



MINUTES

REGULAR TOWN COUNCIL MEETING

THURSDAY, MARCH 30, 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, March 30, 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

It was agreed to dispense with the reading of the Proclamations.

- a. Proclamation for Problem Gambling Awareness Month

A motion was made by Vice Mayor Carroll, seconded by Councilmember Auwaerter, and unanimously passed (5-0) to approve the Proclamation as presented proclaiming the month of March Gambling Awareness Month.

- b. Proclamation for Older Americans Act Nutrition Program

A motion was made by Vice Mayor Carroll, seconded by Councilmember Smith, and unanimously passed (5-0) to approve the Proclamation as presented proclaiming the month of March Older Americans Nutrition/Meals on Wheels month.

- c. Proclamation for Water Conservation Month

A motion was made by Vice Mayor Carroll, seconded by Councilmember Smith, and unanimously passed (5-0) to approve the Proclamation as presented proclaiming the month of April Water Conservation month.

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

None.

5. Consent Agenda

- a. Approval of Regular Town Council Meeting Minutes dated February 23, 2023
- b. Waiver of Formal Bidding for the Public Safety Boat Lift
- c. Medical Director Agreement Addendum
- d. Public Safety Bunker Gear
- e. Beachcomber Stairs Change Order

Councilmember Auwaerter requested item 5.e. Beachcomber Stairs Change Order be removed from the Consent Agenda. A motion was then made by Vice Mayor Carroll, seconded by Councilmember Smith, and unanimously passed (5-0) to approve the Consent Agenda as amended.

Councilmember Auwaerter explained that there had been a delay in the contract, pushing the Town beyond the February 28, 2023, deadline, necessitating a permit extension request from the Department of Environmental Protection (DEP). It

was clarified that the change order was necessitated because of the timing of the project and was not due to the contractor. Councilmember Auwaerter asked how much work was involved to amount to the \$1,500. Town Manager Harpring explained what he knew to be involved but agreed to ask the contractor to provide a detailed analysis of costs. Councilmember Auwaerter requested that information be supplied to Council.

A motion was then made by Councilmember Auwaerter, seconded by Vice Mayor Carroll, and unanimously passed (5-0) to approve the change order.

6. Mayor's Report

Mayor Foley reported on the following:

A1A Traffic: He commented that the traffic issues on A1A are caused by influx of visitors, installation of light poles and utilities, and the timing of the light at Bahia Mar. This sparked conversations with the County to investigate changing the timing of that traffic light to relieve back up. Residents who complained about the traffic were advised to contact Commissioner Moss. The Town will continue to monitor the situation.

Water Rate issue: Representatives from the Town will be travelling on April 5, 2023, to Palm Beach County to the 4th District Court of Appeals to hear Oral Arguments on the pending Water Rate Case. The Town does not expect a decision from the bench during the oral argument phase. Further action on the case by the Town will depend on the decision resulting from these oral arguments.

Solid Waste and Recycling: Matters between the Town of Indian River Shores and Republic Services have stabilized.

Summer Dress Code: Mayor Foley suggested, and Council agreed to implement the summer dress code effective April.

7. Councilmember Reports

a. Prohibition on Open Primaries and Non-Partisan Elections

Councilmember Auwaerter reported that at a Treasure Coast League of Cities meeting held the previous week it had been announced that a joint resolution was being proposed in the legislature that would prohibit non-partisan elections for local governments. Should the legislation pass, and be approved by the electors, it could potentially force a primary for each of the Town's local elections. He strongly suggested that a joint letter from all five Councilmembers be sent expressing opposition to the proposed legislation.

Councilmember Auwaerter commented he had no problem with noting his political affiliation on campaign material, however, he noted this legislation, if passed, would be a waste of taxpayer dollars.

Mayor Foley explained that the joint resolution does not compel passage, but rather puts the question on a ballot for the voters to decide as the proposed changes would require a Constitutional Amendment. With that said, he would not support objecting to a measure that would be decided by the voters of the State of Florida.

Mayor Foley also noted that if the legislation should pass, the effect on the Town would most probably be minimal as the Town rarely has elections. He commented that non-partisan elections were fictional as voter registration was a public record in Florida and anyone could look up a candidate's party affiliation.

He applauded the Florida League of Cities for vetting the issues on this matter. They had been serving as an advocate on behalf of municipalities. He encouraged all present to weigh in on the issue.

Mayor Foley and Attorney Sweeney responded to questions from Councilmember Altieri explaining the legislation would require those positions presently non-partisan (Judges, School Board members, and municipal positions) would now be required to be political party affiliated. For the bill to move forward to the Governor, it would require a 3/5ths vote from both houses.

