



MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963
REGULAR TOWN COUNCIL MEETING
Thursday, January 22, 2015
9:00 a.m.

PRESENT: **Brian M. Barefoot**, Mayor
Gerard A. Weick, Vice Mayor
Richard M. Haverland, Councilman
Michael B. Ochsner, Councilman
Thomas F. Slater, Councilman

STAFF PRESENT: **Robert Stabe**, Town Manager
Chester Clem, Town Attorney
Lt. Tony Dudley, Acting Public Safety Director
Jose Guanch, Building Official
Laura Aldrich, Town Clerk
Heather Christmas, Treasurer
Lt. Mark Shaw, Public Safety
Shawn Hoyt, Public Safety

RESIDENTS: Tom Cadden; Bill Beardslee, Barbara Palumbo (PZV); Bob Auerwater, John Porta, & Hap Schroeder, Finance Committee; Rubin Skyler; Charlotte Terry; & John Hilton

GUESTS: **Sam Nelson**, JIPOA; Reporter **Lisa Zahner**, VB 32963

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation (Councilman Ochsner)
- c. Roll Call

Mayor Barefoot called the meeting to order at 9:01 a.m. with the Pledge of Allegiance and Invocation repeated. Town Clerk Aldrich called the Council role as shown above.

Due to a minor illness affecting his voice, Mayor Barefoot passed the gavel to Vice Mayor Weick to conduct the meeting.

2. **Proclamations / Presentations**

- a. Recognition of Outgoing Councilman Thomas Cadden

Vice Mayor Weick read a clock plaque to former Councilman Cadden as follows: "With sincere gratitude and appreciation for your 12 years of service as a member of the Indian River Shores Town Council, Thomas W. Cadden, Mayor 10 years 2001-2009 & 2011-2013; Councilman 2 years 2013-2014. Your leadership and commitment to protecting and preserving the quality of life in this beautiful and unique Town is highly commendable. With heartfelt thanks from the Staff and town Council." He said it was with great pleasure that he presented it to Mr. Cadden. After the applause, Mr. Cadden replied that he considered it a privilege and an honor to serve the Town on this Council. He believed he lived up to his original campaign promises to try to preserve the Town's unique qualities, and encouraged the council to do the same, calling it "the best place on the planet to live." He shook hands with each person on the dais and a few in the audience before departing from the meeting.

3. **Consent Agenda**

- a. Acceptance of December 8, 2014 Planning, Zoning & Variance Board Minutes
- b. Approval of Regular Town Council Meeting Minutes dated December 18, 2014
- c. Approval of Invoice from Town Attorney dated December 31, 2014
- d. Approval to Dispose of 2009 ATV
- e. Approval to purchase 2 Patrol Vehicles as Budgeted FY 14-

A **motion to approve the five consent agenda items as presented** was made by Councilman Ochsner with support from Councilman Slater. Councilman Ochsner then noted that the vote on item 5b of the Regular Town Council minutes dated December 18, 2014 incorrectly showed his vote in support of the first reading

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.

of Ordinance 519 authorizing an OPEB trust fund. With Councilman Ochsner's **motion to amend the minutes dated 12-18-14 Item 5b to reflect the 3-2 passing vote with Vice Mayor Weick and Councilman Ochsner disapproving, the motion passed 5-0.** A second **motion to approve the consent items as discussed passed 5-0.**

4. **Town Attorney**

a. Ordinance 519, OPEB – 2nd Reading

This allows the Town to put additional benefits into a Master Trust administered by Florida Municipal Pension Trust Fund, which is not required to be funded at any level and the monies are retrievable. The Ordinance was published as required, Mr. Clem noted, then read it by title by as follows:

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF AN OTHER POST-EMPLOYMENT BENEFIT TRUST FOR THE EMPLOYEES OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA; AUTHORIZING THE JOINING AS A PARTY TO THE FLORIDA MUNICIPAL PENSION TRUST FUND (FMPTF) MASTER TRUST AGREEMENT AND THE PARTICIPATION OF SAID TRUST IN THE OTHER POST-EMPLOYMENT BENEFIT PLAN TRUST UNDER THE FLORIDA MUNICIPAL PENSION TRUST FUND MASTER TRUST AGREEMENT; PROVIDING FOR SEVERABILITY OR REPEAL OF CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE.

