



OFFICIAL MINUTES

REGULAR TOWN COUNCIL MEETING

THURSDAY, DECEMBER 12, 2024 – 9:00 AM

TOWN OF INDIAN RIVER SHORES

6001 HIGHWAY A1A INDIAN RIVER SHORES, FL 32963

The regular meeting of the Indian River Shores Town Council was held on Thursday, December 12, 2024, in Council Chambers, 6001 Highway A1A, Indian River Shores. Those present were Brian Foley, Mayor; Bob Auwaerter, Vice Mayor; Sam Carroll, Councilmember; James Altieri, Councilmember and William Dane, 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. Councilmember Carroll offered the Invocation. Mayor Foley led all in 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 Councilmember Carroll, seconded by Vice Mayor Auwaerter, and unanimously passed (5-0) to approve the agenda as presented.

3. **Presentations/Proclamations**

None.

4. **Comments From the Public Regarding Agenda Items(s)**

None.

5. **Consent Agenda**

- a. Approval of Regular Town Council Meeting Minutes dated November 14, 2024
- b. Approval Change Order #3 – De La Hoz – Public Safety Department Renovation
- c. Approval of Construction East of the Coastal Construction Control Line (CCCL)
- d. Approval of Variance Request – Service Garage Setback
- e. Approval of Variance Request – Porch/Loggia Setback

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

6. **Mayor's Report**

Mayor Foley extended holiday wishes to all. He commented that the Town has been experiencing traffic issues because of the season and partially due to the work being done along A1A and the bridges. He questioned why the State and County projects seem to always take place during the height of the season, noting the Town does its best to keep the residents informed of upcoming road projects and traffic issues.

7. Councilmember Items

Vice Mayor Auwaerter, as a follow up to Mayor Foley's comments, explained that at a recent FDOT meeting, in response to questions posed, it was explained that the in-season closure of the 17th Street bridge was because of required AT&T cable work.

8. Discussion with Possible or Probable Action

a. Public Smoking and Marijuana Dispensary Regulations

Attorney Sweeney addressed the Town Council. He explained that although legislation legalizing marijuana did not pass, the Town could be proactive in passing an ordinance that would prohibit smoking in public places prior to any further action that could occur in this legislative session. There would always be the chance that if legislation were to pass, the Town's laws could be preempted. The proposed Ordinance in front of Council for review was modeled after another municipality. The penalties would make the infraction a second-degree misdemeanor and could be enforced through police power. Attorney Sweeney noted that the preambles of the Ordinance did exempt cigars (as per legislation), however all other types of smoking would be prohibited. Right now, he was including this Ordinance in the nuisance section of the Code Of Ordinances but would reclassify at the pleasure of the Council.

Councilmember Dane questioned whether the Town wanted to make smoking in public a criminal offense. Councilmember Altieri agreed. As a supplement, Town Manager Harpring explained that the Ordinance only addressed the public streets and beaches of the Town.

Attorney Sweeney explained that the general penalty provision already exists in Section 10.99 General Penalties of the Town's Code of Ordinances. This provision is applicable to the Town's entire code. Without the criminal penalty any offense would go before the Special Magistrate through Code Enforcement. He reminded all that presently the Town has no provisions in place to prohibit smoking in public.

Mayor Foley asked if it would make a difference as to what was being smoked, noting that smoking of any THC product was still illegal.

Vice Mayor Auwaerter concurred with both Councilmember Dane and Councilmember Altieri. He suggested the prohibition be limited only THC products, with the focus on marijuana. Councilmember Dane supported limiting the Ordinance to cannabis. Councilmember Altieri agreed as he too thought the proposal crossed over into governing private lives.

Councilmember Carroll agreed and also noted his concern about overregulating which could intrude into the personal lives of the residents. He suggested Attorney Sweeney narrow the perimeters to find continuity.

