



MINUTES  
THE TOWN OF INDIAN RIVER SHORES  
6001 State Road A1A, Indian River Shores, FL 32963

SPECIAL CALLED COUNCIL MEETING

Friday, September 11, 2015

4:00 p.m.

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

**STAFF PRESENT:** Robert Stabe, Town Manager Laura Aldrich, Town Clerk  
Chester Clem, Town Attorney Heather Christmas, Treasurer  
Shawn Hoyt, Public Safety Department Sergeant; and a PSD officer

**RESIDENTS:** Bob & Nancy Auwaerter, Finance Committee Chairman and wife; John  
Porta, Finance Committee; Penny King and Charles Kimmel, Bermuda Bay;  
Caroline Ervin, John's Island

**OTHERS PRESENT:** Bob Solari, County Commissioner; Reporters Janet Begley & Lisa Zahner

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation – Councilman Slater
- c. Roll Call – Town Clerk

The meeting was called to order by Mayor Barefoot at 4:03 p.m. The Pledge of Allegiance and invocation were recited and the roll call is as reflected above.

2. **Proclamations / Presentations** (None)

3. **Consent Agenda**

- a. Acceptance of July 16, 2015 Finance Committee Minutes
- b. Approval of July 23, 2015 Budget Workshop Minutes
- c. Approval of July 23, 2015 Regular Town Council Meeting Minutes
- d. Acceptance of August 20, 2015 Finance Committee Minutes
- e. Approval of Invoices dated July 31 and August 31, 2015 from Town Attorney
- f. Approval of Invoice from Utility Attorney dated July 17, 2015
- g. Approval of Invoices from Kerns Construction dated August 28, 2015 (Pebble Bay Curbing)

With no discussion, a **motion** from Vice Mayor Weick with a second by Councilman Slater to **approve the consent agenda as presented**, the motion **passed 5-0**.

4. **Town Attorney**

- a. Ordinance 520, Electric Utility Authority – 1<sup>st</sup> Reading

Mayor Barefoot said this ordinance has been discussed in the past, and it allows the Town to create its own electric utility authority. This is on the agenda today as the City had a meeting with FPL earlier this week and discussed selling the Indian River Shores customer base, and the counter offer by the City to the \$13 million offer from FPL was \$66 million. When the City Council agreed to sell the whole system to FPL, the total value of that transaction was \$179 million with \$110 million in cash up front. If 8% of their system is worth \$66 million, then these figures reflect a value for the whole system of about \$837 million, or three quarters of a billion dollars. He wondered what happened to increase their system value to that magnitude. We applaud the new or

*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.*

Revised contract with OUC and the City's attempt to reduce rates, the response to FPL's offer leaves it hard to gain confidence in the manner in which the City of Vero Beach is conducting business. The undepreciated assets located in the Town that are owned by the City are \$3 million. The Mayor and Vice Mayor discussed the numbers in the offer briefly before he called on the Town's alternate representative on the City of Vero Beach's Utility Commission, Bob Auwaerter, to provide an update.

Mr. Auwaerter said there was a Joint Finance and Utilities Commission meeting that was scheduled for Monday, September 14, but it had been cancelled. He said the new contract is now a take or pay contract, with provisioning the plant will eventually be shut down. It was designed for peak capacity. He will be questioning Mr. Wright that in the original contract, the capacity for natural gas to come through would go back to the City. The new contract has this going to OUC, which is a valuable commodity. The Florida Public Service Commission (PSC) website shows the large capacity natural gas pipelines, and Vero Beach is the only one that goes to Miami. He discussed natural gas prices as a commodity that could be sold, and a force majeure clause that gives OUC the ability to walk away due to acts of God, but the City did not have that right. The rate payers would have to continue to pay even if the production was knocked out during a hurricane. Mr. Auwaerter said he was unsuccessful in trying to find similar market prices on the Federal regulatory commission site. Peak capacity and the legal settlements of force majeure were discussed briefly.

