



AGENDA
Town of Indian River Shores
Special Called Town Council Meeting
Town Manager Search
Monday, April 12, 2021
4:00 p.m.

6001 N. STATE ROAD A1A, INDIAN RIVER SHORES, FL 32963

1. Call to Order

- a. Invocation
- b. Pledge of Allegiance
- c. Roll Call

Mayor Foley called the meeting to order at 4:00 p.m. The Invocation was given by Vice Mayor Carroll, followed by the Pledge of Allegiance. The Town Clerk called the roll for the **elected officials**, with those being present as follows: Mayor Brian **Foley**, Vice Mayor Sam **Carroll**, Councilmember Christian **Hendricks**, Councilmember John **McCord**, and Councilwoman Mary Alice **Smith**. **STAFF** present were Deputy Town Manager /Town Treasurer Heather **Christmas**, Town Clerk Laura **Aldrich**, Town Attorney Chester **Clem**, HR Manager Darlene **Wiltzius**; Deputy Director PSD Mark **Shaw**. **RESIDENTS** present were Bob **Auwaerter**, Charter Review Committee Ocean Colony; Karen **Drury**, PZV Board, Dave **Green**, Surf Lane; **GUESTS** present were Joe **Griffin** (by telephone) and Mike **Korpar**, John's Island POA.

2. Town Manager Search Update/Status

Mayor Foley announced that this Special Called Meeting is to discuss the candidates that were interviewed on Saturday, April 10th. He thanked his fellow Council members for taking the time on a Saturday for this process.

Mayor Foley said they had four great candidates, and the process worked a lot better than when Council engaged a headhunter. Vice Mayor Carroll and himself were the only two involved in that process, as well as Mr. Auwaerter in the audience, but he was very impressed (this time). They received around 60 expressions of interest, which Mr. Griffin whittled down to five. One candidate dropped out, leaving four very qualified candidates. He believes that any of the four could probably do the job, but the two local gentlemen, Mr. Zito and Mr. Harpring, were his top two candidates. They Council all agreed that these two met the qualifications the Council was seeking.

Mayor Foley stated that he thought that it was a very close call, and opened the floor for discussion from his fellow Council members. He had one candidate in mind and shared a bit about why, but not who before calling on his fellow elected officials.

Councilmember McCord thanked Mr. Griffin for organizing the interviews, noting he did an enormous job in a very short time in whittling down 60 interested people to four. His discussions with all four candidates were very productive, and they are all very capable people. He added that the two local candidates were at the top of his list, and it was a very, very close call. Because of his experience with the County, he put Mr. Zito at the top of his list followed very, very closely by Mr. Harpring, whom he also thought was an excellent candidate. He continued that Mr. Zito uniquely had the County experience, and with everything that is going on right now regarding the water, he opined that his experience would be positive for our continued relationship with the County.

Vice Mayor Carroll thanked Mr. Griffin for leading a successful search, Mrs. Christmas for coordinating Council's meetings with the candidates on a Saturday, and Mayor Foley for calling this meeting so quickly. Continuing, the elected official stated that his approach for analyzing the four candidates was to ask himself three questions: can he do the job, will he do the job, and how will he fit in? During the four interviews

This is a public meeting. The Town of Indian River Shores does not transcribe verbatim minutes. Should any interested party seek to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

and taking into consideration the written materials supplied by each candidate, he attempted to discern which had the best combination of skill, motivation and likability. His initial conclusion Saturday afternoon was that Mr. Harpring should be Indian River Shores' next Town Manager. He said after spending several hours Sunday and today rereading the candidates' written materials, reviewing his interview notes for each one and reflecting on who had the best combination of skills, motivation and likability, he believes his initial conclusion was correct and that Mr. Harpring is the best man for the job. Mr. Harpring's educational background is excellent, which included a BA, JD and State law enforcement certifications. His professional experience, starting out in the private sector then segueing into the public sector, is admirable, and his instructional positions at Indian River State College and Nova Southeastern University demonstrate a desire to transfer the knowledge he has gleaned over his years of professional experience to the next generation. He has a host of volunteer activities as well, which reflect his desire to make an important contribution to the community. His family has had a presence on the barrier island for decades and he is familiar with the Town. His wife is in the Development Department at St. Helen's School and his children are locally educated. His knowledge of and experience with the private and public sector components in the City of Vero Beach and the County is exemplary. His professional experience, management capabilities and leadership will allow for a quick and smooth transition. His ability to communicate both the oral and written word will be well-received by Council, staff, Public Safety Officers and Town residents. The Vice Mayor said his final, extremely important conclusion is that he believes Mr. Harpring wants to be the Town Manager much more than any of the other candidates, and that Council should offer Mr. Harpring the job.

