



OFFICIAL MINUTES
REGULAR TOWN COUNCIL MEETING
THURSDAY, JANUARY 26, 2023, 9:00 AM
TOWN OF INDIAN RIVER SHORES
6001 HIGHWAY A1A INDIAN RIVER SHORES, FL 32963

The regular monthly meeting of the Indian River Shores Town Council was held on Thursday, January 26, 2023, in Council Chambers, 6001 Highway A1A, Indian River Shores. Councilmembers present were Brian Foley, Mayor; Sam Carroll, Vice Mayor; Bob Auwaerter, Councilmember, Mary Alice Smith, Councilmember and James Altieri, Councilmember. Also present were James Harpring, Town Manager; Heather Christmas, Deputy Town Manager; Peter Sweeney, Town Attorney and Janice C. Rutan, Town Clerk.

1. **Call to Order**

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

Mayor Foley called the meeting to order at 9:00 a.m. Vice Mayor Carroll offered the Invocation. Mayor Foley led the Pledge of Allegiance. The Town Clerk called the roll. All members were present.

2. **Agenda Reordering, Deletions, or Emergency Additions**

There being no reordering, deletions or additions, a motion was made by Vice Mayor Carroll, seconded by Councilmember Smith, and unanimously passed (5-0) to approve the agenda as presented.

3. **Presentations/Proclamations**

None.

4. **Comments From the Public Regarding Agenda Item(s)**

Mike Ochsner, 130 Waterway Lane: Mr. Ochsner, referring to the Consent Agenda, expressed his displeasure that the Town was relocating the Town's boat lift from the Estuary to the Jones Pier Conservation Area. He had been on Council when they voted to install the lift at the Estuary. He expressed concern that the new access would be closer to the Sebastian Inlet, outside of the community. He expressed his opinion that the new location was not in the best interest of the community. Mr. Ochsner was assured that the intent was not to monitor the waters outside of the community and that the Town was obligated to repair the lift at the Estuary as part of the Agreement. Town Manager Harpring noted there would be no change in operational activities and the MOU with the County to move to the John's Pier location was several months out adding that the new location was a better fit for law enforcement services.

5. **Consent Agenda**

- a. Approval of Regular Town Council Meeting Minutes dated December 15, 2022
- b. Boat Dock Memorandum of Understanding
- c. Server Purchase Authorization
- d. Utility Vehicle Purchase
- e. Kimley Horn – Beachcomber Lane Paving
- f. October 1, 2022, Other Post-Employment Benefit Report
- g. Appointment of John Mencke to the Finance Committee

A motion was made by Vice Mayor Carroll, seconded by Councilmember Auwaerter, and unanimously passed (5-0) to approve the Consent Agenda as presented.

6. Mayor's Report

a. Request by Florida League of Cities for Resolution Supporting Legislative Priorities

Mayor Foley noted he had placed an item on the agenda supporting certain legislation included in the Florida League of Cities Legislative Platform. He specifically removed support of the transference of Enterprise Funds.

Regarding the Charter referendum he expressed his appreciation to Mike Ochsner and Patty Gundy for their efforts in serving on the Charter Review Committee. He also thanks Councilmember Auwaerter for his service on the Committee prior to his appointment to the Town Council. Mayor Foley was impressed with the voter turnout and the 95% approval rate in passage of the Charter Amendments that had been on the ballot for the January 24, 2023 Vote by Mail Election. He offered thanks to all, with special appreciation to Leslie Swan, Supervisor of Elections. He felt the voters came to the correct conclusion in passage of the Charter Amendments.

Mayor Foley next reported on his attendance at the January 17, 2023 County Commission meeting. At that meeting, despite being asked to table the matter, the County Commission, on a 3-2 vote approved a water, wastewater and reclaimed water franchise agreement to cover those areas (south barrier island customers) currently served by COVB for a 30-year period that could be renewed for an additional 15 year period. He reported that prior to the approval of the franchise agreement, the Town had been poised to continue its Arcadis study to include not only the Town but the south barrier island customers as well. He and Councilmember Auwaerter spoke against the agreement.

