



OFFICIAL MINUTES

REGULAR TOWN COUNCIL MEETING
THURSDAY, AUGUST 24, 2023 – 9:00 AM
TOWN OF INDIAN RIVER SHORES

The regular monthly meeting of the Indian River Shores Town Council was held on Thursday, August 24, 2023, in Council Chambers, 6001 Highway A1A, Indian River Shores. Councilmembers present were Brian Foley, Mayor; Sam Carroll, Vice Mayor and Bob Auwaerter, Councilmember. Also present were James Harpring, 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. Councilmembers Smith and Altieri were not in attendance. Attorney Sweeney confirmed a quorum was present.

2. Agenda Reordering, Deletions, or Emergency Additions

There being no additions, deletions or corrections to the agenda, a motion was made by Vice Mayor Carroll, seconded by Councilmember Auwaerter, and unanimously passed (3-0) to approve the agenda as presented.

3. Presentations/Proclamations

None.

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

None.

5. Consent Agenda

- a. Approval of Regular Town Council Meeting Minutes dated July 27, 2023
- b. Approval of Budget Workshop Minutes of July 27, 2023
- c. Approval of FDEP Grant Agreement No 23PLN13
- d. Approval of Contractor for Vulnerability Assessment - FDEP Grant No. 23PLN13
- e. Approval of Contractor for Council Chamber and Building Department Door Replacement
- f. Approval of Contractor for NFIP and CRS Services
- g. Approval of Amendment for Land Use Map Update WA 2023-05A
- h. PZ&V Recommended Approval of Removal of Tree of Special Concern – 230 John's Island Drive
- i. PZ&V Recommended Approval of Removal of Tree of Special Concern – 6001 Highway A1A
- j. Approval of Interlocal Agreement with Indian River County Regarding Solid Waste and Recycling
- k. Resolution No. 23-12 2024 Building Department Permit Fees
- l. Resolution No. 23-13 Anchoring Limitation Area
- m. Resolution No. 23-14 Resilient Florida Grant

A motion was made by Vice Mayor Carroll and seconded by Councilmember Auwaerter to approve the Consent Agenda as presented. The Town Clerk called the roll. All members present voted in the affirmative, with the motion passing 3-0.

6. Mayor's Report

Mayor Foley addressed the Town Council on the issue of planning for the Town's water and wastewater utility services. He noted the April 1, 2024, deadline to either terminate or renegotiate the water franchise agreement with the City of Vero Beach was fast approaching. Despite having filed an appeal to the Florida Supreme Court regarding the water reuse issue, he felt it prudent to assess and plan the Town's next steps.

Mayor Foley proposed that staff evaluate options to ensure that water and wastewater utility services were of the highest quality and at the most reasonable rates. Options include negotiation with the City of Vero Beach or obtaining services from another utility. He noted protection of the citizens from unreasonable rates for both the short and long term, especially since the Town has no electoral voice over the rate-makers on the Vero Beach City Council.

Adding that he would prefer not to litigate the matter any further, he asked staff to evaluate all options with the Town's legal advisors.

He noted that if not for the support of the Town Council in the anti-trust suit, the opportunity to look at alternative providers and long-term options would not be possible. He asked for a consensus for Staff, in consultation with the Town's legal advisors, to look at all options and make a preliminary report at a future Council meeting.

Vice Mayor Carroll thanked the Mayor for his remarks and for setting the stage in planning for the future. He wholeheartedly supported the Mayor's recommendations, noting that as distasteful renegotiating with the City of Vero Beach may be, it was one of the options, although he would want Staff to look at all alternatives.

Councilmember Auwaerter agreed with comments made by both Mayor Foley and Vice Mayor Carroll.

7. Councilmember Items

Councilmember Auwaerter – Florida League of Cities Meeting Report

Councilmember Auwaerter reported on his attendance at the League of Cities conference held August 12-14 in Orlando. He spoke of recent legislation entitled the "Live Local Act". He noted the Town does not have many industrial or commercial properties and he did not see it an issue for the Town.

Councilmember Auwaerter commented that people renting their properties, even for shore term rentals, would lose homestead exemption if the properties were rented for more than 30 days per year for 2 years. The Town researched properties it had issued short term rental licenses, and none were homesteaded.

Councilmember Auwaerter next reported on recent legislation that requires municipalities to undertake a fiscal impact statement prior to enacting certain ordinances. The Town Manager and Deputy Town Manager were looking into how to move forward with the mandate that becomes effective October 1, 2023.

