



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

REGULAR TOWN COUNCIL MEETING

Thursday, January 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  
Rich Rosell, Director, Public Safety  
Laura Aldrich, Town Clerk  
Heather Christmas, Finance

**OTHERS PRESENT:** Andrew Sowers, Finance Committee; JI Residents Diana & John Lewis, Dean Phypfers; Pebble Lane resident Joanne Sardella; Pebble Bay residents Patricia Gundy, David King; Beachcomber Lane resident John Hilton; Ocean Colony resident Nancy Auwaerter; Bermuda Bay resident Jerry Weick; Pebble Beach residents Matt Sitkowski and Bill Kluckas; Guests Wesley Davis & Reporter Janet Begley

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 9:08 a.m. The Pledge of Allegiance and invocation were recited and the roll call is reflected above.

2. **Proclamations / Presentations.** None.

3. **Consent Agenda**

- a. Acceptance of December 12, 2016 Planning, Zoning & Variance Meeting Minutes
- b. Approval of December 15, 2016 Regular Town Council Meeting Minutes
- c. Approval of Invoices from Holland & Knight dated January 16, 2017
- d. Approval of Billing for November & December Progress Payments CRI Audit FY16
- e. Approval for Capital Purchase 2 Radar Units
- f. Approval for Capital Purchase of 5 MSA Air Bottles

With no discussion, a **motion** from Councilman Auwaerter with support from Vice Mayor Ochsner **to approve the consent agenda as presented passed 5-0.**

4. **Town Attorney** Nothing to discuss.

5. **Mayor's Items**

- a. Electric Utility Litigation Update

Mayor Barefoot said the lawsuit is in abeyance while discussions are ongoing. The sense of urgency is to get the purchase specifics in front of the Vero Beach City Council, since the Letter of Intent specified the timeframe as the end of March. The Purchase and Sale Agreement may be ready as soon as the end of February, which would move the timeline up a couple of months. As published in the paper, the City hired the only firm in the State that was qualified to represent them in negotiations with FPL, and has also hired bond counsel. Mayor Barefoot added that they are using a consultant to affect the sale of the entire system. He mentioned that, as discussed at a prior meeting, details to enact an approximate 3-year surcharge on the bill of current City customers going to FPL need to be devised, and recommended that Councilman Auwaerter and the Treasurer meet with FPL to make sure the Town handles this in the best way possible. Meanwhile, we are watching as things move along nicely and are waiting for our next step of involvement.

*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.*

b. FMPA Meeting Discussion Regarding CoVB Electric Utility Partial Sale (Councilman Auwaerter)

Councilman Auwaerter provided the Council with a copy of the presentation that Jacob Williams, CEO of FMPA, gave to the Vero Beach City Council and also to the FMPA Board of Directors at their respective meetings. There is a concern that at the FMPA, the City and the Town are “the enemy.” Councilman Auwaerter joined Mayor Moss at the FMPA meeting in Orlando, and he said she did a great job encouraging the FMPA to work with them. This presentation was to inform the other members of FMPA, hoping to get their buy-in to help the partial sale move forward.

He noted on page 6 that there was a fairly substantial error regarding the Town's electricity load, which is not 14-15% but only 8.6% of Vero's base. This is important to the bondholders at FMPA, as the lower amount of percentage the Town holds, the better it is for the sale to the bondholders and credit rating services. There seemed to be acceptance of the partial sale, the Councilman reported, and quoted Mr. Williams as saying "This is a top priority for my staff." Mayor Barefoot noted that the FMPA knows legislation will be presented to the State House and Senate by Jack Latvala, Debbie Mayfield and Erin Grall to bring the FMPA under jurisdiction of the PSC, a move they likely would not welcome.

Councilman Haverland discussed more details regarding the FMPA buyout price to Vero and the valuation difference between project and market cost. There is negative value of the product right now in the state. Mayor Barefoot received confirmation from Councilman Auwaerter that there has to be 100% agreement by the FMPA Board, who added there are other small municipal electric utilities who also want to escape from the FMPA.

6. Discussion with Possible or Probable Action

a. Set General Employee Pension Board Mtg w/FLC Admin. P. Shamoun – Valuation (Town Manager)

Mr. Stabe said there have been discussions with the Florida League of Cities (FLC) Plan Administrator, who was interested in presenting their findings at the February Council meeting. They were all in agreement to begin that meeting at 9 a.m. on February 23<sup>rd</sup>, with **the Town Council meeting to follow immediately thereafter**. Mr. Stabe said he was told they would have the actuary's report prior to the meeting.

b. Harbor Community Bank Account (Town Manager/Town Treasurer)