He next reported on a meeting that he, Town Manager Harpring, Orchid Mayor Robert Givens and Cherry Stowe, Orchid Town Manager had regarding creating an intergovernmental long range planning committee for protection of dunes and prevention of erosion of the Towns' shorelines in lieu of reactionary remediation. He will be putting forth an intergovernmental agreement between the entities which would allow the group to engage world class expertise in its long-term planning.

Mayor Foley next explained that he pulled the Town's support of Enterprise Fund Transfers from Resolution 23-01 as he believes this provision was not in the Town's best interest.

7. Councilmember Items

a. Request to Change June 2023 Regular Town Council Meeting Date

Per the request of Vice Mayor Carroll, a motion was made by Councilmember Auwaerter, seconded by Councilmember Smith and unanimously passed (5-0) to reschedule the June meeting from June 22, 2023, to June 26, 2023.

Mayor Foley commented that he would be asking for Town Council consideration in rescheduling the September meeting from Thursday, September 28, 2023 to Tuesday, September 26, 2023. Action on this matter would be scheduled for the February agenda.

8. Discussion with Possible or Probable Action

a. Ordinance No. 555 - Code Enforcement Board (Second Reading)

Attorney Sweeney read the title. The Mayor opened the Public Hearing and welcomed public comment. There being none, a motion was made, seconded and unanimously passed (5-0) to approve Ordinance No. 555 on second reading. The Town Clerk called the roll. All members present voted in the affirmative.

b. Resolution 23-01 Resolution Supporting Legislative Priorities - Florida League of Cities

Attorney Sweeney read the title. Councilmember Auwaerter commented that he sat on the Florida League of Cities Utility Policy Committee and they too had removed Enterprise Fund transfers from their list of priorities. Mayor Foley reported that on Tuesday, the State of Florida, House Communications and Cyber security committee had discussed this same issue.

A motion was then made, seconded and unanimously passed (5-0) to adopt Resolution 23-01 as presented. The Town Clerk called the roll with those present voting in the affirmative.

c. Arcadis Report Update

Town Manager Harpring reported that due to the January 17, 2023, decision of the County to enter into a franchise agreement with COVB, the Town would not be moving forward with an addendum to the Arcadis study. No further action was required at this time.

9. **Staff Updates**

a. Town Clerk Update on Charter Referendum

The Town Clerk reported on the results of the January 24, 2023, Special Vote by Mail Election. The Town Clerk reported that all eleven questions on the ballot passed. On December 15, 2022, the SOE had mailed out ballots to the 4,109 registered voters of which 936 votes were returned (2 did not contain ballots and were disqualified). That was a 22.78% participation rate compared to the general election that brought out 64.99% of registered voters and the primary that brought out 32.58% countywide. The Town Clerk noted that a 22.78% turnout for a stand-alone vote by mail municipal election was quite strong. The ballot questions were approved overwhelmingly, with each question receiving between 91.42%-96.83% approval.

She explained that the Board of Canvassers would be meeting that evening with the Supervisor of Elections for the cure of 7 ballots whose signatures were in question. They would also receive the official certified results of the election. Once received and filed by the Secretary of State, the Charter can be amended and codified.

Mayor Foley expressed his appreciation to Staff and was sure that the decision to set the election as a stand-alone election helped with the turnout. Manager Harpring expressed his appreciation to the Town Clerk for overseeing the election so soon after being hired.

b. Building Official Report & Statistics

Luis Martinez, Building Official presented Staff's report. The numbers were down from last year citing the multifamily project that was on the books this time last year.

c. Town Treasurer Report

Heather Christmas, Deputy Town Manager and Town Treasurer presented the Town Treasurer's report and was available to answer any questions regarding the Treasurer's report in the packet.

She then reported she had met with FEMA representatives and was hoping to receive 75% Federal reimbursement and 12.5% State reimbursement for the sand replenishment under protective measures. Further, she was hoping to get the same funding for the restoration of the dune crossover due to Hurricane Nicole.

Town Treasurer Christmas next reported on the meeting of the Pension Board that had been held earlier in the week. Although the Board approved the actuarial report, they would be looking at projections and assumptions moving forward. She explained that the member contribution rate would be going from 5.71% to 9.00% which is their cap; and the Town's rate would be going from 12.57% to 22.74%. The expense to make up the shortfall for the Town would be approximately \$150,000 - \$200,000. In dollars, the Town had an actuarial investment loss of \$3.8 million however it was still 92.5% funded. She then reported that the State submitted a letter suggesting that the Pension Board review the investment return rate.