Mr. Clem proceeded with reading Ordinance 520 by title only as follows, noting it will be published in the local newspaper Monday and then back for a second reading on the 24<sup>th</sup>:

**AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, PROVIDING FOR THE REGULATION OF ELECTRIC UTILITIES SERVING WITHIN THE TOWN WHOSE RATES AND REVENUE REQUIREMENTS ARE NOT REGULATED BY THE FLORIDA PUBLIC SERVICE COMMISSION; PROVIDING FOR SEVERABILITY OR REPEAL OF CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE.**

Mr. Clem said this contains authority to establish a utility authority with the Mayor as the Chairman, the Town Council as members, and the Town Manager as the administrator. Vice Mayor Weick made a **motion to approve the first reading of Ordinance 520** which was seconded by Councilman Haverland, **which passed 5-0.**

**A motion to add an item to the agenda regarding our representative on the City of Vero Beach's Utility Commission** was made by Vice Mayor Weick with support from Councilman Ochsner **passed 5-0.**

The Mayor stated that he had received a **request from the Town's full member on the City's Utility Commission, Rick McDermott, to exchange primary and alternate member roles with Bob Auwaerter.** This was acceptable to Mr. Auwaerter. A **motion to accept Rick McDermott as stepping down to the alternate position** was made by the Vice Mayor with support from Councilman Ochsner, which passed 5-0. The Mayor asked for the second motion, which was made by Vice Mayor Weick **to appoint Bob Auwaerter as the primary member on the City of Vero Beach's Utilities Commission** with support from Councilman Ochsner, which **passed 5-0.** The Town Clerk will notify the City of the change in our representatives' status.

b. Third Amendment to Waste Hauling Agreement with Treasure Coast Refuse

Mr. Clem reminded the Council that they had just approved an amendment to the Agreement with Republic Services in October 2014, then the County changed their requirements regarding recycling hauling. This leads to a requirement for us to make a change, which the only change we are making relates to the language in paragraph 7.2, Residential Recycling Rates. A **motion to approve the amendment to the Treasure Coast Refuse Waste Hauling Agreement** was made by Councilman Ochsner with support from Councilman Slater, which **passed 5-0.**

5. Mayor's Items (Possible or Probable Action) - None

6. Discussion with Possible or Probable Action

a. Cell Tower Recommendations from Finance Committee (Finance Chairman/Town Manager)

Mayor Barefoot said this was the initial primary purpose of the meeting, and turned the floor once again to Chairman Auwaerter of the Finance Committee. He said we had received three (3) proposals and had discounted one for lack of completeness. The Committee met initially to review the proposals, and then came up with questions. They met again to further vet the final offer received from the two contenders. Chairman Auwaerter explained the options whether to have the Town be responsible for building and/or maintaining the structure, or to have a vendor pay the site fee, install the tower and assume the risk.

The primary objective is to have strong and reliable cell phone service for all residents and businesses in the Town, as we are in a donut hole of coverage. We want to minimize the financial risk and get the best deal possible, which we initially began with hoping for a stealth tower that looked like a palm tree. Then we found that with four (4) major carriers (ATT, Verizon, Sprint and T-Mobile), they need at least 12 feet between each array. Data bandwidth is also critical. A smaller tower would only hold two tenants, and it would double the cost to have two towers. There is a 120' tower by the Moorings, a monopole, which doesn't stick out at all. He also looked at the 150' tower the County is selling, and it is by Vero Beach High School. They all thought that a palm tree would be too noticeable, and the palm fronds are susceptible to breaking and could be very dangerous in a windstorm. A monopole, Mr. Stabe said, would have nothing to grab the wind.

Mr. Auwaerter said they interviewed the vendors and narrowed it down to DataPath and Vertex. The spreadsheets are available for the Council. Vice Mayor Weick asked if all of the vendors leave, who is responsible to take the tower down. Mr. Stabe said the original agreement states whoever owns the tower takes on that responsibility. Mr. Clem said this is a clause that would be included in the agreement. Mr. Auwaerter said the vendor would own the pole and all of the arrays belong to the tower companies. Vice Mayor Weick said all of the companies want to get out of owning the towers, and envisioned the same type of obsolescence with towers as the pay phones.

