



## OFFICIAL MINUTES

REGULAR TOWN COUNCIL MEETING

THURSDAY, NOVEMBER 16, 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, November 16, 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/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. by wishing all in attendance a Happy Thanksgiving. Vice Mayor Carroll offered the Invocation. Mayor Foley led the Pledge of Allegiance. The Town Clerk called the roll. All Councilmembers were present.

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

None.

### 3. Presentations/Proclamations

MSW Consultants – Update on Solid Waste Procurement

John Culbertson of MSW Consultants addressed the Town Council. He commented on the great accomplishment of the Town to be included in the County's RFP for Solid Waste and Recycling Services and to have representation on the Review Committee in Heather Christmas, Deputy Town Manager and Town Treasurer.

He noted the Town was in a good position having already moved from premium (concierge) service to curbside service, which has become the industry standard. As to billing, he noted that the Board of County Commissioners would dictate the manner of billing for the services. It likely would be done through a non-ad valorem assessment to be collected through property tax billing. It is also anticipated that the RFP would result in once per week collection.

In response to an inquiry from Councilmember Altieri, Mr. Culbertson advised that Waste Management and Republic Services were the largest providers, however, there may be smaller privately held companies that could be interested in responding to the RFP.

Discussion followed regarding alternative fuel options and smaller trucks. These factors would be a consideration and discussed at a pre-bid meeting. He explained that the County would be the point of contact should there be concerns over non-performance. Mr. Culbertson noted that the Town may see savings in the per household cost once it moved from twice a weekly pick-up to once per week.

He added that the structure of the RFP would generate competitive prices and once again expressed his pleasure at the Town being able to be included in the County's RFP.

#### **4. Comments From the Public Regarding Agenda Item**

None.

#### **5. Consent Agenda**

- a. Approval of Regular Town Council Meeting Minutes dated October 26, 2023
- b. Approval of Final Budget Hearing Minutes dated September 26, 2023
- a. FY 2023 Ambulance Revenue Adjustment and Write-Off
- b. Resolution 23-19 FY 2022-2023 Budget Amendment
- c. Approval of Public Safety Department ATV Purchase

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

#### **6. Mayor's Report**

Mayor Foley commented on the recent windstorm that further affected the erosion to beaches.

Mayor Foley also reported on the recent workshop sponsored by the Town to discuss the proposed changes to the Land Development Code. He expressed his appreciation to Patty Gundy, Chair of the Planning, Zoning and Variance Board.

Mayor Foley commented on the rewrite of the Land Development Code discussing items that must be implemented and things the Town wants to be implemented.

Mandated items will bring the Town into compliance with Florida Statutes and Florida Building Code. Other matters will be addressed that would ensure aesthetics for the Town of Indian River Shores. Mayor Foley explained that you know when you enter Indian River Shores and you know when you leave Indian River Shores; evidenced by there being no boats on trailers, no cars on blocks or street side signs. The more stringent requirements of the HOA's help the Town maintain its higher property standards and property values. He next mentioned the inclusion of sustainability items.

Mayor Foley discussed the Water Franchise Agreements. He explained that unless there is an active lawsuit, the Town cannot discuss Attorney Client privilege in a closed meeting. The Town continues to work with individual legislators to keep them current on the Town's progression in this matter. Mayor Foley is committed to making the best economic decision for the residents, even if it means moving to the County for services.

#### **7. Councilmember Items**

Councilmember Auwaerter discussed adopting an Ordinance that would ban gasoline powered leaf blowers, noting they pollute both the air and noise. He noted that he got the idea from a recent trip to Naples. It was noted the John's Island and Windsor have adopted similar restrictions within their communities.

He asked that staff move quickly in preparing the amendment as the Governor in Georgia had recently pre-empted that type ban. Town Manager Harpring will bring a proposal back for Council consideration.

**8. Discussion with Possible or Probable Action**

a. Ordinance No. 567 – Amendments to Code of Ordinances, Chapter 52 (Second Reading)  
Attorney Sweeney read the Title. Mayor Foley opened the Public Hearing. There being no public comment, a motion was made by Vice Mayor Carroll and seconded by Councilmember Smith to adopt Ordinance No. 567 on second and final reading. The Town Clerk called the roll. All present voted in the affirmative and the motion passed 5-0.

b. Ordinance No. 568 – Amendments to the Florida Building Code (First Reading)  
Attorney Sweeney read the Title. Mayor Foley opened the Public Hearing. Special mention was given to Building Official Fred Held and Patty Gundy for their professional oversight and assistance in drafting this ordinance. There being no public comment, a motion was made by Vice Mayor Carroll and seconded by Councilmember Smith to adopt Ordinance No. 568 on first reading. The Town Clerk called the roll.

**9. Staff Updates**

a. Building Official Report & Statistics  
Building Official Held advised that inspections and permits had decreased in the current year, however, the increase in permit fees have offset the decrease in permit activity.

b. Town Treasurer Report  
Deputy Town Manager / Town Treasurer Heather Christmas announced she was preparing for the audit which would begin the week of December 4, 2023.

c. Public Safety Department Report & Statistics  
Public Safety Director Tad Stone advised three paramedics had recently passed advanced life support and pediatric life support training. Other Staff members had completed advanced incident training.

Chief Stone reported the mock assessment for accreditation had been completed and the department passed with flying colors. The full accreditation review will take place beginning Tuesday, November 28, 2023.

The department was participating in live firefighting training with the County. Motorcycle certification class would be taking place on December 18, 2023.

Chief Stone did report that incident numbers had increased with the increase in traffic.

