



MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963

REGULAR TOWN COUNCIL MEETING

Thursday, October 26, 2017

9:00 a.m.

PRESENT: Brian M. Barefoot, Mayor
Michael B. Ochsner, Vice Mayor
Robert F. Auwaerter, Councilman
Richard M. Haverland, Councilman
Deborah H. Peniston, Councilmember

STAFF PRESENT: Robert Stabe, Town Manager
Chester Clem, Town Attorney
Heather Christmas, Treasurer
Laura Aldrich, Town Clerk
Rich Rosell, Director PSD
Jose Guanch

OTHERS PRESENT: RESIDENTS Bill & Patty Gundy, Pebble Bay; Ralph McCrae & 26 Pebble Beach Villas residents; Antonio Carillo, Bermuda Bay; Dorothy Merkle, River Club at Carlton; Tom Slater & Drew Barton, John's Island; Mark & MaryLou Margadonna, Vera Cruz; GUESTS: Doug Carlson, IR Mosquito Control District; REPORTERS Janet Begley, Press Journal, and Lisa Zahner, VB 32963

1. Call to Order

- a. Pledge of Allegiance
- b. Invocation – Vice Mayor Ochsner
- c. Roll Call – Town Clerk

The meeting was called to order by Mayor Barefoot at 9:04 a.m. The Pledge of Allegiance and invocation were followed by the roll call as reflected above.

2. Agenda Reordering, Deletions or Emergency Additions. Mayor Barefoot made a motion to move item 8 a. to 6 b., which was seconded by Councilman Auwaerter and passed unanimously.

3. Proclamations / Presentations.

- a. Proclamation: October 23-31 as National Red Ribbon Week Supporting A Drug-Free Environment
Mayor Barefoot announced that this proclamation supports a drug-free environment, and received **motion to approve the Town's support** from Councilmember Peniston with a second from Vice Mayor Ochsner, which **passed 5-0.**

4. Consent Agenda (9:07)

- a. Approval of September 26, 2017 Planning, Zoning & Variance Board Minutes
- b. Approval of September 28, 2017 Regular Town Council Meeting Minutes
- c. Approval of September 28, 2017 2nd Budget Public Hearing Minutes
- d. Approval of September 30, 2017 Invoice from Town Attorney
- e. Approval of Building Department Vehicle Purchases Per 2017-18 Budget
- f. Approval of Engineering Services as Budgeted
 - 1) Project 17-0217, \$9,500 Zoning Map Update
 - 2) Project 17-0363, NTE \$20,000 Comprehensive Plan Review
 - 3) NPDES 3 Tasks, \$12,650
 - a) Project 17-0339 MS4 Permit Renewal Biennial Report, \$2,900
 - b) Project 17-0347 MS 4 Permit Renewal 5-Year Report, \$2,750
 - c) Project 17-0348, NPDES Additional Services, NTE \$7,000

Item 4 f. was pulled for discussion by the Mayor before a motion to approve consent agenda items a-e was made by Councilman Auwaerter with support from Vice Mayor Ochsner, which passed 5-0.

Town Manager Stabe was asked to review the added engineering services invoices, which he explained

Please Note: The Town of Indian River Shores does not routinely keep verbatim minutes. Any party interested in such an appeal relating to any decision made by the Council with respect to any matter considered at this meeting is responsible to record the meeting and include the testimony and evidence upon which the appeal is to be based.

were statutory requirements to update the zoning map with changes and it must be readily accessible to public during normal business hours. It was last done in 2009, and it is not something the Town staff can update.

The definition of a Comprehensive Plan was explained at the request of a Councilman, and discussed as to why it is necessary to update and why we have chosen a local firm, MBV Engineering, to provide the service over other possible out-of-the-area sources lasted several minutes.

Also discussed were the related NPDES reports and projects needed to meet permit requirements, which occur on a biennial and 5-year basis to ensure that we are maintaining the stormwater drainage system in accordance with federal and state requirements. MBV has specialists on staff who are familiar with mandates, and they are essential and invaluable in providing this service.

It was noted that much of this are infrequent expenses, and that saving a few thousand dollars is not worth the risk of losing say a \$100,000 grant. The Town Attorney also noted that we should not pay to reinvent the wheel with a non-local firm, who may insist on reestablishing the baseline when we have documentation and drawings, much of which will stay the same.