With no discussion from the Council, a **motion to approve the final reading of Ordinance 519** was made by Councilman Haverland with a second from Mayor Barefoot, **which passed 3-2** with Vice Mayor Weick and Councilman Ochsner dissenting.

5. **Mayor's Items**

None

6. **Discussion with Possible or Probable Action**

a. January 12, 2015 Meeting Report – Planning, Zoning & Variance (PZV) Board (Bill Beardslee)

Mr. Beardslee said the only item brought before the Board was for a tree removal at 13 West Sea Colony Drive, which was outside the footprint of the home but would be too close to eaves. The PZV Board recommended approval with mitigation when the house is built.

Recommended changes to be made the Land Development Code (LDC) was another topic for discussion at the meeting. Based on his previous request, the Board agreed on a list of recommendations for change to areas that they found difficult to work with as they used the Code. This will be reviewed next week at a meeting with the consultant for this project.

Also discussed was a procedure to define reasonable retail for the building to be constructed at the Spectrum location. A portion of their next PZV Board meeting on February 9th will be devoted to receiving input that will help to develop criteria from residents, the applicant, and staff to vet potential tenants for the 3,000 square foot of retail space allocated in the office building. Information from the Town Attorney, OSHA, etc. have been received, and they will bring recommended criteria to the Council for consideration to define reasonable retail for the space.

b. Elections – Candidate Announcement, Set Installation Meeting Date (Town Clerk)

Mrs. Aldrich announced the three candidates who qualified for the March 10 Town elections as Councilman Haverland, Councilman Ochsner, and PZV Board member Linda Bolton. She asked the Council for dates they would be available after the election audit is completed on the 16th for installation of the new Councilmembers. It was decided that a separate meeting at 8:30 prior to the Council meeting on March 26th would be most convenient for the swearing in, mayor and vice mayor selection, and the Sunshine Law and records law review. **A motion to set the installation meeting for 8:30 a.m. on March 26th** was made by Mayor Barefoot, seconded by Councilman Ochsner, which **passed 5-0.**

c. Appointment of Canvassing Board (Town Clerk)

This Board has traditionally been comprised of the Town Clerk (Elections Officer), the Town Manager, and someone from the Public Safety Department, Mrs. Aldrich explained. **A motion to set the Canvassing Board as the Town Clerk, Town Manager and an appointee from Public Safety Department** was made by Councilman Slater, seconded by Councilman Ochsner, which **passed 5-0.**

d. Approval of Invoice for Grading to Fred Tuerk Drive (Town Manager)

This effort was to eliminate the hazardous flooding in front of the Public Safety Department on Fred Tuerk Drive. After the work was completed, the vendor verified that they had taken measurements to make sure that there is no longer an issue with the water getting off the roadway to the sodded area on Fred Tuerk. They have indicated they will take care of any issues. A **motion** made by Councilman Ochsner with support from Vice Mayor Weick **to approve the invoice to Jobear Contracting, Inc. for repairs to grading and sod replacement on Fred Tuerk passed 5-0.**

e. Town Payment to Police & Fire DB Pension Fund (Councilman Haverland)

Councilman Haverland summarized that the actuary report as of 10-1-14 was discussed at the Police-Fire Pension Board meeting last week. It shocked everyone that it showed the plan's funding level to have decreased to 84% from 85% last year, as there were nice increases in the portfolio all during the year. It was erroneous due to the entry date of three officers that was by the actuary. Councilman Ochsner interjected an explanation that these three individuals were allowed to put their start date for entry into the plan back to their hire date. When they were hired, they were in the defined contribution (DC) plan, and in 1999 the Town offered a new Defined Benefit (DB) plan. They were allowed to roll their funds into the new DB plan, which means the Town took on a new liability, by which the Councilman said the Town was effectively giving a retroactive raise, which he would not have approved had he been on the Council.

Mayor Barefoot said this mistake took place when the actuaries changed to Foster and Foster. Councilman Haverland said part of Councilman Ochsner's explanation was right, as when the employees were in the DC they contributed 5%, the Town contributed 11% of their salary. That accumulated and was managed, and the monies grew or not. Everyone put the exact same percentage amount into the DB or DC. Those were parallel numbers, and it was an inadequate contribution compared to the benefit they received. It was the Council's decision at that time to give them that benefit. They probably assumed more liability than they recognized. It was legal and done in good faith.

