



RTCM

MINUTES

REGULAR TOWN COUNCIL MEETING

THURSDAY, JUNE 23, 2022 9:00 AM

TOWN OF INDIAN RIVER SHORES

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

1. **Call to Order**

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

The meeting was called to order by Mayor Foley at 9:00 AM. The Invocation was led by Vice Mayor Carroll and the Pledge of Allegiance was led by Mayor Foley. Those present for roll call were Mayor Brian Foley, Vice Mayor Sam Carroll, Councilmember Bob Auwaerter, Councilmember Chris Hendricks, and Councilmember Mary Alice Smith.

2. **Agenda Reordering, Deletions, or Emergency Additions** (9:01 AM)

Mayor Foley noted comments made by Mrs. Gundy on the agenda items, which would be addressed by the Town Attorney regarding the work completed by the Planning, Zoning and Variance Committee and that it would not require reordering the agenda.

3. **Presentations/Proclamations** (9:02 AM)

- a. There were no presentation or proclamations for this meeting.

4. **Comments From the Public Regarding Agenda Item(s)** (9:02 AM)

There were no comments from the public regarding agenda items.

5. **Consent Agenda** (9:02 AM)

Councilmember Smith had corrections regarding the Regular Town Council Meeting minutes. Mayor Foley indicated 5a would be pulled. A motion to approve the consent agenda without 5a was made by Councilmember Auwaerter and seconded by Vice Mayor Carroll and passed unanimously.

Mayor Foley opened the discussion of 5a to Councilmember Smith who noted one substantive change to correct in section 3a to reflect the proper order of statements of Councilmember Smith and Councilmember Hendricks. She also noted other wording changes within sections 8f and 13. A motion to approve the Regular Town Council Meeting Minutes dated May 26, 2022, with the amended changes discussed was made by Vice Mayor Carroll, seconded by Councilmember Auwaerter, and passed unanimously. Mayor Foley thanked Councilmember Smith for the corrections.

6. **Mayor's Report** (9:06 AM)

Mayor Foley deferred his discussion until the reports of the Town Manager and Town Attorney and for other inter-governmental meetings he recently attended.

7. **Councilmember Items** (9:36 AM)

There were no Councilmember items to discuss.

8. **Discussion with Possible or Probable Action** (9:38 AM)

a. **Town Clerk Approval** - Town Manager Harpring advised that after the resignation of the previous Town Clerk, Council authorized the Town Manager to conduct a search for a replacement; after Staff and Council interviews, Council authorized the Town Manager to negotiate terms of employment with Janice Rutan. A salary of \$90,000 annually with a start date of August 1, 2022, was agreed upon for Janice Rutan. A motion to approve the hiring of Janice Rutan as the Town Clerk under the negotiated terms of employment was made by Vice Mayor Sam Carroll, seconded by Councilmember Bob Auwaerter, and passed unanimously.

b. **Ratification of the Collective Bargaining Agreement between the Town and IUPA Local 6081** - Mayor Foley noted that it seemed like the prior negotiated agreement was done just yesterday and Vice Mayor Carroll commented on the ease of completion this time around. The negotiated successor agreement was ratified by the Public Safety Officers Bargaining Unit members. Town Manager Harpring indicated Staff recommends approval by Council.

Councilmember Smith commended Town Manager Harpring on the great job of negotiating the agreement effectively and efficiently. Town Manager Harpring thanked the Council for their support and input. Councilmember Hendricks noted that the Public Safety Department works well with the Community. Mayor Foley indicated that it was clear that this was not the first time that Town Manager Harpring had negotiated a collective bargaining agreement and it was a pleasure this time around as compared to last time. Mayor Foley also thanked Chief Rosell and Union Representative Jacob Maikranz for their work on the negotiations. Mayor Foley noted that the monetary figures offered are the right thing to strike a balance being fiscally responsible with the Town's funds and ensuring the Town has the best paid, best trained, best motivated public safety officers in the county. A motion to approve the ratification of the Collective Bargaining Agreement between the Town and IUPA Local 6081 was made by Vice Mayor Sam Carroll, and seconded by Councilmember Bob Auwaerter, and passed unanimously.

c. **Variance Request – Second Boatlift at 131 Gem Island Drive** - Mayor Foley asked that the Town Attorney provide additional background on the variance request for a second boatlift at 131 Gem Island Drive and the recommendation made by the Planning, Zoning and Variance Board. Mr. Sweeney advised the initial application was returned a second and a third time to include additional information as requested. On the third submission, the applicant provided a very specific site plan, extensive documentation and subject matter experts including a coastal engineer.