Mayor Foley noted he had received an e-mail from resident Patty Gundy who expressed her opposition to the legislation. Ms. Gundy spoke against the proposed legislation adding if passed, it would limit voter involvement.

Discussion followed and Attorney Sweeney referred to the Town's Charter which presently requires a plurality vote.

8. Discussion with Possible or Probable Action

a. Approval of September 30, 2022, Audited Financial Statements

Christine Noll-Rhan, CPA from Carr, Riggs and Ingram, LLC the Town's auditing firm, presented the Town's Annual Financial Statements for the year ending September 30, 2022. Ms. Noll-Rhan highlighted certain areas of the report specific to the Town's fund balance and the funding ratio of its pension funds. She explained that there were new GASB standards that would go into effect for the next fiscal year. She also noted there were no findings in the report.

Councilmember Auwaerter clarified certain information contained within the report.

Councilmembers expressed their appreciation to both Heather Christmas, Deputy Town Manager/Town Treasurer and Ms. Noll-Rhan for their efforts in presenting the clean financial report.

A motion was then made by Vice Mayor Carroll and seconded by Councilmember Auwaerter to approve the Financial Statements for the FY ending September 30, 2022, as presented. The motion passed unanimously 5-0.

b. Ordinance No. 556 Property Rights Element for Comprehensive Plan (Second Reading)

The title was read by Attorney Sweeney. Mayor Foley opened the Public Hearing. There was no public comment.

Councilmember Altieri took exception to the language contained in the fourth "Whereas" clause of the Ordinance noting that the statement confirming that the Town of Indian River Shores respects the rights of all people to participate in land use planning was too broad. He felt it should be limited to those persons directly affected. Discussion followed.

A motion was then made by Vice Mayor Carroll and seconded by Councilmember Auwaerter to approve Ordinance 556 on second reading. The Town Clerk called the roll with all in attendance voted in the affirmative with the motion passing 5-0.

c. Ordinance No. 557 Cemetery Rate Changes (Second Reading)

The title was read by Attorney Sweeney. Mayor Foley opened the Public Hearing. Councilmember Auwaerter confirmed with the Town Clerk that the lots would pass to the heirs of the lot holders.

Councilmember Altieri and Councilmember Smith recused themselves as both were on the wait list to purchase a plot in John's Island cemetery.

A motion was made by Vice Mayor Carroll and seconded by Councilmember Auwaerter to pass Ordinance No. 557 on second reading.

The Town Clerk called the roll. The motion passed 3-0 with Mayor Foley, Vice Mayor Carroll, and Councilmember Auwaerter voting in the affirmative and Councilmember Smith and Councilmember Altieri recusing themselves due to a voting conflict. Completed forms 8B (Memorandum of Voting Conflict) have been filed by Councilmembers Smith and Altieri and are attached hereto and made a part of the minutes of this meeting.

d. Ordinance No. 558 BFE +2 and Floodplain Administrator (First Reading)

The title was read by Attorney Sweeney. Mayor Foley opened the Public Hearing. Councilmember Smith inquired as to whether individual homeowners would benefit from the new regulations and was assured that they would through the federal flood insurance program. Discussion followed.

A motion was made by Vice Mayor Carroll and seconded by Councilmember Smith to approve Ordinance No. 558 on first reading. The Clerk called the roll and all in attendance voted in the affirmative with the motion passing 5-0.

e. Ordinance No. 559 Tree Protection Officer (First Reading)

The title was read by Attorney Sweeney. Mayor Foley opened the public hearing. Town Manager Harpring explained the necessity of the Tree Protection Officer. Councilmember Smith confirmed a prior conversation with the Town Manager explaining that presently the position was held by a private contractor and by expanding the position's minimum requirements, it would help the Town administratively and allow for continuity of operations. Councilmember Altieri suggested the person be required to have a degree dendrology, the study of trees, in lieu of horticulture and/or botany. Town Manager Harpring explained that the language and qualifications in the proposed amendment allow for broader coverage, noting he had added state requirements to the Town's present language. Discussion as to the present State law followed. In response to Vice Mayor Carroll, Town Manager Harpring explained that the Tree Protection Officer would make his determination on a case-by-case basis.

Mayor Foley was satisfied in moving forward with the Ordinance as proposed.

