



OFFICIAL MINUTES
REGULAR TOWN COUNCIL MEETING
THURSDAY, NOVEMBER 17, 2022, 9:00 AM
TOWN OF INDIAN RIVER SHORES
6001 N. STATE ROAD A1A INDIAN RIVER SHORES, FL 32963

The regular monthly meeting of the Indian River Shores Town Council was held on Thursday, November 17, 2022, in Council Chambers at 6001 N Highway A1A, Indian River Shores, FL. Councilmembers present were Brian Foley, Mayor; Sam Carroll, Vice Mayor; Councilmembers James M. Altieri, Bob Auwaerter and Mary Alice Smith.

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 additions, deletions or substitutions, the agenda stood as presented

3. **Presentations/Proclamations**

- a. Hurricane Nicole Damage Assessment

It was agreed the Hurricane Nicole presentation would be addressed under Town Manager's Report

4. **Organizational Items**

- a. Oath of Office

The Town Clerk administered the Oath of Office to re-elected Town Councilmembers Bob Auwaerter, Jesse L. "Sam" Carroll, Jr., and Brian Foley.

- b. Election of Mayor

Vice Mayor Carroll nominated Brian Foley to serve as Mayor for the ensuing two-year term. The nomination was seconded by Councilmember Auwaerter. With no further nominations, Brian Foley was elected Mayor by unanimous vote (5-0).

- c. Election of Vice Mayor

Mayor Foley nominated Sam Carroll to serve as Vice Mayor for the ensuing two-year term. The nomination was seconded by Councilmember Auwaerter. With no further nominations, Sam Carroll was elected Vice Mayor by unanimous vote (5-0).

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

None.

6. **Consent Agenda**

- a. Approval of Regular Town Council Meeting Minutes dated October 27, 2022
- b. Approval of Special Call Town Council Meeting dated October 25, 2022, at 9:00 am
- c. Approval of Special Call Town Council Meeting dated October 25, 2022, at 9:15 am
- d. Approval of Planning, Zoning & Variance Board Meeting Minutes dated October 11, 2022
- e. PVZ Item – 50 Dove Shell Lane (Set Back Variance Request)
- f. PVZ Item – John's Island Plat 58 (Currently Unplatted)

g. FY 2022 Ambulance Revenue Adjustment & Write-Off

h. Indian/Seminole Lane Canal Maintenance Dredging Change Order #1

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

7. Mayor's Report

Mayor Foley highlighted the prior year's accomplishments of the Town Council. He also mentioned of the passing of former elected officials and staff over the past year, to include former Mayor Tom Slater, former Town Manager Joe Griffin and former Acting Town Clerk, Chelley Pallo. All would be missed terribly.

He then acknowledged and expressed appreciation to Heather Christmas who stepped up to serve as Deputy Town Manager during Mr. Griffin's illness while still serving as Town Treasurer. He added Ms. Christmas be heralded as a brilliant financial steward for the Town.

The Town Council had hired a new Town Manager. Mr. Harpring has not only met but had far exceeded expectations in a Town Manager.

The resignation of long time, former Town Attorney Chester Clem left a void in institutional knowledge, however, newly appointed Town Attorney Peter Sweeney has stepped in to represent the Town without missing a step.

Town Clerk Janice Rutan had been hired to replace retiring Town Clerk Laura Aldrich. He hoped she was pleased with her decision to accept the position.

He expressed his appreciation to the Charter Review Committee members Patty Gundy, Mike Ocshner and Bob Auwaerter. The successful work of the Committee will go before the electors of the Town is a special vote by mail ballot election in January.

Although two Councilmembers stepped down (John McCord and Chris Hendricks) prior to the expiration of their terms, the Town Council welcomed those members' replacements in the return of former Councilmember Bob Auwaerter and newly appointed Councilmember James Altieri, whose background speaks for itself.