A motion to give the Town Manager authority to expend as requested for the 5 items under Consent Agenda 4.f. was made by Councilman Auwaerter with support from Vice Mayor Ochsner, which **passed 4-1** with Councilman Haverland dissenting.

(Lisa Zahner arrived 9:28)

5. **Town Attorney** (9:33)

a. Resolution 17-07, Supporting IR Mosquito Control District Intent to Install Electric Pump

Mr. Clem read Resolution 17-07 by title as follows:

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES IN INDIAN RIVER COUNTY, FLORIDA, SUPPORTING THE INDIAN RIVER MOSQUITO CONTROL DISTRICT'S INTENT TO INSTALL AN ELECTRIC PUMP AT BEE GUM POINT; PROVIDING FOR MAXIMUM SOUND LEVELS; AND PROVIDING FOR AN EFFECTIVE DATE.

He reminded them that this was provided as requested at the last meeting by the Mosquito Control District, and reviewed Sections I and II of the Resolution. **A motion to approve Resolution 17-07 Supporting Indian River Mosquito Control District's Intent to Install an Electric Pump at Bee Gum Point** was made by Vice Mayor Ochsner and supported by Councilman Haverland, **passing 5-0**.

b. Resolution 17-08, Amendment to Site Plan for River Club at Carlton, Chain Link Fence

The Town Attorney reported that at the PZV Board meeting, the Homeowner's Association requested this Resolution as a solution to remove the provision for a chain link fence that had never been nor would ever be installed, and then read the Resolution in its entirety with the title as follows:

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES IN INDIAN RIVER COUNTY, FLORIDA, APPROVING OF DELETION OF A CHAIN LINK FENCE ADJACENT TO JUNGLE TRAIL FROM THE SITE PLAN FOR THE RIVER CLUB AT CARLTON; AND PROVIDING FOR AN EFFECTIVE DATE.

This amends the site development plan for River Club to remove the chain link fence requirement along Jungle Trail, and as the Council approves the site plan, it must also approve any amendments. **A motion to approve Resolution 17-08 amending the Site Plan for River Club at Carlton** was made by Councilmember Peniston and seconded by Councilman Auwaerter, which **passed 5-0**.

6. **Mayor's Items** (9:37)

Mayor Barefoot reported that the City Council of Vero Beach voted 4-1 to approve signing the **purchase and sale agreement of the Electric Utility to Florida Power & Light** this week, which still requires 100% approval from the 19 members of the FMPA. The bond agents' must also grant approval of the sale.

Item 8 a.

The **formal evaluation for the Town Manager** is due next month, and the Town Manager will have his self-evaluation to the Council within the next couple of weeks, along with the blank form in advance of the meeting. It was noted that using a standard form is important to simplify the review process, and also mentioned that some things could change throughout the year that could lead to reprioritizing (percentage) points.

7. **Discussion with Possible or Probable Action** (9:43)

a. Pebble Beach Villas Fence (Ralph McCrae)

Mr. Ralph McCrae, President of the Pebble Beach Villas Home Owner's Association, thanked the Council for the opportunity to come back to address the southern border of the neighborhood. He acknowledged the number of Pebble Beach residents who were present that give credence to the importance of the fence issue.

He has been a homeowner there since April 1976, and the same fence has been there for the safety and security of the residents. Last year they installed a \$5,000 security camera system to ensure they are in control of the property, and asked that they authorize the Town Manager at the appropriate time to go out to bid to build a fence along the pathway.

There was extended discussion culminating with acknowledgement and appreciation for the Pebble Beach homeowner's point of view, and correction of a statement made at an earlier meeting to the effect that the bushes would **not** be a suitable substitute for a fence. Whether the fence is the Town's responsibility is the question. Mr. McCrae said that he is requesting that the cost of the fence be explored, and was told that bids were obtained several months ago for the screening material.

Mr. McCrae said it was a wonderful civics lesson for them to see how the Town Council devotes their time to running the Town well, and expressed his admiration (*applause*).

Resident *Kevin Kelly* questioned if the Council objected for financial or aesthetics reasons, believing the fence is a fair and reasonable expense to protect the community. Fences are typically installed as required by Town ordinance by the developer in a PRD (planned residential community) as a buffer, within the property line and landscaped outside. Mr. Kelly asked how the 5' path was approved and not the fence, and the Mayor explained the path was negotiated between the Town and the County in return for a beach crossover for the new development, on behalf of and at the request of the residents (who currently access the beach through the 5-acre property). There was no commitment made for a fence by the Town, and it will be addressed when it arises at the time the property is developed.