A motion was made by Vice Mayor Carroll and seconded by Councilmember Auwaerter to approve Ordinance No. 559 on first reading. The Clerk called the roll and all in attendance voted in the affirmative with the motion passing 5-0.

f. Ordinance No. 560 Qualifying Dates (First Reading)

The title was read by Attorney Sweeney. Discussion followed. Councilmember Auwaerter addressed the Council explaining that he had met with Leslie Swan, the Supervisor of Elections, and she required candidate qualification to be complete at least 81 days before the general election so that absentee ballots can be mailed in a timely fashion. Using that time frame, it was Councilmember Auwaerter's recommendation that the qualifying dates be moved up to the last Thursday in June to the last Thursday in July. He strongly suggested the qualifying dates be moved closer to the election date and make it a longer period and should be set around Council meeting dates. He took exception in requiring a potential candidate decide so far in advance of the election.

After confirming with the Town Attorney that there was no restriction of the length of the qualifying period, Mayor Foley agreed with Councilmember Auwaerter's recommendation.

Vice Mayor Carroll recounted his experience in filing under the shorter qualification period. He too supported expanding the qualification period.

Council Member Altieri noted that the Council should be making an amendment to FS 32.02 (a), and not 32.02 (c). 32.02 (a) incorporates the statutory requirements.

There was no noted opposition to expanding the qualification period.

Attorney Sweeney stated that there were no statutory provisions that would limit the time of qualification. He also confirmed that the 81-day requirement was an internal deadline set by the Supervisor of Elections and was not a statutory requirement.

Mayor Foley suggested that the Town Council table action on the proposed Ordinance to allow for corrections to the Scriveners' errors as well as inserting the proposed qualifying dates to run from May to the last Friday in July.

The Town Clerk had no objection to extending the qualification but suggested that whatever decision be made, it be in the best interests of the candidate.

Town Manager Harpring suggested that the period run from the first day after the meeting in April to the first day after the meeting in July.

A motion was then made by Council Member Auwaerter, seconded by Vice Mayor Carroll, and unanimously passed (5-0) to table first reading of Ordinance No. 560 to April 27, 2023.

g. Resolution No. 23-02 Budget Amendment

The title was read by Attorney Sweeney. There being no public comment, a motion was made by Vice Mayor Carroll and seconded by Councilmember Altieri to approve Resolution No. 23-02 as presented. The Town Clerk called the roll. All present voted in the affirmative with the motion passing 5-0.

h. Resolution No. 23-03 Cemetery Fees

Attorney Sweeney opined Councilmembers Smith and Altieri would not be required to recuse themselves from voting on this Resolution as it is not specific but rather a unilateral decision affecting all persons.

A motion was made by Vice Mayor Carroll and seconded by Councilmember Smith to approve Resolution No. 23-03 as presented. The Town Clerk called the roll. All present voted in the affirmative with the motion passing 5-0.

i. Resolution No. 23-04 Building Permit Fee Change

Heather Christmas, Deputy Town Manager/Town Treasurer offered Staff's report. A motion was then made by Councilmember Altieri and seconded by Vice Mayor Carroll to approve Resolution No. 23-02 as presented. The Town Clerk called the roll. All present voted in the affirmative with the motion passing 5-0.

9. **Staff Updates**

a. Building Official Report & Statistics

Luis Martinez, Building Official presented Staff's report. He responded permit traffic was the same as it had been the prior year.

b. Town Treasurer Report

Heather Christmas, Deputy Town Manager/Town Treasurer presented Staff's report.

c. Public Safety Department Report & Statistics

Chief Rosell presented Staff's report. He commented on the excessive traffic congestion, some of it caused by construction. There have been reports of aggressive driving and in response has put extra patrols on the road. He also noted there had been complaints of speeding on Jungle Trail.

He next reported on a new state of the art, hand-held sonogram being used by the Department. The sonogram can diagnose aortic aneurisms and abnormal bleeds immediately, thereby allowing first responders to call for a medivac if needed.

In response to Councilmember Altieri, Chief Rosell said he would research the yellow light crosswalks installed on A1A. Concern was expressed over the confusion at the crosswalks. Oncoming traffic does not necessarily stop at yellow flashing lights, yet pedestrians were given a false sense of safety to cross the road. Chief Rosell explained they would have been installed by FDOT, but he would inquire as to whether the light could be changed from yellow to red and report back with his findings.

Councilmember Auwaerter reported that although the speed limit within the Town was 45 mph on A1A, GPS still reports it at 50 mph. Chief Rosell would investigate how to update the information.

In response to Councilmember Smith, Dr. Ford has completed the training for the handheld device.

Chief Rosell commented on Councilmember Smith's involvement with the Meals on Wheels program held the previous day. Councilmember Smith noted she had participated in the event, delivering meals to the elderly throughout Vero Beach. She was quite impressed with the program and was glad to see representatives from the IRS PSD had also participated.