At the meeting on June 14, 2022, the Planning, Zoning and Variance Board voted 5-0 to approve the request for the variance and the motion was approved is as follows, *“the Board recommends approval of the variance to allow the installation of a second low-profile boatlift specifically designed to accommodate two jet skis to be situated on the inside of the dock to minimize the view from the intercoastal waterway”*.

Mayor Foley thanked the PZV Board and Town Attorney Sweeney for their diligence and wanted to confirm that this would not be setting a precedent and any future variance request for personal

watercrafts (jet skis) would require the same unique set of circumstances to achieve the variance approval. Town Attorney Sweeney further confirmed this would not set a “Town-wide” precedent.

Councilmember Smith asked Town Attorney Sweeney if when purchasing a house is the owner made aware of what they are unable to do. Town Attorney Sweeney noted it is incumbent on the owner to be aware of the Town ordinances.

Councilmember Auwaerter had a procedural question with regards to notification to neighbors when submitting a variance application. Town Attorney Sweeney noted that this type of variance is the only one listed in the Town ordinances that requires notification to the adjacent property owners and requires a letter of no objection. Councilmember Auwaerter indicated that the effect of this type of variance could have an impact on property values and discussed that the appropriateness of a notice of requirement further than just adjacent neighbors. Mayor Foley directed Town Manager Harpring to review the land development code for possible revisions based on suggestions of Councilmember Auwaerter and discuss with the PZV Board as there has been previous discussions regarding this matter.

A motion to approve the Planning Zoning and Variance Board recommendation was made by Councilmember Bob Auwaerter, and seconded by Vice Mayor Sam Carroll, and passed unanimously.

- d. **Variance Request – Trees of Special Concern at John’s Island Club, South Course** - Town Attorney Sweeney noted that this is a request from John’s Island Club for the removal of 13 trees on the south course. This matter came to planning and zoning under the tree ordinance as it requires approval by the PZV Board. There was an issue with the initial application and when it was resubmitted a second time with a significant amount of back-up materials from the applicant.

At their June 14, 2022 meeting, the Planning, Zoning and Variance Board voted to approve the request for the variance and the motion was approved is as follows, *“the Board recommends approval of the removal of the thirteen trees of special concerns as delineated with mitigation of two live oaks per one tree removed, four of the trees mitigated to be specific to hole five and the remaining trees to be planted throughout the course per the applicant’s choice.”* Town Attorney Sweeney noted that the motion carried unanimously. Mayor Foley thanked the PZV Board again for substantial work and the fine record that was being presented to the Council for their review.

Councilmember Smith wanted to confirm that the PZV Board had insisted on viewing all the trees up for removal including viewing the trees that were not of special concern. Councilmember Smith noted her concerns of overreach by the PZV Board by going onto private property to view trees that were not in their purview. Mrs. Gundy discussed her acceptance of the on-site tour of the trees offered by John’s Island and discussed the layout of the area and size of the trees for removal. Mrs. Gundy indicated her concerns are always about the betterment of the Town. Councilmember Smith reiterated that her concern is overreach.

Mayor Foley noted the manager of the golf course invited the PZV Board to look at the trees and that is how individually each of the members of Planning, Zoning and Variance independently were given a tour of the trees. Mayor Foley stated that he gives praise when praise is due, but also criticism when criticism is due. Mayor Foley further indicated that this was not on the PZV Board, but that there were some administrative missteps that led to the confusion. Mayor Foley commended the Planning, Zoning and Variance Board again for doing an admirable job and acknowledged that the tours were done at the

invitation of the applicant. Mrs. Gundy indicated that there was a tremendous amount of paperwork, limited time to view, and ultimately issue a decision. Mayor Foley noted that even through there was administrative issues that could have been handled better, the Board made it to the destination.

Councilmember Hendricks inquired for further explanation on the tree replacement. Town Manager Harpring indicated that those logistics were discussed at PZV meeting, and it was being coordinated by Town Staff to include the number and the location.

Councilmember Auwaerter concurred with Mrs. Gundy that it is imperative to go out and do an on-site inspection to rely on your own judgment when reviewing a submission that may not be fully appreciative of all the facts. Councilmember Auwaerter indicated nothing wrong occurred. He could understand how the trees became jumbled up and was proud of the Board's work on this matter. Mayor Foley then opened the discussion up to the floor.

