



MINUTES

REGULAR TOWN COUNCIL MEETING
THURSDAY, APRIL 27, 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, April 27, 2023, in Council Chambers, 6001 Highway A1A, Indian River Shores. Councilmembers present were Brian Foley, Mayor; Sam Carroll, Vice Mayor; Bob Auwaerter, Councilmember and Mary Alice Smith, Councilmember. Also present were James Harpring, Town Manager; Heather Christmas, Deputy Town Manager/Town Treasurer; 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 in the Pledge of Allegiance. The Town Clerk called the roll. All members were present except Councilmember Altieri.

2. Agenda Reordering, Deletions, or Emergency Additions

There being no reordering, deletions, or additions to the agenda. A motion was made by Councilmember Auwaerter to approve the agenda as presented. The motion was seconded by Vice Mayor Carroll and passed unanimously (4-0).

3. Presentations/Proclamations

- a. Proclamation for National Safe Boating Week

United States Coast Guard Auxiliary Gary Barth, Mark Cannon, and Tommy McCarty introduced themselves. They extended an invitation to all present to attend the May 20, 2023, Safe Boating Training Class. It was explained the Coast Guard Auxiliary serves as the Civilian Branch of the United States Coast Guard. Their primary focus is on boating safety; however, the 22,000 voluntary members represent the Coast Guard in all matters except law enforcement.

Mayor Foley read the Proclamation into the record and presented the same to Coast Guard Auxiliary members Barth, Cannon, and McCarty.

- b. Presentation on Requested Ordinance Changes in Police-Firefighters Defined Pension Plan
Bonni Jensen – Attorney for Police-Firefighters Defined Pension Plan

Bonni Jensen, Attorney, representing the Indian River Shores Public Safety Officers and Firefighters Pension Fund narrated a power point presentation. She explained that during the 2019 Legislative Session a law was passed to create a conclusive duty-related cancer presumption for Firefighters. Soon thereafter, the matter came before Town Council for their consideration but because of COVID, it did not move forward. Ms. Jensen added that since the law was enacted, costs involved in providing this benefit had already been incorporated into the actuary tables so there would be no additional fiscal impact to the Town.

Councilmember Auwaerter confirmed that this benefit would be in addition to the \$100,000 life insurance policy afforded all employees of the Town because of collective bargaining.

On behalf of the Indian River Shores Public Safety Officers and Firefighters Pension Fund, Ms. Jensen was asking for Town Council consideration in adopting an Ordinance that would incorporate the provisions of the legislation.

Attorney Sweeney commented he was familiar with the legislation, and he would work with Ms. Jensen should there be any housekeeping issues in drafting the Ordinance.

Mayor Foley added that adopting this provision was overdue. It was agreed first reading of the Ordinance would take place at the May 25, 2023, Town Council meeting.

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

None.

5. Consent Agenda

- a. Approval of Regular Town Council Meeting Minutes dated March 30, 2023
- b. Capital Lease – Public Safety Body Cameras
- c. Public Safety Boat Lift Contractor Selection
- d. RFP 23-01R Pebble Bay Paving and Stormwater Contractor Selection

A motion was made by Vice Mayor Carroll, seconded by Councilmember Auwaerter, and unanimously passed (4-0) to approve the Consent Agenda as presented.

6. Mayor's Report

Mayor Foley reported on the following matters:

- The matter of the appeal in the Town vs the City of Vero Beach water case was heard before the appellate court. He felt the Town's oral argument went well. There was no precise time for when the judge's ruling would be released.
- The Town Manager presented all the required paperwork to Florida Gas for their review prior to entering into franchise and easement agreements with the Town. The Town was not in support of the request of Florida Gas to charge a resident user fee before entering into an agreement.
- He and the Town Manager met with the newly appointed County Administrator, John Titkanich, and invited him to visit the Town of Indian River Shores.
- He noted the County's Beaches and Shores Committee meeting which many of the Town's residents had attended in support of efforts to obtain funding for Sector 4. The Town's message to reclassify Sector 4 as a critically eroded shoreline was set forth loud and clear. He noted there was standing room only at the meeting and he had received positive feedback. He expressed his appreciation to Councilmember Smith, the Town's liaison to the Beaches and Shores Committee, for her efforts on behalf of the Town.
- Town Manager Harpring will be coming up on his 2-year anniversary serving as the Town's Manager. Although the Council had done away with formal, written evaluations, he encouraged Councilmembers to meet with Mr. Harpring on a one-to-one basis to discuss performance for feedback at the next meeting.

7. Councilmember Items

- a. GIS Analysis of Crashes in Indian River County (Councilmember Auwaerter)

In response to Councilmember Auwaerter's request to the Metropolitan Traffic Organization, a GIS map highlighting crash sites along A1A in Indian River County had been prepared. Using the maps supplied by the MPO, Councilmember Auwaerter narrated a power point presentation hoping the analysis would support the Town's request to the FDOT that an on-demand crosswalk be installed at or near the 7-11 on A1A.