He offered an update on the interdepartmental concern over traffic and safety at the 7-11. Deputy Shaw continues to work with FDOT towards a crosswalk at that location. Discussion followed and it was the recollection of those present that the FDOT had turned down placing a crosswalk at that location. There has been a recent change in the personnel at the DOT and the Town will request they revisit the issue.

The Council agreed that the Town needed to pursue the installation of a pedestrian crosswalk at that location because of so many ingress/egress options (7-11, CVS and 45<sup>th</sup> Street). Concern was raised over the construction of the townhomes adding to the congestion.

Despite the recent tragic accident that had taken place at the 7-11 location, the FDOT has not agreed to move forward with the pedestrian crosswalk.

Councilmember Auwaerter suggested the Town request FDOT engineers come to the site to see first-hand the Town's concerns. He had successfully worked with FDOT engineers and persuaded them to make design changes to the bike lane at the base of Barber Bridge.

Councilmember Smith asked Town Manager Harpring to also follow up on the construction of the huge building north of the townhomes at the Tracking Station beach. She did not remember that building being part of the original site plan reviewed by the Council.

Manager Harpring suggested the Town take its own initiative and perform its own studies. It was agreed the Town Manager would research and follow up with the FDOT and report back to Council at the December meeting.

**d. Public Works Department Report**

Larry Bryant, Director of Public Works reported the sink hole between Indian and Seminole Lane had been repaired. He had been working with FDOT regarding the trimming along A1A and has been working with FDOT subcontractors to be sure the sidewalks along A1A have been cleared and free of debris. Noting the Subcontractors have been a challenge, Director Bryant continues to follow up.

Manager Harpring expressed his appreciation to Director Bryant for his assistance in monitoring the beach erosion as well.

**e. Code Enforcement Report**

Code Enforcement Officer Maikranz addressed the Town Council. In response to Vice Mayor Carroll, Officer Maikranz explained that the 650-700 buildings at John's Island had been granted an extension to January 2024. It was explained that the Town had met with the engineers and property management regarding this dune crossover project. However, it was noted that if the progress on the project does not meet with the Town's approval, the matter will be scheduled for a Special Magistrate Hearing.

Further, he explained to Vice Mayor Carroll that the "model open" sign outside the property south of the Wabasso Bridge on A1A was permitted because it was located on private property and not on the FDOT R-O-W.

**10. Town Attorney Report**

Town Attorney Sweeney reiterated the Mayor's earlier comments regarding discussion of actions and lawsuits. A brief discussion followed.

Mayor Foley commented on the recent Public Record Request received from the City of Vero Beach. Attorney Sweeney explained that since the litigation was no longer active, all transcripts, etc. were available for public review. A brief discussion followed concerning what constitutes a public record.

**11. Town Manager Report**

The Town Manager reported on the progress being made for the Sector 4 beach renourishment program. He continues to work with County staff and consultants in efforts to have Sector 4 designated as a critically eroded beach. He reported the permitting process was moving along as well.

In response to Councilmember Smith, Town Manager Harpring responded that he was not sure of the status of funding for Sector 3, nor if both programs could piggy-back one another.

He reported on the productive meeting held earlier in the week to discuss Phase II of the rewrite of the Land Development Code. He was hoping to have the ordinance drafted and ready for final adoption in May.

In response to Councilmember Smith, Town Manager Harpring explained that although the Town had jurisdiction, enforcement of the no wake zone was very difficult to enforce. Attorney Sweeney concurred.

He reported in detail the extensive request to the Town for public records from the City of Vero Beach. The City was specific in asking for transcripts of meetings, invoices for legal services and communications between the Town of Indian River Shores and Indian River County relating to wastewater/water and reuse water.

Councilmember Auwaerter reminded all that they had received a letter from a local realtor asking about realtor signs along A1A. Discussion followed. Attorney Sweeney highlighted the provision in the Town's Code of Ordinances that does address real estate signs on private property.

It was noted that the Town cannot legislate uses of State property, however, as an agent for the State, it does have the right to remove the signs as the State does do not allow signage in its R-O-W.

Councilmember Auwaerter thought that the Town was going to reconsider its present ordinance as part of the Phase II rewrite of the Land Development Code. He would like a better understanding of what is allowed. Mayor Foley expressed his reluctance to amend an ordinance that has served the test of time while preserving the aesthetics of the Town.

## 12. Council/Committee Reports or Non-Action Items

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

Councilmember Smith reported she would be attending the Beach and Shore Committee on Monday. She would request an update on whether the Sector 3 and Sector 4 projects could piggy-back each other. She noted that the John's Island Infrastructure Committee was meeting with County representatives about Sector 4 as well.

She had participated in the County's Dump the Pump Day and took advantage of riding the free transit system throughout Indian River County. She rode the Go Line bus and learned that by 2035 all new buses will be EV and there will be charging stations throughout the City. She was quite impressed with the drivers, riders and all the good work the Go Ride system does for the residents of Indian River County. A brief discussion followed.

Councilmember Auwaerter gave an update on the beach easements received to date. Of the 88 sent out, 30 are under review and 32 have been signed and recorded resulting in a 72% response rate.

Mayor Foley had requested the Town Clerk provide notice to the residents that as of December 2022, due to enacted legislation, voters will need to renew their request for a vote by mail ballot. Notification had been included in the newsletter with links to the Supervisor of Elections office.

## 13. Call to Audience

None.

## 14. Adjournment

With no further business to come before the Town Council, the meeting adjourned at 10:41 a.m.

Approved: December 14, 2023

  
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Janice C. Rutan, Town Clerk