Mayor Foley said he also had a very close call between the two candidates. The statements are undisputedly correct, but he concluded Mr. Zito would be the better Town Manager based on his greater breadth of experience. In his capacity as the Deputy County Administrator, he thought the project management experience, his ease of working with the County and his managerial skills in more of a civilian setting are superior to those of Mr. Harpring, who spent the bulk of his most recent experience as the Undersheriff. While he does think that the legal degree is beneficial for Mr. Harpring, he would note that Mr. Zito is also an attorney with legal experience. Continuing, while he recognized that Mr. Zito is the more expensive candidate, he thinks Council needs to recognize that they get the best when they pay, and did not think that the salary differential or any accommodation made for entry transition would be too material to disqualify Mr. Zito. He believes Mr. Zito wants the job equally as much as Mr. Harpring, and to be able to receive the pension accommodation, he would have to remain with the Town for five years. For those reasons, although it was a close call, the Mayor believes that Mr. Zito should be the next Town Manager.

Councilmember Hendricks agreed with Vice Mayor Carroll. To him, Mr. Harpring demonstrated detailed knowledge of project management, budget, finance, contract and labor negotiations, and a willingness to serve and do the work required of the job. Having seen the past two Town Managers work so hard and the requirements of the job, he deduced it's not as much of an administrator position as it is an operations manager. He has seen our Town managers write RFPs and manage projects. One prior Town Manager was heavily involved in writing and correcting the Land Development Code, spending weekends and a couple of days with the was Chairman of the PZV Board, rewriting it so that it would make sense. He said he is looking for a person who wants to get in and get dirty. He asked the candidates questions like, "How do you know you are doing the right job?" and "How do you know you are pleasing the Town residents?" He asked, "How do you know you are doing the right things with project management?" and discussed issues involving the budget and parts it, setting expectations and priorities. He thought Mr. Harpring's knowledge of budgeting and finance were superior, and that they talked about dealing with employees fairly and sexual harassment suits. Mr. Harpring clearly defined the process, the training, and demonstrated how he has done it in the past. They discussed the police negotiation process that he has been through. The Councilmember said we have a small staff of only 32 Public Safety Department employees and nine employees at Town Hall that are pretty much nine-to-five, not 60-70 hours a week. A lot more hands-on is expected of the Town Manager. The Councilmember said he has faith that Mr. Harpring will do the job and do it well, having nothing against Mr. Zito, who is very good at his job at the County level. Mr. Harpring had day-to-day operational responsibilities. He was under the impression that Mr. Zito talked daily over the phone with his staff, and seemed to assign tasks. Councilmember Hendricks said he likes both gentlemen and could live with either, but he thinks Mr. Harpring is the best fit.

Councilwoman Smith thanked Mr. Griffin and said he did a great job. She thought that both gentlemen were perfect, and found it hard to differentiate between the two of them, liking both of their personalities,

and Mr. Harpring's longevity in the area. Mr. Zito also seemed very familiar with the area. She also questioned them regarding finance and budgeting. It was impossible to overlook Mr. Harpring's enthusiasm and readiness to jump into the job that was conveyed during the interview. As to Mr. Zito, he seemed to be looking for a job where he directs people who work for him, but not shun responsibility. It seemed to her that he was a man with compassion for employees, and liked the fact that he was not directly associated with the police. There was some skepticism that Mr. Harpring could potentially have a little favoritism towards the Public Safety employees than the Town Hall employees.

