City of Vero Beach have not had any direction from the Council, and the CoVB Mayor said "I do not direct staff, especially our lawyers." Mr. Wilson believes city councils do direct their attorneys. The City cannot put this on the ballot now, it's past the deadline. They have put the FPL deal on the back burner, refused to give legal direction to the legal team, and refused to place a utilities authority representative. He suggested we work together to effect the sale to FPL.

Ms. Gail Shepherd, 220 Lakeview Way, asked why we wouldn't take less than 100 days for conflict resolution. Mr. May said there were scheduling issues in getting stakeholders together, and the request by the City to provide more concrete proposals. Ms. Shepherd asked that the Town be more aggressive.

Peter O'Bryan, Indian River County Chairman of the Board of County Commissioners, said the County strongly feels that the very best solution for all residents in the County is the full sale of the Vero electric system to another provider, preferably FPL. Unfortunately, as the Town made a choice that the sale was pronounced dead and filed a law suit, the County also filed a petition to the PSC to look at the franchise agreements. They feel a sense of urgency, and share the frustration of the timing. When the City Attorney announced the sale is on the back burner it was a great disappointment in the whole room at the Conflict Resolution meeting. The County is moving forward with the PSC, and will listen in September with hope that there is a resolution.

5. Discussion with Possible or Probable Action

a. OPEB Trust Fund Update (Town Manager & Chairman of Finance Committee)

Mr. Stabe referred to his memo dated August 26th discussing that the Finance Committee unanimously approved the tentative budget with the recommendation that the Council consider delaying the hiring of the final three Public Safety Officers until June 30, 2015 and a unanimous decision to recommend that Council not

establish the OPEB trust fund.

Chairman Mike Ochsner said the consideration in setting up the trust fund is the GASB ruling that requires showing this on the financial statements, and the down side other than additional paperwork is the flexibility. We have already set aside the money and are investing the money to reduce the liability. The Committee felt a trust fund was not worth the effort.

Councilman Haverland said the \$100,000 we set aside last year was just taken from the bank account and placed in a stock market. We have a recognized unfunded liability of \$600,000 and an actual confrontive liability of approximately \$1.4 million. He discussed this further, calling it the classic governmental "kick the can down the road" by incurring liability and not funding it. He believes a trust fund should hold the expense when it occurs to protect the employee's monies from being used for anything else, and agreed it takes away flexibility. Mr. Ochsner said in traditional Fund Accounting you recognize expenses, and pay it. The implicit portion of the liability, Mr. Ochsner continued, is in his opinion a phantom liability, as we pay it and the subsidies as we go as part of the annual operating budget. The Chairman and Councilman disagreed that these funds are being set aside. The Vice Mayor agreed that it is an acceptable accounting procedure to pay as you go, and it costs \$35,000 - \$40,000 per year.

Discussion ensued with Councilman Haverland, Councilman Slater, Vice Mayor Weick and Chairman Ochsner. Ms. Christmas noted that we have two employees in next year's budget as a \$9,000 expense for retiree medical insurance. This is not a problem to meet this obligation in the future, Vice Mayor Weick added. Mr. Ochsner said the fact that the amount budgeted for next FY is so small is illustrative that there is a large implied liability, but since it is budgeted and paid every year, \$1.4 million is only for GASB purposes. A **motion to establish a trust fund and to put \$100,000 aside towards beginning to fund the \$1.4 million liability** was made by Councilman Haverland with a second by Councilman Slater. Councilman Haverland and Councilman Slater voted **aye**, and Vice Mayor Weick and Councilman Cadden voted **nay, which motion failed 2-2**. Vice Mayor Weick said this could be further discussed at the budget meeting if desired, and Councilman Slater noted it is simply an honest disagreement.

6. **Town Attorney**

a. Ordinance 515, Qualification Dates for Town Council Candidates

The second reading on Ordinance 515 was performed by Mr. Clem following an explanation that the elections are currently the second Tuesday in March. Because of this and the State's statute that says the qualification period is 67-71 days prior, it requires that the 5-day qualifying period falls during Christmas holidays. This sets the qualification dates as the second Monday of January and concluding by Friday of that week. 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.

This ordinance has been published as required, and is ready for the Council's consideration. A **motion to approve the second reading of Ordinance 515 that sets the candidate qualification period as the second Tuesday in January for election years in the Town** was made by Councilman Haverland with support from Councilman Slater, which **passed 4-0**.

7. **Town Manager**

a. Cell Tower Update

A memo dated August 26th was given by the Town Manager regarding conversation with representative from Verizon. An alternative location is being researched that may include a 50' tower being replaced with an 80' flagpole type cell tower. There may be some potential issues with underground utilities at that site, so they are still conducting studies for a flagpole tower in front of Town Hall.

b. Departmental Reports (Building, Financial Balance, Public Safety)

It was noted that a correction was made to the Building Department report that had been distributed.

