

MAYOR  
THOMAS F. SLATER  
  
VICE MAYOR  
MICHAEL B. OCHSNER  
  
COUNCIL:  
ROBERT F. AUWAERTER  
RICHARD M. HAVERLAND  
DEBORAH H. PENISTON



TOWN MANAGER  
ROBERT H. STABE, JR.  
  
TOWN CLERK  
LAURA ALDRICH  
  
TOWN ATTORNEY  
CHESTER CLEM

## MINUTES

### SPECIAL CALLED MEETING Further Consideration of Contract Between Town Council and Tim Day

Tuesday, September 11, 2018  
10:30 a.m.

6001 N. SR A1A, Indian River Shores, FL 32963

---

#### 1. Call to Order

- a. Invocation
- b. Pledge of Allegiance
- c. Roll Call

The meeting was called to order at 10:30 a.m. by Vice Mayor Ochsner, who gave the invocation and led the pledge of allegiance. The Town Clerk called the roll, with the following noted: PRESENT: Vice Mayor Ochsner, Councilman Auwaerter, Councilmember Peniston, Town Manager Stabe, Town Clerk Aldrich, Town Attorney Clem, and Public Safety Director Rosell. Executive Assistant Fentress arrived at 10:50. EXCUSED: Mayor Slater and Councilman Haverland. No one else was present.

#### 2. Discussion

(10:31 am) Mr. Stabe explained that after the Council made the offer of employment to Mr. Day at the last meeting, he directed Chief Rosell to follow the normal procedure of performing a background investigation. Mr. Clem explained that for nine years Mr. Day was a councilman in the largest community in South Florida, a high-profile position, and also a former director of a police fire academy nearby. Documents related to matters in 2009 were reviewed and forwarded to the Council and Mr. Clem. Vice Mayor Ochsner spoke with Mr. Day about this, who verbally responded to the Vice Mayor.

There was a phone conversation with Mr. Day a few days later by the Town Manager and Mr. Clem. During the discussion Mr. Clem and Mr. Stabe had with Mr. Day, it was decided that both sides agree to cancel the contract subject to Council's approval. Mr. Day suggested that since he has changed his job and incurred expenses, \$15,000 would be sufficient, and signed the settlement agreement yesterday. Mr. Clem reviewed the other terms of the settlement agreement.

**A motion to approve the settlement agreement as presented between the Town and Timothy J. Day as presented** was made by Councilman Auwaerter, seconded by Councilmember Peniston and **passed 3-0**. A check will be prepared and mailed today to Mr. Day along with a copy of the executed agreement.

(10:39) From a standpoint of moving forward, Mr. Stabe has contacted Colin Baenziger, who took three months to do Sebastian's search, and quoted the same fee of \$26,500. Another firm he contacted has not responded yet. Advertising in the Florida City County Manager's Association and Florida League of Cities resulted in nationwide response. Mr. Clem said it is difficult for Council to be involved in the search due to Sunshine laws, which is a reason to have the search firms assist and they could individually have total open communication with the firm.

Councilmember Peniston suggested asking Glenn Irby and James Kelly to reconsider, and also Ryan Fabbri. Mr. Stabe reminded them that Mr. Fabbri was not responsive to the invitation to the August

meeting, and Hurricane Florence is presently headed towards his area along the South Carolina coast. The Vice Mayor and Councilman Auwaerter agreed that Mr. Fabbri seemed to be disinterested in the position.

The Council directed Mr. Stabe to see if Mr. Irby and Mr. Kelly could be present for the September 20 meeting. Mr. Stabe added that Chief Rosell had mentioned that another possibility is Dr. Joe Divine, whose health challenge wasn't as serious as he initially thought, and he is still interested. The Vice Mayor suggested that we contact those three, and not Mr. Fabbri, unless he has an incredibly compelling reason for not responding.

*(10:36)* A request for **moving the beginning time of the Regular Town Council meeting next week, September 20, from 3:30 to 2:30**, and set a closed session for **collective bargaining negotiation for 1:30** was made by a councilman and brought up for discussion. Mr. Stabe said there has been no communication from the bargaining unit. The **Council agreed** that with no contact from the union regarding the Town's last offer, **an executive session is not necessary at this time** as there is nothing to discuss. They did, however, **agree to meet at 2:30 on September 20**. They asked for the Town Clerk to let them know if any of the candidates will be able to meet before the Regular Council meeting.

### 3. Adjournment

The meeting was adjourned at 10:54.

Respectfully submitted,

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

*Approved by Town Council at the September 20, 2018 Regular Meeting*