Councilman Slater noted when we changed administrators and actuaries, they did not calculate correctly. So last year, Councilman Haverland added, when they told us we were 85% funded, it was probably 78%, and this year when the error was discovered we now have about a \$900,000 difference.

Councilman Ochsner said they recognize the actuaries made a mistake, and wondered if the prior actuary should have made the adjustment? Councilman Haverland spoke with our previous actuary, Chuck Carr, and he had all of the dates and had the plan entry date for the three officers as the hire date. He could have told the Council the difference in liability and the cost to the Town. Councilman Ochsner asked if the Council explicitly accepted what was due in arrears.

Mr. Stabe clarified that the plan was not in existence until 2000; it was a brand new plan. The Council made the offer to its Public Safety employees to either roll their DC funds and buy back past service to the hire date, or freeze the DC account and begin as if they were a brand new employee. That the employees did a "buy back" implies that the all the money necessary was put in, Councilman Ochsner noted, and the Town Manager said he doesn't know whether it was done actuarially or not. Councilman Haverland disagreed that it implies that it was. There should be minutes of Council and Pension Board meetings that indicate whether they understood this. The Town Manager said there was a lot of conversation about the liability and the idea of changing from DC to DB, believing they knew of the additional liability, which was voted on. Councilman Haverland repeated the minutes would reflect that. Mr. Clem said there is no recourse about what was done; it may be of interest, but the Council is not legally able to undo what another Council has previously approved. You have to assume they had full knowledge.

Councilman Slater said the current issue is the error made by the new actuary inputting different data. It is just a calculation error because of poor input. We were led to believe there was \$900,000 more in the pension fund than there is. With the year just ended it caught up a lot of the money, but it moved us back to where we are now 84% funded.

Vice Mayor Weick asked if there is any liability for the error, and Councilman Haverland said the actuary did admit and accepted responsibility, although it didn't cost us anything other than feeling good. Councilman Haverland said you could argue for rebate for the actuary fee. There was more discussion about keeping the current actuary, which is not under the control of the Council but the Pension Board. A **motion to recommend to the Pension Board that they demand a refund of fees associated with the**

completely erroneous actuarial report was made by Councilman Ochsner with support from Mayor Barefoot, which **passed unanimously 5-0**.

Continuing, Councilman Haverland said the Council had asked in a letter if the Pension Board would consider eliminating smoothing and revisit pay raise assumptions in the plan, and the Board did agree to both. They did not understand the aggregate versus entry date, which the actuary said the aggregate would reduce the payments by extending them. This goes against transparency, and while this was not decided, we would agree for transparency's sake to keep the method we have. The Town Manager said the new GASB has two specific forms that require the current way we calculate, and if we change, it would put those in conflict. Councilman Haverland continued that the 84% funded would probably go to 91% by eliminating the smoothing.

He continued by discussing the salary assumptions (10% increase for the 1st 10 years, 5.5% for the 2nd 10 years, and beyond that 2.5% increase). The Pension Board had no sense whether to change this, and Councilman Haverland spoke about COLAS and the contract, which includes 2.5 - 3% raises. The actuary said to build 2.5% in for inflation and use 5-5 ½ %. The Board agreed to use 5.25% for employee raise calculations. With nine (9) of the current new hires at \$41,000 or more, with the old method of assumptions they would make \$209,000 in the 26th year. The new method says \$150,000. Using 4% would have been more reasonable to him, at \$112,000 Councilman Haverland added, as all pensions are based on the last 5 years of salary. We don't know the impact on the level of liabilities of the plan. The actuary was asked to tell us what the 1% higher or lower impact would be, and what if the assumed investment rate were higher or lower. The actuary report will be reissued.

There was an extended discussion about how much to contribute towards funding this pension, which culminated with agreement to continue as we have been. Councilman Haverland asked the Town Manager to follow up with the actuary on the revised report.

f. Hiring MBV Engineering (Town Manager)

Mr. Stabe said he originally understood that the grant for Indian River Lagoon National Estuary Program for Indian Lane would be managed by the manufacturer, as it entails the installation of their product. While this is partially true, and he is not an expert in stormwater management, he spoke with the Building Official and Town Attorney. They envisioned a number of potential hurdles, include the existing utilities that may have to be relocated, especially if they are underground. At Mr. Guanch's suggestion, we solicited Request For Bids from three local engineering firms to provide this basic project management to ensure the permits and procedures are followed correctly, so as to not compromise the grant. The only response we received was from MBV, which was \$8,250, which is a negotiated price from their original quote of \$12,150. The grant will still come in under the total \$145,000, which includes \$72,500 from the Town, same as grant. We may still come in under budget.

