



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

REGULAR TOWN COUNCIL MEETING

Thursday, March 22, 2012
3:30 p.m.

PRESENT: Thomas W. Cadden, Chairman
Gerard A. Weick, Board Member
Frances F. Atchison, Board Member
Richard M. Haverland, Board Member
Michael B. Ochsner, Board Member

STAFF PRESENT: Richard Jefferson, Town Manager Laura Aldrich, Town Clerk
Chester Clem, Town Attorney Bill Schauman, PSD Director
Judith Lewis, Town Treasurer Rob Stabe, PSD Captain

OTHERS PRESENT: Bill Beardslee, Jackie Johnson and Barbara Palumbo, PZV Board
14 Residents Greg Pheneger & Jim Moller, John's Island
Pelican Island Audubon Society (PIAS) President Richard Baker
Oslo River Conservation Area (ORCA) Volunteer M.A. Chapman
Reporters Janet Begley (Press Journal) & Lisa Zahner (VB 32963)

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 roll call as reflected above and the Pledge of Allegiance and Invocation performed.

2. **Consent Agenda**

- a. Acceptance of Planning, Zoning & Variance Board Minutes dated February 13, 2012
- b. Approval of Special Call Council – Water Utility Minutes dated February 20, 2012
- c. Approval of Regular Town Council Meeting Minutes dated February 23, 2012
- d. Approval of Invoice from Chester Clem Dated February 29, 2012

Asking if there were any comments or concerns with the consent agenda and hearing none, Mayor Cadden received a **motion to approve the consent agenda as presented** by Councilmember Atchison, seconded by Councilman Ochsner, which **passed 5-0**.

3. **Certificates of Appreciation Presentation (Mayor)**

- a. Code Enforcement Appointees John Klein and Hal Glassman – Term Limit Reached
- b. Finance Committee – Ruben Skyler

Mr. John Klein, who was Chairman of the Code Enforcement Board, and Mr. Ruben Skyler from the Finance Committee, received a Certificate of Appreciation which was read by the Mayor. Mr. Klein served six years on the Code Enforcement Board, and Mr. Skyler nine years on the Finance Committee. Mr. Hal Glassman was not able to be present, so his certificate for serving on the Code Enforcement Board would be delivered or held for pick-up.

Councilman Haverland asked if these gentlemen had been replaced, and the Town Manager said there is an opening on the Code Enforcement Board. He asked if we could advertise that opening, and the staff agreed readily to add it to the website.

Please Note: The Town of Indian River Shores does not routinely keep verbatim minutes. Any party interested in 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.

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

a. Draft Minutes from March 12, 2012

Chairman Beardslee reported that they approved a fence at 1312 Lake Bend Court in River Club and an appeal for removal of an oak tree at 105 Hidden Oak Drive in Bermuda Bay, which was conditional with mitigation of a 14' replacement oak tree. The third request was for removal of a cottonwood tree, which is an invasive tree, and the requested approval was granted.

5. **Mayor's Items**

a. Water Utility Status

Mayor Cadden said Mr. Clem is continuing to work on the contract, and has requested specific information in writing from the City. We anticipate receiving it by the end of the week or first of next week, and he would like to have a special called meeting to review it. They agreed to set the meeting for Thursday, March 29th, at 9 a.m.

6. **Town Attorney**

a. First Reading Ordinance 508, Fertilizing Near the Water

Mr. Clem said this Ordinance 508 was discussed two meetings ago, and since then it was reviewed by the Planning, Zoning and Variance Board, was posted on website and comments have been received. It has been mandated by the State, and the recommended changes received from citizens in the community have been incorporated in the draft to make it a little more restrictive. It is ready for the first reading if the Council chooses.

Judy Orcutt, 4665 Pebble Bay South, read recommended changes from the Marine Resource Council to Town Code Section 101-07, paragraphs d and e. The suggested rewriting is: *"No fertilizer containing phosphorus shall be applied to turf or landscape plants in the Town unless a soil or plant tissue deficiency is verified by the University of Florida approved testing methodology. In the case that a deficiency has been verified, the application of fertilizer containing phosphorus shall be in accordance with the rates and directions in Rule 5(e)1.003 (2) FAC. Deficiency verification shall be no more than four years old, unless extenuating circumstances initiate a need for a more recent evaluation."* A second clarification she requested is in paragraph e, which was read as *"The nitrogen content of fertilizer applied to turf or landscape plants in the town shall contain no less than 50% slow release nitrogen per guaranteed analysis label."* It currently is written as "strongly encouraged."

The proposed ordinance is consistent with the State law and congruent with what was passed by the City of Vero Beach. Mrs. Orcutt pointed out that Sewell's Point and other communities have this verbiage or ordinances that are clearer and stronger. Mr. Clem said the Town's draft has clarifications that are already stronger than Vero Beach, and if the Council so desired they could be even stronger. If it had the first reading today, non-substantial changes may be incorporated prior to the second reading.