Antonio Carrillo asked about the **cell tower**, which Mr. Stabe said they will be applying for a permit next week, then will be breaking ground. It will take roughly four (4) months for it to be operational afterwards. (*the majority of the residents left after this item*)

- b. Approval of Florida DEM Grant for Old Winter Beach Road (OWBR) Project, \$637,500 (10:13)

Mayor Barefoot said they owe Robbie, Amy Adams and Stefanie-Jo Osborn many thanks for this work. We surprisingly got more than we asked for, but are grateful for the legislative support given to the project.

A motion to approve acceptance of the Florida Department of Emergency Management Grant for \$637,500 for Old Winter Beach Road was made by Councilman Haverland with support from Vice Mayor Ochsner, which **passed 5-0**.

- c. Approval to Execute FL DEP TMDL Grant for Old Winter Beach Road Project, \$550,000

With no discussion, a **motion to approve execution of the Florida Department of Environmental Protection (DEP) TMDL Grant for Old Winter Beach Road Project for \$550,000** was made by Vice Mayor Ochsner with a second from Councilman Haverland **passed 5-0**.

- d. Engage Cape Canaveral Scientific, Inc. as Grant Manager for 2 OWBR Grants

The Mayor asked for **a motion for the Council to direct the Town Manager to officially engage the services of Cape Canaveral Scientific, Inc. to manage both the DEM grant and the TMDL grant for Old Winter Beach Road**. Discussion ensued with Mr. Stabe explaining the very highly technical work that will be done and the requirements of the grants. We very much need the expertise that Amy Adams brings, and her cost of \$86,000 to manage the grants was calculated and included in the grants. It is critical to have them professionally managed in order to ensure that all of the paperwork is completed, that we abide by all of the rules of the grants, and everything is submitted as required in a timely fashion. Vice Mayor Ochsner added if we did not properly manage the grants, we may lose the money and have to repay it. Along with grant management, other grant costs include items such as construction, engineering, education and water testing. After more discussion as to why the Town should use Mrs. Adams as our grant writer, Councilman Haverland made the **motion to approve hiring Cape Canaveral Scientific to manage both grant projects** with support from Councilmember Peniston. Vice Mayor Ochsner asked about sub-audits apart from the Town's single audit, which Town Treasurer Christmas said are about \$2,000, and they test to make sure that we properly follow required steps for the grants. **The motion passed unanimously.**

Mayor Barefoot briefly mentioned The Shores' concern for their adjoining property and landscaping that will occur during this project. Councilman Haverland asked to see what the project entails and what it will look like, and Mr. Stabe invited him to his office after the meeting to review documents readily available. On November 1st Mr. Stabe and MBV Engineering is meeting with homeowners from The Shores in the Community Center to review the project, and anyone who is interested to attend is invited.

- e. Update on 2017-2030 Road Fund Position (Councilman Haverland/Town Treasurer) (10:26)

Councilman Haverland had asked for and received information from the Treasurer about when the funds are needed, and explained that the costs may be paid from the Road & Bridge Fund, the Capital Improvements Fund or the General Fund. The issue is the capital expenses are lumpy, with a \$100,000 year followed by \$1 million year. The Town's Capital planning only goes out five years, and to smooth it out and give a fuller picture he suggested that it project estimates for another 10 years on the Capital Fund for ambulance, trucks, car replacements and other large expenses.

- f. General Employees DB Pension Plan – Actuarial Opinion (Councilman Haverland) (10:29)

Councilman Haverland discussed information he received from two actuaries, one for the Public Safety Pension Plan (Doug Lozen) and the other from the General Employees plan (Chuck Carr) relative to the impact for voluntarily prefunding the plan, if it creates a gift to the employees. Differences in the two plans were discussed that could impact the answers before concluding that we need to determine which actuary is correct.

- g. Dune Restoration Within the Town (Vice Mayor Ochsner) (10:35)

Vice Mayor Ochsner said that at the last Beach and Shores Preservation meeting, attended by Councilman and Mrs. Auwaerter, Sector 3 (north end) and Sector 5 were discussed as critically eroded, and in between the other two, the majority of the Town in Sector 4, has not been deemed as such. A critically eroded designation means it has potential to receive funds to restore erosion damage to a public access, and the only place in our Town is the Beachcomber access. If that was determined to be critically eroded, only 1/4 mile north and south of Beachcomber would qualify. Hurricanes Matthew and Irma did wash away a lot of the dune, so Vice Mayor Ochsner asked the Council if they are interested in any dune restoration project to protect property and infrastructure.