He had attended a session on cyber security. Although a shade session would be scheduled to discuss the Town's policies, he wanted to bring some issues to the Council's attention. He noted two statewide associations the Town should consider joining. He learned that in the State of Florida, a municipality can no longer pay ransom if attacked.

The Keynote Speaker for the conference addressed Artificial Intelligence (AI). The advantage to AI was the streamlining of information. He cautioned all that AI has been known to fraudulently imitate voices and suggested that families set up a code word so that the code word can be used to confirm the identity of the caller should they be asked to send money or other suspicious activity.

Lastly, Councilmember Auwaerter narrated a power point presentation on PFAS (Per-and polyfluoroalkyl substances) which are a group of man-made chemicals, that if exposed to, can lead to adverse human health effects. PFAS can be found everywhere including packaging material, etc. He explained that the far-reaching effects were still a moving target, however, litigation and public interest has continued to increase. Many State and Federal Agencies, including the NPDES program, were beginning to take action to minimize human exposure. EPA action items were highlighted.

He explained briefly how PFAS can affect the Town. He reported on the several litigation cases, which included the City of Stuart. He expressed concern over the extent of the lawsuits resulting from PFAS. He noted it was a very sobering presentation.

Mayor Foley thanked Councilmember Auwaerter for his report, noting the many unfunded mandates to the Town resulting from the recent legislation and the PFAS report. He requested the Town Attorney follow up about PFAS, looking at potential action the Town should consider, including reaching out to the City of Stuart. He would report back to the Town Council.

Mayor Foley then explained the raw numbers for the settlements are a fund that is established and distributed among the parties.

8. Discussion with Possible or Probable Action

a. Ordinance No. 563 Repeal of Section 161.16 – Association approval (First Reading)

The Town Manager offered the Staff's report. Attorney Sweeney read the title. A motion was made by Councilmember Auwaerter and seconded by Vice Mayor Carroll to approve Ordinance No. 563 on first reading. The Town Clerk called the roll. All in attendance voted in the affirmative with the motion passing 3-0.

b. Ordinance No. 564 Florida City Gas Franchise Agreement (First Reading)

Attorney Sweeney read the title. A motion was made by Vice Mayor Carroll and seconded by Councilmember Auwaerter to pass Ordinance No. 564 on first reading. The Town Clerk called the roll. All present voted in the affirmative with the motion passing 3-0.

c. Ordinance No. 565 Land Development Code Amendments (First Reading)

Town Manager Harpring narrated a power point presentation that highlighted Phase 1 proposed changes. It was his hope that Phase 2 would be before Council in January. He expressed his appreciation to Staff for their assistance throughout the process. A motion was made by Vice Mayor Carroll to approve Ordinance No. 565 on first reading. The motion was seconded by Councilmember Auwaerter. The Town Clerk called the roll and all present voted in the affirmative. The motion passed 3-0.

d. 2024 Town Council Meeting Dates and Holiday Schedule and remaining Council Meeting Dates for 2023

Mayor Foley suggested that prior to setting dates for the Public Budget Hearing for 2024, Staff work with Council to ensure availability. A motion was made by Vice Mayor Carroll to approve the 2024 Town

Council Meeting Dates and Holiday Schedule and remaining Council Meeting Dates for 2023. The motion was seconded by Councilmember Auwaerter. The Town Clerk called the roll and all present voted in the affirmative. The motion passed 3-0.

9. Staff Updates

a. Building Official Report & Statistics

Fred Held, Building Official offered Staff's report. He referred to the requirements set forth by FS 553.899, commonly known as the "Milestone Inspection Law" relating to condominium inspections. His office has begun to prepare the letters to be sent to those affected properties. The letter contains the listed requirements of the Department of Environmental Protection. Recipients of the letter have 180 days to complete the required inspections. It is also their responsibility to hire their own engineers.

Town Attorney Sweeney gave a brief overview of Chapter 553.899 and the effect on properties and their responsibilities toward compliance. Mayor Foley confirmed that the Inspectors would be hired by the individual properties and not the responsibility of the Town.

In response to Vice Mayor Carroll, Building Official Held reported that there did not appear to be many buildable lots left on the market, adding that what he did notice was that many of the older homes were being completely razed and rebuilt.

The Town Council thanked Mr. Held for his thorough report.

b. Town Treasurer Report

Town Treasurer Christmas presented the Treasurer's report to the Town Council. She noted she would present a revised budget to the Council noting the changes included state revenue as well as insurance costs that had increased 57%, higher than the 40% she had estimated.