Mayor Foley noted the completion of the renovation of Town Hall facilities and that Town Council meetings would soon be live streamed. He further advised that grant funding was used for drainage improvement projects for Seminole, Indian and soon Pebble Bay roadways. He went on to advise the Town had reached a settlement in the Federal Case Town of Indian River Shores vs. the City of Vero Beach adding that not being able to negotiate or bid for better rates was not acceptable.

He expressed his appreciation to Town Manager Harpring, as under his guidance, the Council fairly negotiated the Public Safety Collective Bargaining Agreement.

Lastly, Mayor Foley noted that for the fourth year in a row, the Town Council has maintained the millage rate with no increase to the taxpayers.

8. Councilmember Items

a. Public Safety Pension Fund Performance

Councilmember Auwaerter offered a thorough presentation on the performance of the Public Safety Pension Fund. He noted that the equity performance was very low, and the real estate performance had been very high. In reviewing the real estate return, using appreciation as a benchmark, he became very skeptical about the performance of the real estate funds.

Councilmembers expressed their appreciation to Councilmember Auwaerter for reviewing the investment's performance. Mayor Foley reminded all that they do not control the actions of the Pension Board other than their appointment of 2 members to the Committee.

Vice Mayor Carroll noted that the Fund's 5.71% return (net of fees) since inception, 2013, was significantly below the Fund's assumed rate of return of 6.75%, as set by the Pension Board in August 2019, when the Board raised the assumed rate of return from 6.25%.

Councilmember Auwaerter noted the positive development resulting from the trustee's agreement to place at least 20% of the funds in an S&P 500 portfolio.

9. Discussion with Possible or Probable Action

a. Resolution 22-13 FY 2021-2022 Budget Amendment

The title was read by Attorney Sweeney. Deputy Town Manager Christmas offered Staff's report. A motion was made by Councilmember Auwaerter and seconded by Councilmember Carroll to pass Resolution 22-13. The roll was called, and all present voted in the affirmative (5-0).

b. Ordinance No. 553 5-year Capital Improvement Plan (Second Reading)

The title was read by Attorney Sweeney. Deputy Town Manager Christmas was available to offer Staff's report. Councilmember Auwaerter confirmed with Chief Rosell that the Public Safety Department maintained the tools necessary to extinguish an electric car fire if needed and that an expenditure to accomplish this precaution would not require an amendment to the Capital Improvement Budget.

A motion was made by Councilmember Auwaerter and seconded by Vice Mayor Carroll to approve Ordinance No. 553 on second and final reading. The roll was called, and all present voted in the affirmative (5-0).

c. Ordinance No. 554 Adoption of New FEMA Maps (Second Reading)

The title was read by Attorney Sweeney. Town Manager Harpring was available to offer Staff's report.

A motion was made by Councilmember Auwaerter and seconded by Vice Mayor Carroll to approve Ordinance 554 on second and final reading. The roll was called, and all present voted in the affirmative (5-0)

d. Appointments

Manager Harpring offered Staff's report and referenced supplemental memos regarding Committee appointments.

i. Councilmember Appointments

Mayor Foley opened the floor for discussion and recommendation for Councilmember appointees to the various County and professional committees.

By consensus of the Town Council, the following Town Council appointments were made:

<u>Name</u>	<u>Primary</u>	<u>Alternate</u>
Metropolitan Planning Organization	Bob Auwaerter	Brian Foley
Affordable Housing Committee	Sam Carroll	Mary Alice Smith
Economic Development Council	Sam Carroll	James Altieri
Beach and Shore Preservation	Mary Alice Smith	Sam Carroll
Elected Officials Oversight Committee	Sam Carroll	Mary Alice Smith
Treasure Coast Council of Local Govt.	Brian Foley	Sam Carroll
Treasure Coast Regional League of Cities	Brian Foley	Bob Auwaerter
Treasure Coast Regional Planning Council	Bob Auwaerter	Sam Carroll
FLC – Intergovernmental Relations	Sam Carroll	Brian Foley
COVB Utilities Commission	Bob Auwaerter	Sam Carroll

ii. Planning, Zoning and Variance Board Appointments

Town Manager Harpring previously issued memorandums to Town Council with recommendations on terms. He explained that previous expiration dates had become off-calendar. Also, a third alternate was inadvertently appointed.