Discussion about the dunes being on private property followed, with the primary responsibility resting with homeowners or developments. Councilman Auwaerter said his objection is that the other sectors look the same, but the only sector that doesn't have the designation as critically eroded is within the Town. He has asked County Coastal Engineer James Gray to review it, and was told the Town could get a consultant to look at it and pay for it, even though we are part of the County and pay taxes to fund the Coastal Engineering Department. Vice Mayor Ochsner continued that he had a further conversation with Mr. Gray and found that the plan is reviewed every 5 years, and is scheduled to be done again in 2019. The State makes the determination of critically eroded, and the data collected so far does appear to show it is eroding. There is no assurance that it will be called critically eroded. The biggest concern is the dune itself that protects the property. Adding a tax (MSTU) to the residents on a scale to pay 3x, 2x or 1x the unit price to share the costs may be an option. It may be a possibility to do something as a Town. Our portion of Sector 3 that is critically eroded is from Baytree down 2000 feet to John's Island, which has received both dune and beach restoration. The Mayor appreciated their concern regarding this issue. (Mr. Slater left 10:40)

- h. FEMA Public Assistance Request (Town Manager) (10:49)

Mr. Stabe said he and Heather had an initial phone contact with FEMA and were getting bids for the Beachcomber crossover stairs and for the Public Safety Department building damage, and there is \$30,000 in overtime costs that we would be eligible for a total of about \$50,000 - \$60,000. Rebuilding with the stairway facing south rather than north and still deeper holes for the pilings were discussed. The last poles were planted 24' deep. He added that we won't see those funds quickly, as we just received reimbursement for Hurricane Matthew.

A motion to authorize the Town Manager to move forward with the FEMA Public Assistance Request was made by Councilman and seconded by Councilman Haverland passed 5-0.

- i. Request to Start December 14 Meeting at 8 a.m. (Councilman Haverland (10:53)

With no discussion, a motion was made by Councilman Auwaerter with support from Councilmember Peniston to **move the starting time for the December Council meeting to 8 a.m., which passed 5-0.**

8. **Town Manager** (10:54)

- a. Town Manager Evaluation (Councilman Haverland) (moved to item 6)

- b. Traffic Camera Statistics (Chief Rosell/Lt. Shaw)

The Town Manager called attention to the memo he had provided to the Council about the department reports. The traffic camera statistics has the foundational numbers provided by the County Sheriff's Office,

which installed new software and is down for maintenance temporarily, Chief Rosell reported. A Councilman brought up the communicate about the Town being the #2 safest community in Florida, which was discussed briefly as how statistics can appear enormous with one or two crimes in a safe community.

c. **Departmental Reports (Building, Finance, Town Clerk, Public Safety)**

Mr. Stabe brought the TRIM notification letter to the Council's attention, thanking Town Clerk Aldrich and Town Treasurer Christmas for doing a great job. Following the TRIM requirements is very difficult. The Council didn't recall seeing this type of information before, finding it confusing that it states that there are no violations, which he assured them is a very good report.

Building Official Guanch explained their FEMA CRS Rating system, which started in June 1994 as a Class 9 rating for a homeowner's flood insurance discount of 5%. In October 1995 they dropped to a Class 8 with a 10% discount, then 7 with 15%, and in 2014 got a classification of 6 for a 20% discount on homeowner flood insurance policy discounts. Neither the County nor City of Vero Beach residents get this discount. The requirement to elevate property during a major (50% or more) renovation and the revised FEMA flood maps were briefly discussed.

s

9. **Council / Committee Reports or Non-Action Items**

a. **Council Committee Reports (MPO, EDC, TCCLG, TCRPC, TCRLC, Others)**

TCRLC - Councilman Auwaerter reported that the FLC President was the speaker, who addressed the home rule provisions are being attacked again, with a Space Coast Representative introducing a bill to take away zoning regulations with a sunset provision.

TCCLG – Vice Mayor Ochsner went on behalf of Councilman Haverland and reported that they also discussed home rule.

Beach & Shores Preservation – Vice Mayor Ochsner reported earlier in the meeting on this.

10. **Call to Audience** (*no one commented*)

11. **Adjournment.** The meeting was abruptly adjourned at 11:07 a.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the November 16, 2017 meeting)