Bruce Barkett, the attorney representing John's Island Club, spoke before the Council. He requested a modification to the approval include that if the tree protection officer doesn't think two trees are appropriate for every other tree than the applicator shouldn't have to do it because there are 2,500 trees on the golf course.

A motion to approve the Planning Zoning and Variance Board recommendation was made by Councilmember Chris Hendricks, and seconded by Vice Mayor Sam Carroll, and passed unanimously.

Mayor Foley wrapped up this agenda item noting receipt of emails from the resident inquiring if it was appropriate to have Town Ordinance applicable to a golf course. Mayor Foley indicated after completing some research on his own, it would be prudent as part of the land development code to look into this further.

- e. **Ordinance 552 Charter Amendment - First Reading** - Town Attorney Sweeney indicated he would read the ordinance and title, then provide a brief explanation:

*"ORDINANCE NO. 552 - AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, AMENDING THE TOWN CHARTER TO RELOCATE THE DESCRIPTION OF THE TERRITORIAL BOUNDARIES INTO AN APPENDIX; ADDING A REFERENDUM REQUIREMENT FOR THE TOWN TO JOIN ANY NEW TAXING DISTRICT; REMOVING THE TOWN CLERK AS A CHARTER OFFICER; REORGANIZING THE CHARTER WITH APPROPRIATE NUMERATION OF SECTIONS; ADDING ADDITIONAL LANGUAGE TO THE GRANTED POWERS OF THE TOWN, AND ADDING LANGUAGE TO BE IN CONFORMANCE WITH STATE LAW."*

Town Attorney Sweeney discussed that section two of the ordinance outlines what the charter changes would be if passed. Section three of the ordinance are the actual ballot questions that will be printed and mailed out to the registered voters of the Town. Town Attorney Sweeney noted these are the questions that will be voted on with yes or no, the question summary needs to be less than fifteen words and the questions are limited to no more than 75 words.

Mayor Foley indicated that this is a technical amendment which was confirmed by Town Attorney Sweeney. He has been in contact with the Supervisor of Elections office to utilize the language presented at this meeting.

Councilmember Smith asked if there was going to be instructions sent out prior to the ballots. Town Manager Harpring indicated that information would not be sent out until the ordinance has the final approval.

Town Manager Harpring indicated that because of the number of materials expected to be sent out before the November 8<sup>th</sup> elections, it would be his proposal that mailings would occur in November after the general election and in the early part of December with the ballots going out in January.

Councilmember Auwaerter indicated he spoke to the City of Sebastian to gain insight on properly handling this process and Mayor Foley discussed the proper approach for handling questions when contacted by voters about the proposed changes to the Charter. Mayor Foley opened this agenda item up for discussion from the public. There was no discussion from the public.

A motion to approve was made by Vice Mayor Sam Carroll, and seconded by Councilmember Smith, and passed unanimously. As an Ordinance, this was moved for a roll call vote: Mayor Brian Foley, Vice Mayor Sam Carroll, Councilmember Bob Auwaerter, Councilmember Hendricks, and Councilmember Mary Alice Smith voted unanimously.

- f. **Resolution 22-05 Budget Amendment** - Treasurer Christmas discussed Resolution 22-05 amending the FY 21/22 Budget. Some of the items include the removal of an interfund transfer that is no longer necessary and the reclassification of the part-time fire inspector position from part-time to full-time.

Councilmember Hendricks inquired about the shift assignment for the fire inspector. Treasurer Christmas indicated the fire inspector would be working day shifts. A motion to approve the Resolution Amending the FY 21/22 Budget was made by Vice Mayor Sam Carroll, and seconded by Councilmember Hendricks, and passed unanimously. As a Resolution, this was moved for a roll call vote: Mayor Brian Foley, Vice Mayor Sam Carroll, Councilmember Bob Auwaerter, Councilmember Hendricks, and Councilmember Mary Alice Smith voted unanimously.

- g. **Scheduling of Budget Workshop and Public Hearing Dates** - Town Manager Harpring indicated that the date selection was challenging due to the requirement of verifying with the School District calendar for their meetings. Discussion ensued regarding the date of the 1<sup>st</sup> public hearing. Mayor Foley noted that each meeting would require a separate vote.