Greg Pheneger, John's Island Golf Course Manager, said phosphorus is already addressed because the ordinance says you have to follow the Best Management Practices (BMPs) book which requires soil or tissue tests. Those who are required to be certified are required to know this. It is necessary to prove why you need a tougher ordinance according to Statute, he concluded.

Mr. Clem performed the first reading of Ordinance 508 by title as written below:

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, PERTAINING TO ENVIRONMENTAL REGULATION; CREATING CHAPTER 101, "ENVIRONMENT," IN THE CODE OF THE TOWN OF INDIAN RIVER SHORES; ADDING SECTION 101.01, "FLORIDA-FRIENDLY FERTILIZER USE;" PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion by Vice Mayor Weick, seconded by Councilman Haverland, to approve the first reading of Ordinance 508 passed unanimously. Mr. Clem said it will be published in the

newspaper, posted appropriately on the website and bulletin board, and scheduled for second reading next month. The Mayor asked Mrs. Aldrich if the ordinance was available for the public to review, and she confirmed that it was on the website, two copies were in the audience, and it was readily available in her office if anyone is interested.

7. Town Manager

a. Fred Tuerk's Portrait – Request for Return to The Family

Mr. Jefferson said that there has been a request from the family of Fred Tuerk to have the portrait returned to them. Since it was the Council that decided years ago to have the portrait in the Chambers, he thought it appropriate that they release it to the family. A **motion to return Fred Tuerk's portrait to the family** was made by Councilman Ochsner, supported by Councilmember Atchison, which **passed unanimously**. Seeing that none of the family members were present at the time, Mayor Cadden asked the Town Clerk to coordinate the painting's return.

b. PZV Board Reappointments (Cay Wiegner, Barbara Palumbo, Christian Hendricks)

There are three reappointments requested to the PZV Board for four year terms, Cay Wiegner as a regular Board member and Barbara Palumbo and Christian Hendricks as alternates. A **motion to appoint Mrs. Wiegner as a regular PZV Board member, Ms. Palumbo and Mr. Hendricks as alternates** was made by Councilman Ochsner, seconded by Councilmember Atchison, which **passed unanimously**.

8. Call to Council

a. Council Items

- 1) Rescheduling May Council Meeting from May 24 to the 17th (VM Weick). The Vice Mayor said he would be out of Town from May 21 – June 6, and if it is not inconvenient for the Council, he would appreciate being able to attend the meeting in May if it were held a week earlier. Councilmember Atchison said that it only takes three to make a quorum, and having three changes in four months is a bit much. Mayor Cadden said with plenty of notice, he did not see a problem. A **motion** by Councilman Ochsner **to move the Regular Town Council meeting from May 24 to May 17** was supported by Councilman Haverland, which **passed 4-1**, with Councilmember Atchison dissenting.
- 2) Treasurer's Estimate of Increased Annual Cost Based on Pension Committee Decision. Mrs. Lewis gave a rough estimate of under \$400,000, since they do not have the actuary report for the General Employees. Councilman Haverland estimated that it would be approximately \$380,000.
- 3) 2012 Budget Discussions Planning. *NOTE: 8.a.2)-5) are Cmbr. Haverland's items*
Councilman Haverland mentioned first that there were a lot of committee appointments today, and he asked if the Chairman's position was not an open spot on the Finance Committee. The Town Manager said that there was discussion but no action to that effect. Vice Mayor Weick stated that he thought it was going to stay as it was, which Councilman Haverland said that he thought it was that there were previously not enough applicants for the job, and now there are. He suggested that the Council come to an agreement whether there is or is not a potential conflict with an elected official on the Committee. Since this was not an agenda item, it was moved to the April agenda.

Councilman Haverland continued that he was aware that there is a \$380,000 hole to deal with before the next budget comes up. Had the Pension Committee chosen what was recommended by outside professionals, the number would have been as high as \$600,000. He wants the Council to provide guidance to the Finance Committee and Town Manager before the next budget session. He continued that he is very reluctant to recommend that taxes cover the increased pension costs, and believes there may be significant opportunities for budget improvements, such as major cutbacks and changes like other towns. The Finance Committee needs to attempt to find ways to deal with this.

Mayor Cadden said that in the long term it should be derived from taxes, and for this Fiscal Year we will have to be a budget adjustment of \$380,000 from the (Reserves) fund. Mayor Cadden said he has not heard anyone say they want any services cut from Public Safety or otherwise. Councilman Haverland totally disagreed, saying he had no issues with Public Safety or its management, but had huge issues with their compensation programs. In the private world, salaries and benefits have not increased. The Town's PSD compensation increases, not salary, is a compounded annual change almost 10% per year for three years. The salaries and imposition of 175/185 share plan has added compensation of \$9,000 per employee. Mayor Cadden said the 175/185 money comes from homeowner and auto insurance taxes, not the Town, and it goes to the State General Fund if we don't claim it. Councilman Haverland said the money still goes to the officers regardless of its source, while the rest of the world is flat.