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

a. Planning, Zoning & Variance Board Meeting 8-11-14 Recap (Chairman / Vice Chair)

Mrs. Palumbo reported that at their August 11 meeting, they considered an application received by Mr. Bob Gibb for the rezoning of Lot 1 at the northeast corner of A1A and Beachcomber Lane, with many

residents in attendance, at least 10 of whom spoke. Some legal issues were recognized, and since Mr. Clem was not at the meeting, the discussion was tabled. A tree of special concern was approved with mitigation.

Mr. Clem said the rezoning issue is a little complex. The lot is adjacent to the two parcels that have been zoned Commercial for many years, and this request is to rezone Lot 1 on Beachcomber Lane from R1A to C1A. It is more complex than a hearing. It requires a change to the Town's Comprehensive Plan, and have zoning comply with that. This can be addressed simultaneously.

The property on Sunrise Terrace, Lot 8, is in partial use from when the Spectrum building was a bank. On the Town's map it is partially shown as residential. It was rezoned in 1968 to commercial, and there appears to be a dysfunction between the text in the Comp Plan and the map, which appears to be an administrative error that occurred in 1988 or later that must be addressed. These two issues are coming before the PZV Board before this comes back to the Council.

The question of should the proposed building be approved if the rezoning is granted will not come before the PZV Board until October, with public input at that time. Then, if Lot 1 on Beachcomber Lane is approved to be rezoned, and Lot 8 is to have the zoning correctly displayed, there will be a recommendation to the Council from the PZV Board. An ordinance will be considered if this goes that far, and opinions will be gathered at the Council meeting. There will be two readings of the Ordinance, so there will be time for people to comment. If approved and after both readings of the Ordinance, the Comprehensive Plan will be amended here and in Tallahassee. We will renotify the property owners within 300' of the Beachcomber lot and publish a notice as required in the newspaper.

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

Beach & Shores. Councilman Cadden reported that this meeting was cancelled.

EDC. Vice Mayor Weick went to the August meeting, and they discussed positioning analysis by a Public Relations firm for how the County wants itself viewed.

MPO. No report.

TCRLC & TCCLG. No report.

Councilmen Haverland had nothing to report.

9. **Call to Audience.**

Jerry Jones, Sunrise Terrace, said he was affected by the rezoning proposal. He said he is not here to patronize or chastise the Council. He taught government for 14 years, and appreciates the responsibilities of the Council in providing services to the community and protecting citizens and property. In this situation, the dual demands of meeting the needs of individual citizens and the community at large are to be considered. He purchased his home in 2000 in Indian River Shores because it is primarily and predominantly a residential community, with almost no commercial property in place, which protects the community as a limited commercial venue. The shops are next door to his house, and he said he is happy they are there, as they fit well within the residential community. He recognized the value to the community of CVS, 7-11 and Oak Point office building, but was not as happy that they are there.

Three lots are being discussed, two of which he referred to as residential lots, that would affect two residential streets in our community. He said this represents a serious negative impact for a number of people, such as property values and quality of life. Mr. Jones said what is proposed does not fit this community, a 2-story 10,000 SF office building with 45 parking spaces and entrances on both side streets. It is not needed; there is vacant office space in the Oak Point office building and in the Village Shops.

He encouraged the Council to maintain a limited commercial venue in our community, and to consider the residential status of both streets affected. He opined that it would be ethically and morally wrong to change the status of that location. These two streets don't have a home owner association, so the Council is their representative. Most are in agreement with something to scale like the Spectrum building.

Greg & Karen Gandolfo, 925 Sunrise Terrace, were granted two minutes to also address this after Mr. Clem and Councilman Cadden said this is not the venue, it will be heard later. Mr. Gandolfo said they live directly behind Lot 7, and the parking lot area will greatly impact the whole surrounding street. There is a house that butts up to the exit where the Village Shops are, which had a remodeling effort begun earlier this year. He fears that once this building is built, that property will be unsellable as a residential property, an eyesore in the neighborhood, and cause a petition for rezoning as commercial property.

Councilman Slater asked if the Council has said or done one thing that would lead them to believe that due diligence would not be followed, and Mr. Gandolfo continued that the Zoning Committee said it was a done deal. They have already surveyed.

John Newsome, 926 Beachcomber Lane, asked if they are not able to address this at a public meeting, and Vice Mayor Weick said it is not on the agenda, and it is fine to address but not today. It has to go through the Planning & Zoning Board first. Mr. Newsome said the residents came today because there are a large number of people who are opposed to this project. Both the Vice Mayor and Councilman Cadden assured them that there will be a proper time for this issue to be heard, and today is not the day. The time, as Mr. Clem explained, is after it goes through the Planning, Zoning and Variance Board.

Patty Gundy, Pebble Bay, asked about the four proposals for updating the Land Development Code, which she uses a lot as the Treasurer in their HOA. She was expecting a format on how it would be rewritten. From a single family perspective, they should be able to find what relates to all homeowners. None of the proposals mentioned talked about it, and Mr. Stabe said the RFP had specific requirements, and each of them understand it is to be easy to access.

10. **Adjournment**

Hearing no further comments, the meeting was adjourned at 10:34 a.m.

Respectfully submitted,

/s _____

Laura Aldrich, Town Clerk

(Approved by the Town Council at the September 25, 2014 meeting)