Based on the recommendation of the Town Manager, a motion was made by Councilmember Auwaerter, seconded by Vice Mayor Carroll, and unanimously passed (5-0) to make the following reappointment to the Planning, Zoning and Variance Board:

- Patty Gundy, full member, for a term to expire November 2024
- Dorothy Merkle, full member, for a term to expire November 2024
- James Carbin, full member, for a term to expire November 2024
- David Crawford, full member, for a term to expiring November 2024
- Susan Anderson, full member for a term expiring November 2026
- Frantz Bertin, alternate member for a term expiring November 2024
- Matthew Hutmaker, alternate member for a term expiring November 2024

iii. Finance Committee

Town Manager Harpring previously issued memorandums to Town Council with recommendations on terms. As there are no specific provisions regarding timing for appointments to the committee Town Manager Harpring recommended the provisions of sec. 30.33, Code of Ordinances be applied as it relates to the timing of appointments. The recommendations below regarding revised term expiration dates were consistent with the recommendation.

A motion was then made by Vice Mayor Carroll, seconded by Councilmember Smith, and unanimously passed (5-0) to accept the recommendations of the Town Manager and make the following appointments to the Finance Committee with the revised expiration dates as follows:

- Mike Oschner, full member for a term expiring November 2024
- Randall Rogers, full member for a term expiring November 2024
- Peter Tedesko, full member for a term expiring November 2024
- William Cull, full member for a term expiring November 2024
- Robert Moore, full member for a term expiring November 2024
- Fred (Fritz) Blaicher, full member for a term expiring 2024

iv. Code Enforcement Board

Town Manager Harpring previously issued memorandums to Town Council with recommendations. He advised that Section 30.80 of the Code of Ordinances establishes a Code Enforcement Board (Board). A review of Town records reflected that there had been no Board meetings from 1995 through 2000. Thereafter, there had been one meeting in each of the following years – 2001, 2002, 2004, 2005, and 2010. Since 2010 there have been no Board meetings.

He added that Section 162.03(1), Florida Statutes, provides that a municipality at its option, may abolish by ordinance local code enforcement boards. Section 162.03(2), Florida Statutes, provided that a municipality may, by ordinance, adopt an alternate code enforcement system that would provide a special magistrate the same authority and status as a code enforcement board.

Based on Town Manager Harpring's recommendation, a motion was made by Councilmember Auwaerter, seconded by Councilmember Smith, and unanimously passed (5-0) to direct the preparation of an ordinance repealing Article XII – Code Enforcement Board from the Code of Ordinances and to further request the Town Manager prepare an ordinance providing for the use of a special magistrate for code enforcement matters consistent with section 163.02 (2), Florida Statutes.

v. Pension Fund Board

Town Manager Harpring previously issued memorandums to Town Council with recommendations explaining that consistent with the provisions of Ordinance No. 538, Town Council appoints two members to serve two-year terms on the

Police-Firefighters Deferred Benefit Plan Board. Both Town Council appointees, Thomas Vandeventer and Fred Gaertner have terms expiring in November 2024.

Councilmember Auwaerter addressed the Town Council. It was his recommendation to defer appointment to the December meeting. It was confirmed the next scheduled meeting of the Pension Board was scheduled for January.

Councilmember Auwaerter expressed concern over the current Plan Administrator as attendance records of the Pension Board did not differentiate between attendance in person or via phone. Comment was made that phoning in should not be a substitute for attendance. He added that neither of the Town Council appointees had attended the November meeting, nor did they call into the meeting. He expressed concern that this past meeting addressed the performance of the investments, which was a very important decision to be made. He added the meetings were quarterly.