Vice Mayor Carroll offered the history, explaining that three years ago the Board had voted without discussion and analysis to increase the rate of return from 6.25% to 6.75%. The immediate impact was to lower the pension contribution from each of the members of the plan. In his opinion, it was the members who benefited from the decision despite it having nothing to with investment strategy.

At this week's meeting, the Chairman of the Board, representing members of the Public Safety Department, took the position that the increase in contribution, due to the loss of investment revenue, would place the members in a hardship position.

The members may be looking for remedial action by the Town Council and also looking to change assumptions and projections used which would make the effects of market fluctuations less onerous to the members of the plan. He added the members cannot have it both ways.

No action was required at this time.

Councilmember Auwaerter agreed with Vice Mayor Carroll but expressed his concerns about the Board changing assumptions in reaction to the increase in contribution rates. Most plans try to make up a shortfall up over 15 years and the Town uses 10 years. He cautioned the Board against using the smoothing method explaining that would only bury problems. He noted there was also discussion regarding the current year catch up and possibly changing to the projection method for contributions.

Councilmember Auwaerter did take exception to the comment made by the plan actuary at the meeting suggesting the Town make up the difference on behalf of the members, adding the comment was totally inappropriate.

Mayor Foley reminded all that the plan was still funded at 92.5%.

He then introduced John Mencke to those present. Mr. Mencke had been appointed to the Finance Committee earlier in the meeting as part of the Consent Agenda.

d. Public Safety Department Report & Statistics

Chief Rich Rosell presented Staff's report. He reported that the Department made an arrest in the vehicular homicide that had occurred in May of 2022. The suspect had been taken into custody. Bail was set at \$150,000 and she was released with a GPS ankle monitor.

He noted that despite the staggering increase in traffic, there had not been an increase in crime and his Department was making plans to ensure that would not happen.

Deputy Chief Mark Shaw, in response to Council, reported that a new study had been ordered and the crosswalk in front of 7-11 would be discussed at the upcoming MPO TAC committee meeting.

e. Public Works Department Report

Larry Bryant, Director of Public Works presented Staff's report. He reported that he was working on the conversion of the Town's irrigation system to remove it from the City's reclaimed water system to a well system. The storm damaged dune crossover was being removed from the Beachcomber Lane access. He has been monitoring the contractors using the Town's dune crossover to ensure compliance. There were a few loads of sand still being delivered.

He has been monitoring and working with the contractors installing the gas line.

In response to Councilmember Smith, Mr. Bryant reported that most of the beach access on Beachcomber has been by private property owners using the Town's access for their properties. Although some sand was still coming in, most of the equipment was moving the sand around.

Town Manager Harpring expressed his appreciation to Mr. Bryant for all he does on behalf of the Town.

f. Code Enforcement Report

Jake Maikranz, Code Enforcement Officer/Fire Marshall presented Staff's report. He highlighted areas of the report and added that he had been working with the Building Official to ensure compliance with beach renourishment projects. There had been no issues with the Short-Term Vacation rentals. Mayor Foley expressed his appreciation to Mr. Maikranz adding

that Townwide maintenance of property standards assures the Town remain aesthetically pleasing and benefits property values.

10. Town Attorney Report

Attorney Sweeney reported that the appeal on the water rate issue was still pending and he would continue to monitor and advise Council.

He reported that the Legislature would be in session beginning March.

11. Town Manager Report

Manager Harpring reported that Republic Services had once again failed in their efforts for transition/cart replacement. Town Administration offices had to step in to take the orders for receptacles. Republic has taken full responsibility for their errors.

Manager Harpring offered that he would be participating in the initial procurement meeting on Monday with the County to be part of their RFP for Solid Waste and Recycling (Effective 10/01/2025). The Town had posted a survey on its website, included it in its newsletter and sent directly to all HOAs within the Town requesting resident input as to what they would prefer in solid waste and recycling services (i.e. once per week, twice per week, simultaneous pickups of solid waste and recycling etc.). So far, feedback has been received from 4 HOAs and 26 individuals.

Manager Harpring next reported on having met with Florida City Gas regarding a location for their regulator. Attorney Sweeney was working on the easement issues.