Deputy Chief Mark Shaw reported that he had been in touch with FDOT District 4 representatives and had been informed the crosswalk had been denied because the location did not meet both traffic count and crash data requirements.

Councilmember Auwaerter suggested the Town instruct Attorney Sweeney to send correspondence to the FDOT. A brief discussion followed, and it was agreed that before taking legal action, Deputy Chief Shaw would send a letter to Gerry O'Reilly, District Secretary, District 4, FDOT requesting his support as he had been sympathetic to the Town's needs in the past.

8. Discussion with Possible or Probable Action

- a. Ordinance No. 558 BFE +2 and Floodplain Administrator (Second Reading)

Mayor Foley opened the Public Hearing and with no public comment, a motion was made by Vice Mayor Carroll and seconded by Councilmember Auwaerter to approve Ordinance No. 558 on second reading. The clerk called the roll. All present voted in the affirmative with the motion passing 4-0.

****See point of order under Town Attorney Report:** Attorney Sweeney read the title into the record and the vote to approve was confirmed and ratified by a motion made by Vice Mayor Carroll, seconded by Councilmember Auwaerter. The clerk called the roll. All present voted in the affirmative with the motion passing 4-0.

b. Ordinance No. 559 Tree Protection Officer (Second Reading)

Mayor Foley opened the Public Hearing and with no public comment, a motion was made by Vice Mayor Carroll and seconded by Councilmember Smith to approve Ordinance No. 559 on second reading. The clerk called the roll. All present voted in the affirmative with the motion passing 4-0.

****See point of order under Town Attorney Report:** Attorney Sweeney read the title into the record and the vote to approve was confirmed and ratified by a motion made by Vice Mayor Carroll, seconded by Councilmember Auwaerter. The clerk called the roll. All present voted in the affirmative with the motion passing 4-0.

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

Attorney Sweeney read the title. Mayor Foley opened the Public Hearing. Councilmember Auwaerter clarified dates for second reading. A motion was made by Vice Mayor Carroll and seconded by Councilmember Auwaerter to approve Ordinance No. 560 on first reading.

The Clerk called the roll and the motion passed 4-0 with all present voting in the affirmative.

9. Staff Updates

a. Building Official Report & Statistics

Town Manager Harpring presented the report and there were no questions.

b. Town Treasurer Report

Town Treasurer/Deputy Town Manager Christmas presented the Treasurer's report. She reported that budget preparation for the 2023/24 FY had begun. Town insurance had paid \$39,000 towards the claim for the beach crossover restoration work caused by Hurricane Nicole.

c. Public Safety Department Report & Statistics

Chief Rosell noted things were quieting down. He did report that one of his officers had been hit head-on by a drunk driver while on duty. The officer was recovering well.

d. Public Works Department Report

Larry Bryant reported on the sinkhole that appeared in front of Indian Lane. He coordinated with both Florida City Gas and FDOT for mitigation of the problem. He also noted that as to drainage, the previous days excessive rainfall had receded without any problems.

e. Code Enforcement Report

Town Manager Harpring noted the report from Sgt. Maikranz. Town Manager Harpring expressed his appreciation to Chief Rosell for his support of the Code Enforcement Officer position. All agreed that Officer Maikranz was proactive in his approach to code enforcement and as such was able to gain compliance instead of having to bring the property owner before a Special Magistrate and assess fines.

10. Town Attorney Report

***** Point of Order:** Attorney Sweeney asked for earlier votes taken on Ordinances 558 & 559 be confirmed and ratified after the title of the ordinance was read into the record. (See items 8.a. and 8.b.).

Attorney Sweeney reported on the Florida Legislative Session which ends on May 6, 2023.

Regarding the Oral Arguments before the Appellate Court, Attorney Sweeney commented that there would be no way to predict when a decision would be rendered although the Appellate Court's website states anywhere from 4-8 weeks. He opined that outside Legal Counsel for the Town did an excellent job.

Pursuant to Florida Statute 286.011, Attorney Sweeney respectfully requested a private meeting of the Town Council in closed session to discuss case No. 22-1646. He suggested they meet on May 24, 2023. In attendance would be the Town Council, Town Attorney, Town Manager, Outside Legal Counsel, Bruce May, and Kevin Cox from the firm of Holland and Knight and a Court Reporter. He anticipated the meeting would last one hour.

Attorney Sweeney noted that in accordance with 286.011 8. b., the subject matter of the meeting would be confined to settlement negotiations or strategy sessions related to litigation expenditures.

He added the session would be recorded by a certified court reporter. The reporter would record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

Councilmember Auwaerter noted he would not be available on May 24, 2023. It was agreed the closed/shade session would be scheduled for May 25, 2023, with a time to be determined. Staff would also investigate whether special legal counsel could participate through electronic means or if they would need to be present, in person, at the meeting.