Councilmember Auwaerter commented that the matter of insurance had been discussed at the Florida League of Cities Conference he had recently attended. Because the costs of insurance continue to rise, he wants to be sure the Town's replacement cost valuations were up to date.

Councilmember Auwaerter next discussed the report that Town Treasurer Christmas had presented on monies received from the Town's investments into the 175/185 pension plan. She estimated there to be between 21-23 Public Safety employees that benefit from the plan.

c. Public Safety Department Report & Statistics

Chief Tad Stone discussed ladder truck repair, finalization of certain formal training forms for new employees. He reported that Law Enforcement had closed out several fraud cases and highlighted recent arrests that included 2 DUIs in one evening.

d. Public Works Department Report

Larry Bryant, Director of Public Works discussed paving at the cemetery for additional parking was moving forward. Crews were repairing the sinkhole on A1A. Mr. Bryant noted he was keeping up with the forecast as the tropics were looking busy with potential storms.

In response to inquiry, Town Treasurer Christmas reported that most of the cemetery funding had been spent. The current projects were being funded from Capital Improvement funds in the amount of approximately \$15,000.

e. **Code Enforcement Report**

Sgt. Jake Maikranz, Code Enforcement Officer reported that of the 57 unpermitted dune crossovers, 22 were still in violation, with 9 of the 22 having applied for permits. The remaining 13 unpermitted dune crossovers would be receiving final notices of violation.

Vice Mayor Carroll reported on a letter he had received from Scott Bell, Realtor, regarding the Town's prohibition against real estate signs and "open house" signs of a certain size. He questioned the fair enforcement of the signs along A1A. Town Manager Harpring noted he was aware of the letter and that he and Staff had addressed that issue during the consideration of Phase 1 of the LDC amendments. It was felt the matter needed further consideration and will address it again during Phase 2 of the proposed Ordinance amendments.

Councilmember Auwaerter noted he too had spoken with Mr. Bell and felt a timely modification to the Ordinance was needed.

Mayor Foley suggested the Council proceed with caution as the Town was quite lucky not to be peppered with temporary signs.

10. Town Attorney Report

Attorney Sweeney reported the Town had filed an appeal with the Florida Supreme Court in the rate case. There was no timeframe for the Supreme Court to act on the appeal, nor a guarantee that the Court would even consider the appeal.

Vice Mayor Carroll noted that frequently accompanying an appeal would be letters of support from other municipalities having franchise agreements. He inquired into whether Holland & Knight would be seeking those letters. Attorney Sweeney responded that although he could not speak to Holland & Knight's decision regarding same, he responded that the letters could be part of the brief when filed.

Councilmember Auwaerter commented that he had joined the FLC Legislative Committee to assist municipalities that were having issues with Utilities, however, found that the FLC Legislative Committee seemed to be more in favor of the larger municipalities having their own utility companies than the Town's that depended on those utilities.

11. Town Manager Report

Town Manager Harpring reported on meetings scheduled for August 28, 2023, with the Department of Environmental Protection to discuss Sector 4 funding.

He noted that the County was still looking to issue the RFP for Solid Waste in October.

He expressed his appreciation to Staff for their assistance.

12. Council/Committee Reports or Non-Action Items

a. **Call for Committee Reports, Informational Updates or Comments**

Mayor Foley announced he had completed his tenure serving on the Florida League of Mayors for the Florida League of Cities.

Councilmember Auwaerter reported on the Indian River County Beach and Shore Preservation Advisory Committee meeting he had attended earlier in the week. The Department of Emergency Management would be funding construction of the dunes in the amount of \$2,376,000. In addition, the County had applied for a 3.5 million grant for Sector 4 under the Department of Economic Opportunity as that grant was available for nonengineered beaches. The County would need to obtain 90% of the 89 infrastructure easements adjacent to the dunes. He explained that there may be County funding available left from Sector 7, as Sector 7 had been unable to obtain required easements. Councilmember Auwaerter stressed the need to obtain the Sector 4 easements. He also expressed his appreciation to Commissioner Earman.

Mayor Foley also expressed his appreciation to Councilmember Smith and Town Manager Harpring.

Town Manager Harpring reported that the County had not yet mailed the easements to the Sector 4 property owners. Discussion followed as to what role, if any, the Town should play in obtaining the needed easements. Mayor Foley noted the importance of the matter and in support of civic duty offered to help in any way. Town Manager Harpring offered to share the easement packet once it was received from the County.

13. Call to Audience

None.

14. Adjournment:

With no further business to come before the Town Council, the meeting was adjourned at 10:22 a.m.

Approved: September 26, 2023


Janice C. Rutan, Town Clerk



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