Discussion ensued as to whether the Council should reach out to the members and determine their willingness to serve as well as their level of commitment to the appointment prior to posting the openings.

Councilmember Auwaerter wanted to see the Town post the notice of vacancy (via newsletter and website) to run concurrent with determining the availability and commitment of the current members. Councilmember Smith inquired as to whether the posting would occur before the present members were contacted. Vice Mayor Carroll requested the Town Clerk distribute the attendance records of the Board to Councilmembers.

Nancy Auwaerter, 120 Ocean Beach Trail: Ms. Auwaerter questioned why the Town would wait to post the vacancy when the terms were coming to an end adding the members could apply if still interested.

Staff will reach out to the current members and post the notice of vacancy on the website and in the upcoming newsletter and would copy Council on same.

10. Staff Updates

a. Building Official Report & Statistics

Luis Martinez, Building Official presented the report.

b. Town Treasurer Report

Heather Christmas, Deputy Town Manager/Town Treasurer presented the report. She announced there would be a December 1, 2022, meeting of the Finance Committee at which time she would be presenting the annual OPEB report. In response to Councilmember Smith, Ms. Christmas noted that the present level of funding was approximately 133%, when last year at this time it had been funded 180%.

Council expressed their appreciation adding that considering the past year's market, maintaining funding at 133% was a testament to present Council and Staff.

A brief comment was made by Mayor Foley pertaining to possible FEMA funding available because of Hurricane Nicole.

c. Public Works Department Report

Town Manager Harpring offered Staff's report on behalf of Larry Bryant, Public Works Director. He reported that until the irrigation issues at Town Hall are fixed, the plantings, etc. around the property were on hold.

He reported that the Director of Public Works had been on call and on site before and immediately after Hurricane Nicole. The Town Manager, Public Works Director and Building Official had completed the survey of beaches and properties on Thursday after the Storm.

d. Code Enforcement Report

Town Manager Harpring introduced newly appointed Code Enforcement Officer Jake Maikranz to the Town Council. Mr. Maikranz also serves as the Town's Fire Marshall/Inspector and oversees permitting and inspections of short-term rental properties. Manager Harpring thanked Chief Rosell for working with the Town and allocating his staff to work on Code

Enforcement. Council expressed their appreciation to Mr. Mancrantz as Code Enforcement is an important part of maintaining community standards.

In response to Council, Mr. Maikranz stated there were no outstanding issues with short term vacation rentals.

e. **Public Safety Department Report & Statistics**

In response to Councilmember Auwaerter concern about the County adopting its own off leash dog ordinance, Chief Rosell reported he has just recently received his first complaint about dogs on the beach since the Town had adopted their own Ordinance in 2019.

Council expressed their opposition to the County's Ordinance as it did not address the issues outlined in the Town's Ordinance. All agreed it was premature to send a letter of objection as County Beach access points and their proximity to the Town's beaches have not been established.

Councilmember Smith asked Attorney Sweeney if the County could supersede the Town's Ordinance. He responded that the questions lie in the County "access" to the beaches.

11. Town Attorney Report

In response to Council inquiry, Attorney Sweeney reported the appeal was still pending, and was unaware of an oral argument being scheduled relative to the State Appeal re: Town of Indian River Shores vs. City of Vero Beach.

Town Manager Report

Town Manager Harpring reported he had communicated the Town's objection to a county off leash dog park to the County Attorney. The item will be brought up December 15, 2022 at the BOCC meeting for additional discussion before the County.

He next reported that the appropriate location of the A1A crosswalk, in front of the 7-11 had still not yet been established.

Manager Harpring next reported on the collapse of a county walkway in front of the 7-11. Public Works Director Bryant had made temporary repairs for safety.

Manager Harpring expressed his appreciation to Chief Rosell noting there were no reported issues during the Hurricane.