Councilwoman Smith went on to say that during the discussion with Mr. Zito about the pension and some of those issues, he had stated that he would not push back on some of the terms that the Town might offer. When asked why he initially was interested in the job and then seemed to change his mind, he said that he thought that the Town was more important than him, and he wanted to make sure the Council knew that he knew it wasn't all about him and where he was with the County. Councilwoman Smith also was very conscious of the fact that he works for the County now, and how helpful that could be with the coming issues. Mr. Harpring would be good at that, but didn't see how he would possibly stand out more than Mr. Zito for that part of the job, which will be ongoing for quite some time. After thinking long and hard about it, Mr. Zito seemed to be the better candidate for the position.

Mayor Foley said these are preliminary views, adding it is important to reach as much unanimity as possible when we are selecting the Town Manager. It is hard, given that they have two extremely qualified people. He heard the "close call" and "happy with either" phrase from most of them.

Vice Mayor Carroll discussed a conversation with Mrs. Christmas to assist with the numbers and what Mr. Zito wants in terms of his compensation package. He asked Mrs. Christmas to explain Mr. Zito's situation with the County, and his participation in the Florida Retirement System plan in relation to segueing from his current role to the position of Indian River Shores' Town Manager, which she did in detail in comparison with what the Town offers. That high cost of offering him the pension benefit does not allow for any other employee to also join the General Employee Defined Benefit Plan while it is open, which seemed to be a financial as well as an ethical issue in opening the General Employee Defined Benefit Plan just for Mr. Zito. This Town has a history of moving away from Defined Benefit Plans. Former Vice Mayor Auwaerter used to say this operation is really a \$17 million pension plan with a Town operation on the side. The ethical issue is if we open the plan for Mr. Zito, seven other employees are eligible for the plan who, if given the opportunity, could potentially join even though it has been closed for eight years, to hire one person. That is wrong and that it is a movement in the wrong direction, as it opens up a significant financial exposure amount for the Town.

Mayor Foley appreciated Vice Mayor Carroll's explanation in very understandable terms. He is not sure he would call it an ethical issue but maybe one of fairness. They discussed this at length. Councilwoman Smith said that Mr. Zito stated that he might not push-back on the terms. Minor discussion about what was offered to Mr. Stabe when he transferred from Public Safety centered around the addition of the term "Town Manager position" being created within the Plan to make him "whole," where he was not giving up a huge amount of pension to transfer from one department to another within the Town. Mayor Foley suggested that they could see how Mr. Zito would react to an offer in which they would not be able to fix the pension problem for him.

They addressed the salaries, with Mr. Zito currently making \$161,000 compared to Mr. Harpring's \$140,000, a \$21,000 difference. Offering below the current salary and taking away the possibility of making up for the pension benefit that he perceives as losing by taking the job will likely diminish success in hiring Mr. Zito. Mayor Foley sensed there could be a bit of contentiousness amongst Council if they agree to open the pension plan. Another concern is that they may have someone starting a job who is initially unhappy with his compensation.

Vice Mayor Carroll shared that Mr. Zito had been asked specifically about his retirement plan, and his reply was that his plan with the Florida Retirement System was very important to him. Mr. Zito had also been asked if there were any other requirements to accept the job, and he replied that he would like to have his vacation time accelerated with a week in advance.

Councilmember McCord repeated that Mr. Zito's experience and his connections with the County are very important to the Town going forward, although both are good candidates. The Mayor reiterated that Mr. Zito's \$161,000 starting salary isn't too rich for someone with his qualifications and with his ability to assist in the long run with Arcadis and with our legal battle.