Councilman Haverland asked how far we are from signing a contract and how soon would the tower be operational. Mr. Stabe said the proposals indicate 8-12 months from commencement. Mr. Auwaerter mentioned that the site makes a difference, and the Vero Beach airport with FAA could be another obstacle. The Council has to confirm who we will work with, the Mayor added. DataPath has the best financial proposal, Mr. Auwaerter and Ms. Christmas agreed. The references from Datapath were superior, and Vertex only gave three. The recommendation is to go with Datapath, Mr. Stabe agreed.

Mr. Auwaerter noted that the vendor would own the tower. The diameter of the pole at the bottom was questioned by, Vice Mayor Weick, which Mr. Stabe said is 5' and tapers a little towards the top. The Sea Oaks tower is a number of years old, is 8' at the bottom, and it is only an 80' pole.

There was more discussion about the assumptions made by Mr. Auwaerter with the carriers and revenue estimates and minor discussion. A **motion for the Town Manager to begin to develop a very specific plan with Datapath** was made by Councilman Ochsner second by Councilman Slater, **passed 4-1**. Vice Mayor Weick voted against it as he needs to know location first before approving.

The Mayor encouraged the Town Manager to keep the communication strong throughout the process. The alert sent out yesterday by the Town Clerk explained what the process going forward is relative to the Town pursuing having a cell tower.

Penny King, President of Bermuda Bay Board, presented a letter with their community's concerns. She understands the need for this, and wants to make a letter with its 119 signatures part of the public record. She thinks there is a way to keep the residents comfortable with having a tower in their front yard, and asked the Town to consider what they are proposing. They want the

Town to make money doing this, but two smaller towers work with them better than one very tall one. Their fear is that when it comes to the Zoning Board, it will be a done deal with the height.

The Mayor encouraged Mrs. King to be in contact with Town Manager as the point person as the process moves along. Mr. Porta asked if the group understood that there is another community looking to install a tower at the North end of Town, and are anxious to work with the Town. The Mayor said the John's Island Board has already approved a site for a second tower subject to the specifics that are worked out. Brian Kroh has been part of the discussions on behalf of the John's Island Board. Mr. Stabe said they have been kept in the loop, and if they have a different point of view, the Mayor added, Mr. Stabe is to let the Council know. Councilman Haverland asked if John's Island will act independent of what we do. The Mayor said it would be complementary. The ideal is to have a tower each mile and a half. Currently the twin Spires have the southern coverage, and the northern tower is at Sea Oaks. We are in the center of a dead spot, according to an FCC site.

7. **Town Manager**

a. Outstanding RFP – Telephone System Update

Mr. Stabe said since the telephone RFP, he has met with two different companies, Comcast Business and Forerunner Technologies. Comcast has a dramatic increase in the level of service compared to what we have been paying for the last 5 years, very reasonable up front cost. It's about \$5,000 less than we have been paying annually. We do not have the second quote firmed yet.

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

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

**Beach & Shores.** No report.

**TCRPC.** No report.

**TCRLC.** No report.

**TCCLG.** No report.

**MPO.** Vice Mayor Weick said MPO met Wednesday the Go-Line has had an increase in ridership with almost a million per year riders. The I-95 widening will be complete in September 2016 from 60 north to the County line. A status report given on the widening of County Road 510 from US 1 west revealed it will not be started for at least three years. There are long range planning meetings for public input that will be posted on the bulletin board.

**EDC.** No report.

9. **Call to Audience** (No response)

10. **Adjournment.** The meeting was adjourned at 4:58 p.m.

Respectfully submitted,

*(Approved by the Town Council at the Sep. 24, 2015 meeting)*

/s \_\_\_\_\_