Manager Harpring asked the Town Council to look at report included in the Council binders which was the County's report after Hurricane Ian. He noted it would be a good benchmark to see the additional damage caused to the shoreline by Hurricane Nicole. Manager Harpring presented the Town Council with a video and photographs taken after Hurricane Nicole. Manager Harpring would be meeting with representatives from the Department of Environmental Protection and FEMA after the meeting to discuss the damage to the beach access at Beachcomber. He noted there had been 10-25' of dune lost with a depth of 5 to 10'. Access to the beach through Beachcomber was by Public Safety ATV only. That access has been closed to the public for safety reasons.

He explained that the replenishment of the dunes and sand to the town's beaches had been the responsibility of the County. Town beaches for the most part are in Sector 4 which was not considered an area of critical erosion.

Councilmember Altieri inquired as to whether the Town would be entitled to Title 11 funding.

Councilmember Auwaerter inquired about an emergency declaration acknowledging that there would need to be exigent circumstances for the DEP to reconsider that area as critically eroded. Councilmember Auwaerter gave a brief history of the Town's application for and denial of a critical erosion designation.

Mayor Foley spoke of funding including repurposing of federal monies (infrastructure funds, ARPA funding). He would like the Town Manager to provide Council reports of what actions were being taken so they can report back their constituents.

Councilmember Smith asked what needed to be done immediately to get access to the beaches for the residents. A lengthy discussion followed. Town Manger Harpring explained that Beachcomber was the only beach access controlled by the Town. He had been in touch with the Town's consultants, Coastalwide, LLC for engineering of a new beach access. But, from a risk management, liability, and public safety precaution, he recommended access to Town beach remain closed.

Mayor Foley suggested the Town segment needs into three categories: immediate, midterm and long term. The Town needed to increase its outreach as well as temper the expectations of the residents. Town Manager Harpring had been in touch with the residents and the HOAs since the storm and would continue to disseminate to the residents and the HOAs.

Councilmember Auwaerter reminded all the upcoming Beaches and Shores meeting. He planned on attending and confirmed with the Town Attorney that individual Councilmembers could attend and speak if comments were on the topic of the public meeting.

Councilmember Altieri inquired as to the 15 plus miles of shoreline in Indian River County and how the designation of critical erosion applied to all but Sector 4 (Indian River Shores).

13. Council/Committee Reports or Non-Action Items

a. Call for Committee Reports, Informational Updates or Comments

Mayor Foley announced a free workshop for newly elected official officials sponsored by the Treasure Coast Regional League of Cities. In addition, the Treasure Coast League would be sponsoring a luncheon on December 14, 2022, at Captain Hiram's. Elected officials and municipal managers were invited.

12. Call to Audience

Mr. Steve Morgan spoke on beach erosion and provided Council with a copy of Florida Statutes, Chapter 161.085 (3) re: beach erosion because of a storm event which would allow for emergency measures to preserve public beach access.

Mr. Walter Whittaker presented the Town Council with a petition against the use of 95-gallon waste containers signed by the residents of Park Shores South.

Dave Cristakes spoke on having his beach access opened.

Theresa Morgan spoke on wanting the dune crossover to be restored to be used by the public.

Mike Korpar, John's Island Property Manager complained of the lack of communication by Republic Services. On behalf of the John's Island Board of Governors, he was expressing their unhappiness with the services being provided by Republic. Town Manager Harpring commented he was aware of the disastrous customer service exhibited by Republic Services and would be addressing the matter.

Mr. Korpar reported that it was the intention of John's Island to have some of their beach accesses restored as soon as possible adding that sand cannot be delivered until January 1 which limits the time for replenishment as turtle season begins March 1.


Susan Thomas lodged a complaint about the illegal shark fishing that was occurring nightly at the Beachcomber beach access. Chief Rosell addressed the Town Council. He had been made aware of the problem and had scheduled

additional patrols to address the problem. Council expressed their appreciation to Chief Rosell.

13. **Adjournment**

With no further business to come before the Town Council, the meeting adjourned at 11:25 a.m.

Approved: December 15, 2022



Janice C. Rutan, Town Clerk