A motion to approve the Budget Workshop on July 28<sup>th</sup> at 8:30am was made by Councilmember Hendrick, seconded by Vice Mayor Carroll, and passed unanimously.

A motion to approve the 1<sup>st</sup> public hearing on September 9<sup>th</sup> at 5:01pm was made by Councilmember Hendricks, and seconded by Councilmember Auwaerter, and passed unanimously.

A motion to approve the 2<sup>nd</sup> public hearing on September 22<sup>nd</sup> with Budget at 5:01pm was made by Councilmember Auwaerter, seconded by Vice Mayor Carroll, and passed unanimously.

- h. **Approval of RFP 22-02 for Community Center Repair and Sidewalk Expansion** - Town Manager Harpring discussed that the Town Community Center has been subject to recent foundation settling resulting in the need to grind down the cement on the walkways to utilize the doorways. The engineers came in to establish a plan. Ultimately, RFPs were sent out to obtain bids to install piers to stop the settling.

Additionally, staff recommended the installation of a sidewalk that will lead from the Community Center to a new dumpster outside of the Public Safety complex. Both projects will enhance the Community Center. After the RFP was issued, the selection committee selected Pinnacle Construction as the lowest bidder.

Councilmember Auwaerter asked if there was any course of action against the original builder. Town Manager Harpring indicated there was a one-year warranty which precluded any as that time had already expired.

Mayor Foley asked for the allocation for the sidewalk and the repair. Town Manager Harpring indicated the project is listed out as \$71,285 with allocation of the sidewalk and the pad and deferred to the Public Works Director, Larry Bryant, who indicated the sidewalk/pad are about 30% of the project. Councilmember Smith confirmed that the current builder proposed for the project, Pinnacle Construction, was not the original builder.

A motion to approve Pinnacle Construction as the contractor for RFP 22-02 was made by Vice Mayor Sam Carroll, and seconded by Councilmember Hendricks, and passed unanimously. Mayor Foley thanked Town Manager Harpring for staying on top of this project.

9. **Staff Updates** (10:03 AM)

a. **Building Official Report & Statistics**

Town Manager Harpring spoke on behalf of Mr. Martinez who was not present. It was noted that the miscellaneous permits and fees are up.. Inspections permits are high and inspector availability has been an issue. Town Manager Harpring indicated SafeBuilt, the outside contractor, confirmed a similar problem getting inspectors on property which is industry wide.

b. **Town Treasurer Report**

Treasurer Christmas indicated that the Council had received the financial reports and she was available for any questions. On other matters, she indicated that there are two items that she would be bringing before council at next month's meeting. One would be the transfer of funds from the Town's checking account to the pooled investment account and bring forward a resolution to remove the last of the discounts established in fiscal year 2019 associated with the building department fees.

Councilmember Auwaerter asked if moving money back and forth was an item that required the Council's approval. Treasurer Christmas indicated this was handled in this manner previously. Councilmember Auwaerter advised that in his four years as a Councilmember that transferring between accounts was not previously managed by the Council. Mayor Foley made an inquiry to Town Attorney Sweeney if this was an item that required placement on the agenda.

If it was determined that this was administrative matter not requiring the Council's approval, it would be handled, and the Council would be notified. However, if required it would need to be placed on the agenda for the July Regular Town Council Meeting.

Mayor Foley voiced his agreement with Councilmember Auwaerter, as did Vice Mayor Carroll, who indicated that this was not a matter requiring Council's approval. Mayor Foley stated that Town Attorney

Sweeney should research the matter and advise accordingly. Councilmember Hendricks voiced that it would seem appropriate that authority to proceed would likely rest with the discretion of the Treasurer.

Councilmember Auwaerter expressed his interest in a discussion at the upcoming Council budget meetings regarding the level of the Planning, Zoning, and Building Fund reserves given the direction the real estate market appears to be heading. Councilmember Auwaerter indicated the importance of never using General Fund monies to supplement the Planning, Zoning, and Building Fund and never being in a position with inadequate revenues that would require laying off Planning, Zoning, and Building Fund personnel as that would not be an acceptable option. Mayor Foley discussed monitoring financial troubles associated with hurricanes, increase in property value, millage rate, and inflation in accordance with being fiscally responsible as a governmental body.