Councilman Haverland was concerned there was only one bid. The Town Manager said this is probably too small of a project or they were too busy. Mr. Guanch noted that the City of Sebastian contracts with this firm as their engineer. It is a cost sharing grant, Councilman Ochsner added, so if we save money, the grant also saves money as well. We do anticipate other possible improvements to the stormwater management, and the Town Manager has discussed this with a newer PZV Board member, Judy Orcutt. Other products are available similar to nutrient separating baffle boxes. Two major outfalls in Pebble Bay can hold products installed into the catch basin to perform this type of function. Also at Old Winter Beach Road, there is another opportunity. Private developments may be addressed by Mrs. Orcutt, possibly in partnership with the Town for grant opportunities.

Mr. Stabe was asked for a report next month for other potential long term issues we may have, and if an engineering firm is needed to complete this study.

A motion to approve the MBV proposal was made by Councilman Ochsner with a second from Mayor Barefoot, **which passed 5-0**.

g. Town Hall Oak Tree Trimming (Town Manager)

The Town Manager said during the budgeting process, he had estimated the cost for approximately half of the oak tree trimming. He is now requesting that we complete the entire property, since the agreement to revise the LDC is so low, leaving approximately \$20,000 more funds available. If the Council would approve, there is funding available to be used towards this trimming to accomplish the

entire property. Our Tree Protection Officer has indicated several times that we really need extensive tree trimming done. Councilman Haverland asked if it has been done before, and was told that it has been quite a while since the last complete trimming. A **motion to approve LI Tree Services proposal for trimming of all of the oak trees on Town Hall property** was made by Councilman Ochsner, seconded by Councilman Slater, which **passed 5-0**. Vice Mayor Weick asked for time and cost involved upon completion of the project.

7. **Town Manager**

a. Cell Tower Update

Mr. Stabe said he has made contact with Adam Morris of DBPM, Unlimited, who works for Verizon Wireless and Skyway Towers, both of which he has been conversing for at least the past three months. The last report was for a potential site inside John's Island. An email from Mr. Morris said the company is currently pursuing a site in Vero Beach. Our site is still a backup, he added. Mr. Stabe said a larger flagpole tower in front of Town Hall is still a possible backup to a site in Vero Beach. Based on the RF studies, there doesn't seem to be a place in our Town that will serve as well.

Mayor Barefoot asked about Old Winter Beach or even inside John's Island, which the Town Manager said they have not mentioned the River Club location. Vice Mayor Weick said on 69th Street across the river is under-utilized. Councilman Haverland said the lease payments could be a negotiating tool, if we make it clear that this is not our number one objective. We need service more than income. The Town Manager said he has made this very clear to the providers that getting service is our top priority.

Mayor Barefoot asked if there isn't someone who has an inside with Verizon, ATT or Sprint in our Town. Councilman Haverland agreed to pursue this. The Town Manager asked if the Council wanted to consider doing an RFP, and they said they were more focused on the service. Councilman Haverland said the obsolescence of house phones and technology advances is making it more important.

Mayor Barefoot said he bought an extender that now gives great service inside the house. He suggested that the Town could offer these at bulk discount to the residents. The Town Manager was tasked to check this option. Mr. Schroeder asked who manufacturers the extenders, and was told it will be explored.

b. Departmental Reports (Building, Financial Balances, Public Safety)

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

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

TCCLG - Councilman Haverland said they met, and had nothing of significance to the Town to report.

TCRLC - Councilman Slater said they met yesterday and discussed legislative priorities for Tallahassee Beach & Shores – nothing to report, Councilman Ochsner said.

EDC – Vice Mayor Weick said it was cancelled.

Mrs. Aldrich mentioned that the County beach access at Turtle Trail was closed until February 5, and Wabasso Beach closed today.

9. **Call to Audience**

No comments

10. **Adjournment**

Having no further business, the Vice Mayor adjourned the meeting at 10:12 a.m.

Respectfully submitted,

/s_____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the **February 26, 2015** meeting)