Mayor Foley suggested that the only way to proceed would be to take a vote on the candidate for which the majority of Council wishes to extend an offer, and to empower Mrs. Christmas as the acting Town Manager to go forward and present the terms of the Town's offer. This would not include a special pension, just the proposed salary and benefits listed, and get Mr. Zito's feedback. If he says no, Council can then proceed with Mr. Harpring as a secondary candidate, who was more concise in that he wanted \$140,000 or thereabouts and is happy with the current benefits plan. With Mr. Zito it is "here is what we can do for you, is that going to work?" Councilmember McCord expressed concern about potentially having an unhappy employee, as the Town needs someone who is gung-ho and ready to go. Councilwoman Smith pointed out that in the write-up for the Town Manager position provided by Mr. Griffin, compensation was listed as \$135,000-\$155,000, and then it said, "The Council expects to provide a competitive benefits package to the successful candidate." The Town's pension and other benefits package were discussed compared to Public Safety's great package, and the corporate (private sector) not nearly as wonderful as our 401K that offers 11% (employer contribution). In comparison to the County or to other cities that are a part of the Florida Retirement System, it is lesser because it is not a Defined Benefit Plan. In the Defined Benefit Plan, there is no risk to the employee.

Councilmember Hendricks raised the point that Mr. Harpring was also legal counsel for the Sheriff's Department, and could help Council be a second pair of eyes as an attorney. He thinks we can bring him in at a level to give him growth over the next 3-5 years. Mr. Zito would be starting over the top of the salary range, and then there is no place to go.

Vice Mayor Carroll asked that they note that Mr. Harpring gave (IRC County Administrator) Jason Brown as one of his three references, so even though Mr. Harpring didn't work for him directly, he must have a very good relationship with him. Secondly, if Council offers a candidate a job that in salary and benefits is not as attractive as his current compensation, he would expect that candidate to turn their nose up at it. And, as stated earlier, the Vice Mayor thinks the Town going in the direction of adding another person to the Defined Benefit Plan and, out of fairness, opening that Plan up, is a step in the wrong direction. He agrees it would be great to have a unanimous vote on this, but if a motion to hire Mr. Zito was made and seconded, he would vote against it. If Mr. Harpring were nominated and seconded, he would vote for it.

Mayor Foley said he does not expect the Council will come to a unanimous decision today. A consensus that Council does not want to open the pension plan was determined unanimously. They again launched into a discussion about an offer to Mr. Zito before Councilwoman Smith suggested that perhaps Mr. Zito might just want to be the boss, without second guessing how he feels about getting out of the rat race. Maybe he just wants to ride his bike to work and live close to Town. Rather than answer that for him, and we should offer him the job at his current salary with the 401K, and let *him* make the decision. Mayor Foley said that may be worth losing the benefit; they do not know the answer to that. He applied for the job, he knew the parameters, and Mr. Griffin has talked to him about the possible problem. Vice Mayor Carroll said it bothered him that the prospective Town Manager for Indian River Shores wants to have a cushier job, and someone else added that in his deputy role as Assistant Administrator, Mr. Zito is being delegated more to putting fires out rather than being the one in charge of the operation so that maybe there are not as many fires to put out, which was seen as a positive, not a negative. The Mayor said this didn't sound like someone who wanted a vacation before retirement, which would be disconcerting; but that is not at all what Mr. Zito is saying. Councilmember Hendricks said he had asked about the relationship between Mr. Zito and the County Administrator and how they worked together, and the response was that they talk to each other every day.

Councilmember McCord asked Mr. Griffin if Mr. Zito was aware of what the Town's benefit package consists of before he applied for the position, and if he still applied recognizing that we might not change the package just to benefit him as an exception? Mr. Griffin replied that Mr. Zito knew that the regular employees had a 401K retirement plan, and the Public Safety Officers, through the Union agreement, have a Defined Benefit program.

Mr. Griffin was asked if he thought an offer extended of \$161,000 starting salary and a 401K retirement plan as opposed to Defined Benefit Plan would be a dealbreaker for Mr. Zito, and whether Mr. Griffin would be comfortable extending an offer like that and Mr. Zito accepting it. Mr. Griffin answered that he is comfortable making any offer that Council decides upon; however, his opinion is 40/60 that Mr. Zito would **not** accept an offer involving a 401K as opposed to pension. Mr. Zito had told Mr. Griffin a couple of times that he is very intent on trying to preserve his retirement benefits for the next five years.