Burglaries have slowed down, but Chief Rossell continues to monitor and schedule additional patrols when needed.

d. Public Works Department Report

Larry Bryant, Director of Public Works reported that Louis Berger was no longer maintaining vegetation along A1A, as that responsibility has reverted to FDOT. The beach project has been completed. In response to Councilmember Auwaerter's complaint of 7-8 sidewalk sections having been torn up by Florida City Gas, Mr. Bryant explained that he had met with the contractor who was working diligently to get the project cleaned up. He himself has completed a survey of the area and was following up to be sure all areas are repaired.

e. Code Enforcement Report

Town Manager Harpring explained Sgt. Maikranz was unable to attend the meeting but had offered a comprehensive report for the Council's review. He reported that the Code Enforcement Officer continued to collaborate with residents to maintain property standards, often acting as mediator. Mayor Foley commented on the beneficial effect maintaining the code has on property values.

10. Town Attorney Report

Town Attorney Sweeney reported the Legislative session will adjourn on May 5. He reported on specific legislation that will have a direct effect on the Town, including HB 1331/SB 1712 – Utilities.

Oral arguments on the appeal of the COVB Water Rate case will be heard April 5 in West Palm Beach – 4th District Court of Appeals. Although he did not anticipate a ruling from the bench, the Town might be able to get a flavor of where the judge may be leaning. He would send information to the Council and encouraged their attendance.

Mayor Foley also asked that the Town Manager/Town Attorney make every effort to present proposed Ordinances to the Town Council at least two weeks prior to the meetings allowing Council ample time to review.

11. Town Manager Report

Town Manager Harpring reported on the following matters:

Florida City Gas: He and representatives from Florida Gas/FPL continue to work towards securing a Franchise Agreement and easements.

Land Development Code: He and the Town Attorney are finalizing the amendments to the Town's land development code and hope to have a prospective itinerary available for review in April.

CRS (Community Rating System): The Town needs an additional 2,190 points to obtain its Class 5 rating. Staff is calendaring its outreach programs towards that goal. He explained outreach programs would include mailings, workshops, and open houses to educate the public on the benefits of the NFIP program. He anticipated costs to be under \$10,000 to meet the goal of Class 5 by 2024.

12. Council/Committee Reports or Non-Action Items

a. Call for Committee Reports, Informational Updates or Comments

Councilmember Smith reported on the Beaches and Shores Committee meeting she had attended. Although the reapplication for Sector 4's critically eroded designation had been submitted, she anticipated it would be months before they would hear back from the State. Sector 7 had been awarded funding for beach renourishment. Because they were unable to gather required signatures for easements, funding will be lost.

The seaweed bloom that may land on Florida's shoreline was being monitored closely and the County was ready to take care of any adverse effects.

She had attended the CPR/AED training offered by the Town and recommended all members should attend when next available.

Mayor Foley reported on the Treasure Coast League of Cities meeting. Both he and Councilmember Auwaerter attended. Proposed legislation had been discussed in detail noting that one bill being proposed regarding exclusive franchises could prove to be problematic for the Town in its upcoming RFP for Solid Waste and Recycling services.

The genesis for the election bill, as discussed earlier in the meeting, was the result of recent school board elections.

Mayor Foley will be unable to attend the May meeting of the Treasure Coast League of Cities meeting and asked that the alternate member be prepared to attend in his stead. He noted all members can attend the luncheon, just not the business meeting.

Councilmember Auwaerter reported on the MPO Bicycle Advisory Committee meeting he had attended regarding the proposed improvements to the 510/512 project. Proposed were two lanes in each direction with bike paths. He expressed concern that the consultant reported that the FEC has the right to pull other lanes within the County to avoid a conflict when crossing tracks. This could be the case when crossing over Route 510 to Route 1. He will follow up.

He had participated in the Florida League of Cities Monday morning legislative update phone call and learned that the bill calling for enhanced financial disclosure – Form 6 was headed for passage.

12. Call to Audience

Mike Korpar, John's Island General Manager: Mr. Korpar noted that although the Republic Services situation has improved, there have been issues with hydraulic lines breaking on their vehicles.

He inquired on an end date for the Town's Franchise Agreement with Florida Gas. Town Manager Harpring commented not yet, however, the Mayor's goal would be within the next 2 weeks.

Councilmember Smith inquired as to potential costs to bring the lines into private homes. Mr. Korpar explained that the lines would be brought into the community, but the cost from the road to the individual homes would be borne by the homeowner.

13. Adjournment

With no further business to come before the Town Council, the meeting adjourned at 10:50 a.m.

Approved: April 27, 2023



Janice C. Rutan, Town Clerk