The Town is putting together a Beach Erosion information packet which will include a compilation of data sources through public outreach. Distribution would be through the website, newsletter, etc.

The Town will be hosting an informational public workshop on February 13, 2023 to discuss Building Permitting regarding the BFE +2 regulations pertaining to CRS resiliency and FEMA Flood Maps. A second workshop concentrating on the Flood Plain application process is scheduled for February 21, 2023.

There will be a meeting on February 7, 2023 at the Vero Beach Country Club regarding safe trains. Council was cautioned that only one member should be in attendance.

Council Member Smith inquired as to the hours permitted for garbage pickup under the contract; adding that the pickup in John's Island the night prior had not occurred until 6:30 p.m. Manager Harpring stated currently they can operate 7:00 a.m. to 7:00 p.m. without penalty. Manager Harpring reported that the Administrative Offices track the complaints and violations that could trigger a penalty if not cured in the time frame allotted. Mayor Foley reported that he has had conversation with Joanne Stanley, Government Representative for Republic Services and she has done all she can do to effectuate the changes from a people-based service to an automated service. In response to Council Member Smith, Manager Harpring commented that the County RFP would be put out to all eligible contractors including Republic. He added that this was something that would need to be worked through.

Town Manager Harpring responded that the RFP for the County, for which the Town was hoping to piggy back on, would probably be out at the close of 2023. Discussion followed.

13. Council/Committee Reports or Non-Action Items

a. Call for Committee Reports, Informational Updates or Comments

Council Member Smith distributed materials that had been handed out at the Beach and Shores Committee meeting held earlier in the week. She reported that the County was only repairing the public beaches that had received the most damage, including the Tracking Station, which ironically was a "monument" away from the Town's beaches (Section 4) that was still being categorized as "non-critically eroded Sector 4".

Councilmember Smith tried to get answers from Eric Charest, Natural Resource Manager relating to funding and recovery for the Town (Sector 4). He remained non-committal in his answers. When asked about the recovery plan and difference between the old report and the new report, Mr. Charest was unable to answer what would be needed to get Sector 4 designated as a critically eroded area.

She referred to page 16 of the report where it stated the Town did need sand, however, it was noted that the Sector 4 beaches were not engineered beaches. Since this was a visual review only, the Town would not be eligible for the funding until it was engineered. Councilmember Smith explained that although the letter from the County was sent in December, it was not making a difference in redesignating Sector 4 – Indian River Shores. In response to Councilmember Smith's inquiry as to the appeal process, she was told she would need to go to the State.

Councilmember Auwaerter reported this has been going on for as far back as he recalled. He suggested that if Sector 4 was denied a critically eroded designation again, the Town should appeal to the State and get their legislators involved.

Councilmember Altieri reported that he too had attended the meeting and had learned that the Town's beaches would not be renourished for several years.

Councilmember Smith expressed her support of the Committee the Mayor was forming for long term planning.

Councilmember Auwaerter expressed appreciation to the County for the efforts made on behalf of the Town.

Bringing attention to the map included in the report, the designation of critically eroded areas range from Cape Canaveral to the 7-11, excluded Sector 4.

Councilmember Smith once again expressed her concern that the County was non-committal as to what can be done to move this program forward to possibly receive funding and a critical eroded designation.

It was noted that the Town may need to engage outside assistance if they were denied again. Discussion continued with reference to the Town of Orchid.

14. Call to Audience

Nadel Sampson, 905 Reef Lane: Mr. Sampson complained of safety issues when trying to cross A1A or getting out his road onto A1A. He commented the Police do an excellent job in the morning with the school buses. He suggested crosswalks and sidewalks be installed. Or no thru truck signs.

Mayor Foley thanked him for his comments.


Mike Ochsner, 130 Waterway Lane: Mr. Ochsner requested the Town Council inquire about the timing of the light by the Village Market. It causes traffic backups and triggers at night when there is no traffic on the cross street.

It was announced that the 7-11 would be removing its canopy and gas tanks and would be closing for renovations shortly. When closed, there would be no gas stations on island.

15. Adjournment

With no further business to come before the Town Council, the meeting adjourned at 10:19 a.m.

Approved: February 23, 2023


Janice C. Rutan, Town Clerk