More discussion, including Vice Mayor Carroll relaying that the opportunity was given for an informal luncheon with Mr. Zito early on in the process, which was cancelled as he withdrew interest in the job because of the lack of a Defined Benefit Plan. This was even before he was a candidate three weeks ago. Mr. Griffin clarified that he had encouraged Mr. Zito to speak with Mrs. Christmas about the pension situation, after which they determined a way that this could potentially be resolved, and he got “back in the race.”

More discussion followed regarding each Councilmember’s preferences. None of them wanted an unhappy manager, and Councilwoman Smith felt very uncomfortable formulating what is in someone else’s thoughts and making that decision for him.

3. Call to Audience

Mayor Foley opened the floor to public comment. Resident *Bob Auwaerter* of Ocean Colony said he was not at the interviews so obviously does not have all the information that the Council members have. He suggested they ask themselves who can best drive the Town to the point of joining the County’s water system, given the disaster brewing with the City of Vero Beach. With the leadership at the City, he thinks it will only get worse, not better, so he would ask who would really drive that. If it is Mr. Zito, Council should open the Defined Benefits Plan or give him a 5% increase. It is cheap money over the long run if Mr. Zito is the person who can get the deal done for the Town from an overall plan perspective.

Resident *Karen Drury* introduced herself as an alternate on the PZV Board, and said she agrees with Mr. Auwaerter. After listening to everything said here, it seems to her as if they are just talking dollars and cents about someone that could perhaps really do for the Town what needs to be done in the long run. She also disagrees with second-guessing someone when no one really knows what is in his mind. She suggested that an offer be made to Mr. Zito with a small increase, and if he doesn’t accept it, move on to the next candidate, who everyone says is extremely well qualified.

Councilmember McCord said he did take notes, and Mr. Zito did specifically say that the Defined Benefit Plan was very important to him. Mayor Foley affirmed that he made that statement to him as well, and said with all due respect to the comments from the public, he thinks Town Council has enough information to know whether he is going to accept the offer and whether he would be happy. As stated, he is uncomfortable making an offer that would compel Mr. Zito to forfeit something that is of great value or benefit to him.

4. Recommended Action/Motion If Any

Mayor Foley asked if there was a motion. Vice Mayor Carroll made **a motion that Mr. James Harpring be offered the job of Town Manager of Indian River Shores**, which was seconded by Councilmember Hendricks. The motion **passed 4-1** with Councilwoman Smith opposed. Mayor Foley said a salary is needed, which should have been in the original motion. Town Attorney Clem said Council will probably want to cover several things such as salary, termination matters, and the same types of items as when Mr. Griffin took the job. The contract will come later but there are three or four basic elements to the contract.

Mayor Foley said first is the salary, and in his interview, Mr. Harpring told Mayor Foley he was looking for \$140,000. He also said he could start immediately. As for termination, there is a standard termination without-cause uniform agreement that can be circulated to Council so they can go over the terms and conditions. He believes there is a three-month notice of severance period and he proposed that they incorporate that term as well. He thinks they need a motion that would include his salary at \$140,000, an immediate start date at some convenient time and the three-month notice of severance without cause or with cause as is in a standard legal contract.

Vice Mayor Carroll strongly recommended a starting salary of \$145,000 as an indication that they really want Mr. Harpring here. Mrs. Christmas asked whether to include a vehicle or a vehicle allowance. Mayor Foley said he believes that is in the standard Town Manager contract. There was minor discussion before Mayor Foley received **a motion that Mr. Harpring’s starting salary will be \$145,000 with the standard terms and conditions, including that a Town vehicle will be provided to him** made by Vice Mayor Carroll, seconded by Councilmember McCord that **passed unanimously**.

5. Adjournment

Respectfully submitted,
/s
Laura Aldrich, Town Clerk

Approved by Town Council at the May 27, 2021
Regular Town Council Meeting