Vice Mayor Weick thought this was an exaggeration. Councilman Haverland said we have to look at the compensation, pension plan, staffing and get back to ground zero.

Councilman Ochsner said that the bargaining agreement governs Public Safety, which is not relevant. Councilman Haverland said that was his point, we have to address this now with preplanning. Councilman Ochsner said that the Finance Committee is supposed to make recommendations to the Council, not vice versa.

Mayor Cadden said that in the past we have had a labor attorney, and we should bring that one used before. Councilman Haverland said he talked with the Town Manager of Palm Beach, who had just renegotiated with the union, and we need someone who has been through this and understands it. The Council needs to explore alternatives, not necessarily the current attorney. Mayor Cadden said we should get our current attorney involved, and explain it to him first and see what his take on this is.

Vice Mayor Weick added this is a small town, we have been bare bones for years. We have been running on minimums, and are not extravagant at all. He and Councilman Haverland discussed comfortable pension funding levels of 70% or 100%.

Councilman Haverland also asked if we evaluate our employees, as he has not evaluated the Town Manager or given him any objectives. Councilmember Atchison said that last May the Council individually evaluated the Town Manager, and the next evaluation is due in May.

- 4) Public Safety Officer Collective Bargaining Process. Town Manager Jefferson said the Finance Committee just met yesterday, and they are all new. He asked if we couldn't give them a chance to understand the financial issues and have a strategy meeting before we get an attorney involved. Councilman Haverland and Mayor Cadden both felt the need to meet with the attorney to lay down the rules. Vice Mayor Weick said the Labor Attorney did come to speak with them last time, and the \$40,000 total cost of the labor attorney outweighed the \$32,000 cost of a compensation package for an employee. Mayor Cadden agreed, but said one meeting won't cost that much.

- 5) Clarification on Pension Fund Miscellaneous Costs Payment Source. (Not discussed)

b. Committee Reports

Coastal Structures Subcommittee Meeting. No meeting or report.

Beach & Shores Committee. Councilman Ochsner said at Monday's meeting, it was reported that Sector 3 should be done by the end of the month, and also would be 11,000 yards short of sand. Plans are to be modified to only construct a berm and beach feature to protect the beach. Also discussed was a Continuing Services Agreement with a firm who can start gathering data for modeling without going to a competitive bid. With the "wave" season nearing an end and ten weeks of data collection needed, they recommended that it be pushed back to the fall. Phase I of the modeling may be done more quickly since they have the Continuing Services Agreement in place.

Treasurer's Report Question. Councilmember Atchison questioned the non-interest bearing account on the Treasurer's Report, which had been discussed previously, expecting it to be moved to an interest bearing account. Mrs. Lewis said she is expecting quotes from local banks, and is more inclined to transfer some of the funds to the State Pool account for easy access. Councilman Ochsner stated it is better to move it now rather than wait, to which Councilmember Atchison agreed.

TCRLC (Treasure Coast Regional League of Cities). Councilmember Atchison attended the meeting in Stuart, with one point of discussion that the waters have been unusually warm due to the mild winter, and the sharks are heading out early. They also anticipate a potentially dangerous hurricane season. A visit to the historic Lyric Theatre by the group was wonderful.

TCCLG (Treasure Coast Council of Local Governments). Councilman Haverland reported that there is now a website for the Treasure Coast that is very attractive. They had a presentation from the third largest chemical firm in the world, INEOS, which is building a recycling facility on Oslo Road that could have significant favorable implications for all of us.

MPO (Metropolitan Planning Organization). Councilman Haverland said there was an interesting presentation by Florida Power and Light (FPL) regarding fuel efficient vehicles.

EDC (Economic Development Council). The EDC met, Vice Mayor Weick reported, and they are working with about six companies with up to ten employees who are interested in operating in Indian River County. A lengthy discussion about the City of Sebastian voting 5-0 to eliminate all impact fees was prominent in this meeting.

Other Activities. Vice Mayor Weick reported that he attended the Stormwater meeting hosted by our Town in the Community Center, which focused on how our Indian River Lagoon needs help.

The Vice Mayor mentioned that he and the Town Clerk represented the Town at the County Firefighter Fair, participating in the Corn Hole (beanbag) Toss contest, at which they beat the County team 24-0 and the City of Vero Beach team 24-3 for first place for bragging rights only.

TCRPC (Treasure Coast Regional Planning Council). The Mayor attended this meeting, and he was totally underwhelmed. The 150 pages of backup material included the budget, which listed a fascinating \$800,000 adjustment. No one seems to know exactly what they do.

9. **Call to Audience**

No response.

10. **Adjournment**

The Mayor thanked everyone for coming and adjourned the meeting at 4:19 p.m.

Respectfully submitted,

/s

Laura Aldrich, Town Clerk

(Approved by the Town Council at the 4-26-12 meeting)