Treasurer Christmas discussed the increase of 12% in property values from the prior budget year. She then discussed that the Finance Committee met and reviewed the budget. Councilmember Auwaerter then asked for clarification about the 12% increase discussed by Treasurer Christmas. Councilmember Hendricks requested information for the budget hearing regarding the permit fees in comparison with the County to ensure that the Town was in alignment to bring comfort that the Town is not overcharging. Treasurer Christmas indicated that it would not be more than the County. Town Manager Harpring clarified that the fees would revert to the fees from 2018.

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

Chief Rosell discussed about a recent burglary and auto theft in the southern part of Town. He then went on to discuss the fatal accident of a town resident. Mayor Foley confirmed with Chief Rosell that with the ratification of the collective bargaining agreement, the Town would continue to attract the best and the brightest candidates to the Town. Chief Rosell affirmed.

**d. Public Works Department Report**

Mr. Bryant indicated he had met with the Town Engineer about the stormwater runoff, ground stabilization and potential use of the "FEMA lot." He then went on to discuss the Indian/Seminole Lane retrofit dredging was underway and moving along. Next, he indicated that the Town sign was about 80% complete.

**10. Town Attorney Report (10:14 AM)**

Town Attorney Sweeney advised the Notice of Appeal that was filed in the state water litigation case.

**11. Town Manager Report (10:15 AM)**

Town Manager Harpring indicated that the qualifying period for the election will be July 25th through July 29th, 2022.

Town Manager Harpring discussed arrangements made with the help of Chief Rosell in discussions with the County through Commissioner O'Bryan and County Administrator Brown for use of the boat lift at the John's Pier site as it will provide a quicker access point.

Town Manager Harpring discussed the installation of a camera at the beach access and discussed modifying public parking with no parking between 10:00 PM to 6:00 AM. This would be least restrictive as opposed to a locked gate at the access.

Town Manager Harpring indicated that the reclassification of Public Safety Fire Inspector position to full time would also allow for that position to take over code enforcement and vacation rental inspection five days a week. This will provide consistent code enforcement on a day-to-day basis.

Town Manager Harpring discussed plans of the Cultural Council for art in public places in the fall to display their art. Town Manager Harpring spoke briefly about hurricane preparation as well.

Town Manager Harpring next provided an update on the Information Technology aspect of the Chambers. An update to the website was provided as well.

Town Manager Harpring mentioned contact received from a Public Safety Pension Board member regarding the letter received from the Council concerning the pension fund. The contact was appreciative in nature. Vice Mayor Carroll thanked Town Manager Harpring for reporting same.

**12. Council/Committee Reports or Non-Action Items (10:28 AM)**

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

Vice Mayor Carroll, Councilmember Smith and Councilmember Hendricks had nothing to report.

Mayor Foley briefly reported on the Treasure Coast League of Cities upcoming barbeque meeting. Mayor Foley discussed the recent Florida League of Cities meeting at Indian River State College at the Pruitt Campus on declining college enrollment and how the colleges are pivoting by offering more vocational education such as starting a school of nursing. Mayor Foley also discussed that the Pruitt Campus also has a nuclear engineering program. Mayor Foley mentioned the Treasure Coast Council of Local Governments had their monthly meeting with the presentation by United Against Poverty discussing their program known as Hand-Out, not Hand-Up through employment. Mayor Foley indicated to the Council that flyers were available for the Council.

Councilmember Auwaerter discussed the recent Vero Beach Utilities Commission Meeting. Mayor Foley indicated a public record request might be needed determine if the City has obtained a status update to the project costs. Town Manager Harpring indicated that a request was made to Mr. Falls and to date, no response has been received but a response would be pursued. He then discussed that the Commission is arguing that they are doing all the work related to meeting all the targets in relation to the discharge in the lagoon. They want to push DEP to go after other municipalities.

Councilmember Auwaerter indicated he attended the MPO meeting. At this meeting they went through their annual analysis for spending for the next five years and were quite happy that they received. Councilmember Auwaerter then discussed an article he handed out to councilmember regarding the rising cost of road construction. He also discussed a workshop in City of Sebastian regarding the annexation of the Graves property along 510. There were many County officials there since 510 is scheduled be completely redone in the future and this would eventually impact our traffic. The primary concern was that this road is the evacuation route for the Town.

**13. Call to Audience (10:38 AM)**

No audience members spoke.

**14. Adjournment (10:39 AM)**

A motion to adjourn the meeting was made by Councilmember Auwaerter, seconded by Vice Mayor Carroll. The meeting was adjourned at 10:39 AM.

Approved at the Regular Town Council Meeting  
July 28, 2022