Mayor Foley noted it was the intent of the Council to put a solution in place in the event marijuana was to become legal. He noted that most HOA's have stringent regulations against smoking. The County's Ordinance can be enforced as well. He has heard the consensus of the others to limit the ban to only cannabis products. He, himself, is still on the fence about penalties, but is leaning more towards reducing it from a misdemeanor to a lower-level offense that still has teeth.

In closing council occurred the proposed Ordinance should prohibit marijuana dispensaries within Town and would limit the prohibition against smoking to only cannabis products. The revised Ordinance will come before the Council for first reading in January.

b. Metropolitan Planning Organization Committee Appointments

i. Bicycle Advisory Committee

Councilmember Carroll moved to appoint Nancy Auwaerter as an alternate member to the Metropolitan Planning Organization's Bicycle Advisory Committee. Councilmember Altieri seconded the motion. Vice Mayor Auwaerter read the following recusal into the record:

"As advised by the Town Attorney, after he spoke with the Florida Ethics Commission, I am recusing myself, pursuant to Florida Statute 112.3135 on the vote nominating my wife, Nancy Auwaerter, for the unpaid position of Town alternate representative on the Indian River County Metropolitan Planning Organization (MPO) Bicycle Advisory Committee. This recusal form for this vote has been filed with the Town Clerk".

The vote was called and passed 4-0 with one recusal (Vice Mayor Auwaerter).

A motion was then made by Councilmember Carroll, seconded by Councilmember Altieri, and unanimously passed (5-0) to appoint Frank Blaisdell as the full member to the Metropolitan Planning Organizations' Bicycle Advisory Committee.

ii. Citizens Advisory Committee

Councilmember Carroll moved to appoint Nancy Auwaerter to serve as full member to the Metropolitan Planning Organization's Citizen's Advisory Committee. The motion was seconded by Councilmember Altieri. Vice Mayor Auwaerter read the following recusal into the record:

"As advised by the Town Attorney, after he spoke with the Florida Ethics Commission, I am recusing myself, pursuant to Florida Statute 112.3135 on the vote nominating my wife, Nancy Auwaerter, for the unpaid position of Town representative on the Indian River County Metropolitan Planning Organization (MPO) Citizen's Advisory Committee. This recusal form for this vote has been filed with the Town Clerk".

The vote was called and passed 4-0 with one recusal (Vice Mayor Auwaerter).

c. School Board Oversight Committee Appointment

Councilmember Carroll moved to appoint Nancy Auwaerter full member to the School Board Oversight Committee. Councilmember Altieri seconded the motion.

Vice Mayor Auwaerter read the following recusal into the record:

"As advised by the Town Attorney, after he spoke with the Florida Ethics Commission, I am recusing myself, pursuant to Florida Statute 112.3135 on the vote nominating my wife, Nancy Auwaerter, for the unpaid position of Town representative on the Indian River County School Citizen Oversight Committee. This recusal form for this vote has been filed with the Town Clerk".

The vote was called and passed 4-0 with one recusal (Vice Mayor Auwaerter).

d. Resolution 24-20 Hands-Free Cell Phone Use

Hal Lambert, Bike/Walk Indian River County was present to address the Town Council and support Town Council adoption of the the Resolution that called for legislation mandating hands free cell phone use while driving. He offered statistics on the effects of distracted driving. In response to Councilmember Altieri, he confirmed that this would be a revision to the existing legislation. The

proposal would allow for the violation to be a first infraction and not secondary. Discussion followed. All Councilmember expressed their strong support of the Resolution and legislation regulating same. Town Attorney Sweeney read the title into the record. Vice Mayor Auwaerter moved Resolution 24-20 be adopted. Councilmember Carroll seconded the motion. The Town Clerk called the roll. All present voted in the affirmative with the motion passing unanimously (5-0).