11. Town Manager Report

- Florida City Gas had been provided with required information from the Town so that both the franchise and easement agreements can be drafted. Manager Harpring added that the franchise agreement would be contingent upon the easement agreements being signed.
- Manager Harpring next reported that the Community Rating System (CRS) Staff was moving forward with outreach programs that would increase the Town's points for an upgrade to CRS rating five by next year's 5-year review. The informational mail out will result in five hundred points, the adoption of the Floodplain Ordinance will increase the points by approximately 125.
- Review and drafting of the Town's Ordinances for public delivery is moving forward. Public informational workshops will be scheduled.
- The Town Manager expressed his appreciation to Councilmember Smith for her service on the Beaches and Shores Committee. He announced there would be a follow-up meeting of the BOCC, Tuesday at 9:00 a.m.

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 held the previous Monday. Residents from John's Island's Infrastructure Committee had formed a grass roots committee and encouraged residents of the Town to attend the County's Beaches and Shores Committee meeting to show support in getting Sector 4 designated a critically eroded beach. Councilmember Smith noted there were over 130 people in attendance at the meeting. Councilmember Smith next reported on the County's comprehensive power point presentation on Sector 4. She noted that one obstacle in the funding process could be public access to the beach. There is only one public access to Sector 4 at Beachcomber Lane with no parking and no bathrooms. She stressed that it must be known that Beachcomber is a public access road to the beach. Councilmember Smith added that if funding does become available, it would not be for the entire beach in Sector 4, but only for the area adjacent to public access; again, stressing the importance of maintaining public access to the beach. The hydrographic survey done of Sector 4 showed the area had gained ten feet of sand. The dune damage had been between 3-5 million dollars. She reported the Beaches and Shores Committee had made two motions; the first being to ask the BOCC if the Sector 4 area could be considered a dune restoration project. It was clarified that taxpayer dollars would be used to pay for this. The second motion being that the BOCC conduct a feasibility study to determine if Sector 4 could be considered an endangered beach, again using taxpayer dollars. Mayor Foley commented that it seemed as though the County would be undertaking the same parameters that the Town of Indian River Shores in concert with the Town of Orchid had been planning. He wondered if they should sit back and see where the County was going with their plans. It was added that the Department of Environmental Protection representative suggested that Sector 4 be considered as a dune project. Councilmember Auwaerter expressed his infuriation at

the concern expressed over there being only one public access in Sector 4, commenting that even if Sector 4 were to be considered critically eroded, only 660' of beach would be renourished. Specific to the public access concern, he reminded all that in Sector 7 there was only one public access at the 7-11 (south of 17th Street bridge) on A1A to Round Island Park. He added that for that project they had placed sand around a seawall which was ineffective as it only scours the sand.

- Councilmember Auwaerter reported that Town Treasurer Christmas prepared a spreadsheet for him, and the Town of Indian River Shores pays 12% of the County's general fund, non-debt taxes.
- Mayor Foley reported on his attendance at the Treasure Coast Local Government Committee meeting during which Martin County Commissioner Smith spoke on Bio Solid projects.
- Mayor Foley would be unable to attend the May meeting of the Treasure Coast League of Cities and asked that the alternate member to the Committee plan to be in attendance.
- A technological recap on legislative issues was presented at the League of Mayors meeting with special attention to the proposed legislation requiring a 3-day turnaround on all building permit applications. Mayor Foley would announce when the Joint Bar-b-que was scheduled.
- Councilmember Auwaerter reported that he had attended the Police/Fire Pension Board meeting and presented a comparative analysis on the performance of the Investment Funds. He highlighted the document noting that the analysis shows the investments in real estate were trailing and not performing well. In addition, the funds invested in real estate were not readily available to take out of the investment. Properties had been marked up in 2022. Over three years it performed at 8.41 before expenses. The 3-year net of performance was at only 5.11 percent where any index fund would have been over 9 %. It was his recommendation that the Pension Board try their best to get out of the real estate investment market. Discussion followed as to the fees being charged to manage the funds, and who makes the decisions for investments.

12. Call to Audience

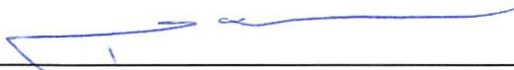
David Christakes, 966 Sunrise Terrace: Mr. Christakes complained about the abandoned house at the corner of A1A and Sunrise Terrace. He was tired of the homeless living there as well as it being used as a staging area for all construction projects within the Town along A1A. He noted the trash piles up and it is often an area for domestic squabbles and other nuisances, such as snakes and rats.

Town Manager Harpring noted that the Town was aware of the situation and was moving forward to bring the property to code. The property was held privately so the Town had certain procedures to follow.

13. Adjournment

With no further business to come before the Town Council, the meeting adjourned at 10:23 a.m.

Approved: May 25, 2023



Janice C. Rutan, Town Clerk