9. Staff Updates

a. Building Official Report & Statistics

Fred Held, Building Official reported that his department sent reminder letters to properties that were required to undergo a structural integrity reserve study by December 31st. There were thirty-seven buildings in the Town that require both the milestone and integrity study to be filed with the DBPR. There had been talk of a special legislative session to extend the deadline for filing, but nothing has been set.

b. Code Enforcement Report

Code Enforcement Official Jake Maikranz presented the Code Enforcement Report.

c. Public Works Department Report

Public Works Director Larry Bryant reported the additional utility trucks working on the east side of A1A were because of a compaction issue related to the original gas line tie-in.

d. Town Treasurer Report

On behalf of Town Treasurer Heather Christmas, Town Manager Harpring reported the Auditors were on site and had completed their field work and the draft should be presented to Council at their April meeting.

e. Public Safety Department Report & Statistic

Lt. Edward Ryer advised the Department instituted a Traffic Sergeant position and has already logged sixty-one traffic stops, issued eleven citations, 126 warnings and six arrests due to outstanding warrants, possession of marijuana and driving without a license with knowledge. Lt. Ryer explained that one traffic stop can result in several warnings. The department will begin to issue citations to enforce the 35-mph speed limit on A1A.

10. Town Attorney Report

Town Attorney Sweeney reported that the House met in interim committee the prior week with the Senate scheduled to meet this week. Both would recess until January 13. He had not heard that a special legislative session was being scheduled. In response to Vice Mayor Auwaerter, Attorney Sweeney reported he has had an update on the Candidates Form 6 but will keep an eye out for it. He reminded all that the legislation had been challenged on both the State and Federal level.

11. Attorney Town Manager Report

Town Manager Harpring gave a brief update on the John's Island pipeline work and actions related to the anchor that is on Town property on the written memo to Council regarding the status of the pipeline work. He also noted there will be one more excavation cut across Fred Tuerk. Although the Town has faced challenges with the project, the City of Vero Beach has been responsive.

Mayor Foley reported he had heard from constituents as to why the Town had to cut down the trees along A1A. He explained that due to their interference with power lines it was a proactive measure. He then asked why wooden poles remain when they are being replaced by cement poles. In response, Attorney Sweeney explained that in 2005, after Hurricanes Frances and Jean, FP&L instituted its hardening program by replacing the transformers and now the wooden poles with cement poles. The reason that the wooden poles remain is that because of easements, the wooden poles house other utilities such as AT&T and comcast.

Town Manager Harpring, in response to Councilmember Altieri, reported the Franchise Agreement for Solid Waste and Recycling would begin October 1, 2025. The Town would begin sending mailers and notices informing the residents about changing out carts. He will be sending a transition timeline to Council and would further report at the January meeting.

12. Council/Committee Reports or Non-Action Items

a. Call for Committee Reports, Informational Updates or Comments

Councilmember Altieri reported the City of Vero Beach Utilities Commission meeting was cancelled.

Mayor Foley reported the Treasure Coast Council of Local Governments did not have a quorum.

Vice Mayor Auwaerter reported the Beach and Shore Preservation Committee meeting for December had been cancelled. He had attended the Metropolitan Planning Organization (MPO) meeting in which the FDOT 5-year Transportation plan had been presented. The plan included funding for Rte. 510 west of US1 to the east side. This section is to be completely redone with a bridge over US1 and bicycle paths. Construction will begin in 2030. Funding for the east side of US 1 was not included in the plan. Vice Mayor Auwaerter next reported that the FDOT Director of District 4 was present at that meeting. Vice Mayor Auwaerter raised the issue of the inconsistent signalization in Indian River County. He suggested the program to synchronize the lights be improved to increase the flow of traffic through the Town, specifically at the Village Beach Market.

Councilmember Carroll reported on the November 19, 2024, meeting of the Economic Development Council and how one of the projects they have been following over time has come to fruition. The mobile lab unit is working quite well and is providing a much-needed service in the County. He will leave information with the Town Clerk.

Call to Audience

None.

Adjournment

Mayor Foley extended Holiday Wishes to all before adjourning the meeting at 10:21 a.m.

Approved: January 23, 2025

Janice C. Rutan, Town Clerk