The Town currently has three (3) bank accounts, and this has the lowest interest rate. It is suggested that we transfer these funds to the SBA account, which has the highest interest rate. Councilman Haverland asked if Mrs. Christmas was recommending that we also move our largest investment fund account (85%) from CenterState Bank, and she said not unless Council directs, as this provides the necessary quicker access to funds to handle payroll and daily Town operations. Councilman Haverland discussed confidence in moving the funds now to SBA, and she agreed to get an annual report from the SBA for Councilman Auwaerter and others to review. **A motion to close the Harbor Community Bank account and move those funds to the SBA account** was made by Councilman Haverland with a second by Vice Mayor Ochsner **passed 5-0**. They also determined to have Mrs. Christmas *look into the flexibility of the SBA for moving some or all of the other funds from CenterState Bank also, and discuss the SBA account in February*.

c. FLC Legislative Key Contact/Town Advocate (Councilman Auwaerter)

Councilman Auwaerter said at the TCRLC meeting in Ft. Pierce last week, the Mayor of Boca Raton/President of the Florida League of Cities (FLC) Board, asked for legislative key contacts from each municipality. Councilman Auwaerter mentioned the sign-up sheet handout "Your Participation Matters" that he provided, which listed issues they could be focused on, such as water quality and water supply, for the Town. He offered to do this unless someone else was interested in representing the Town. Mayor Barefoot asked if this was different than the FLC representing us, and the Councilman said it is. Members of the Town Council thanked him for his volunteering for this, and agreed that the three items of interest to the Town were Water Quality, Wastewater and Renewable Energy. Councilman Auwaerter also mentioned that he would be attending the FLC Legislative meeting in August, and was a member of the FMPA's Solar Market Research Task Force.

d. PZ&V Board – Accept Ron Davis Resignation; Board & Committee Status (Town Clerk)

Mrs. Aldrich said Ron Davis had resigned due to having moved out of town, and was not able to be at the meeting today to express his appreciation for having had the opportunity to serve the residents. There has been interest expressed by two residents with no applications received to date. A certificate has been prepared and will be mailed to him. **A motion to accept the resignation from Ron Davis as a member of the PZV Board** made by Mayor Barefoot with support from Vice Mayor Ochsner, **passing 5-0**.

e. Dune Crossover Repair at Beachcomber Drive – Approval to Proceed with Bid (Town Manager)

Mr. Stabe said two (2) bids were received with a substantial price difference, therefore he recommended Jemy Marine Construction. Their original bid was \$14,700, and after we shortened the distance due to recent additional significant erosion at the staircase area which left it very far from the dune, the cost increased by \$4,200 to move

the staircase closer. The footprint change doesn't require DEP approval, and the material will be composite which will last longer. Councilman Haverland made a **motion to approve Jemy Marine Construction at a cost not to exceed \$18,900**, which was supported by Vice Mayor Ochsner. Councilman Haverland and Mr. Stabe briefly discussed only receiving two bids despite advertising twice, mentioning an article in the beachside news that most contractors are too busy to take on more beach erosion repair work before the **motion passed 5-0**.

f. Old Winter Beach Road Drainage Improvements Grant Project (Town Manager)

The Town Manager said we have been dealing with stormwater drainage issues on Old Winter Beach (OWB) Road for a very long time. Over a year ago he met onsite with Indian River County's Chris Mora (Director of Public Works) and then-Commissioner Davis. At that time, both the Town and County were under the impression that it was the County's road. After much research, the latest resolutions revealed that in 1984 the Town agreed to take control, supervision and maintenance of OWB Road. The problem with that is that the road was not built properly to start with being at or below sea level at the West end, far below the minimum 5' above sea level requirement. This causes substantial issues with the stormwater drainage, where the water sits during a normal rainfall at 4" deep in some places, totally covering the surface of OWB Road.

Mr. Stabe and Vice Mayor Ochsner had scheduled to meet on December 8<sup>th</sup> with the individual County Commissioners to present a cooperative approach, and a few days before that meeting the Florida Department of Environmental Protection (FDEP) sent an email alerting us to a grant opportunity targeted for stormwater drainage issues which, if successful, would pay 60% of costs involved. This information was taken to the meeting and discussed with the County Commissioners who liked the idea overall. We also had support from adjacent neighborhoods to Old Winter Beach Road, The Shores and River Club, who both expressed strong interest in being involved in the process in hopes of getting additional irrigation water for their lakes from stormwater drainage efforts. This a great partnering opportunity with private communities and government working together resulted in Chairman Flescher suggesting a brainstorming session to find a viable option to remedy this problem.

In the meantime, grant writer Amy Adams who works for the Indian River Lagoon National Estuary Program (IRLNEP) emailed Mr. Stabe to see if there was any interest in receiving assistance, as her firm has a contract to provide help to smaller municipalities. With our small staff, this seemed to be quite beneficial, and they met. She made him aware of a legislative appropriation process called House Forms that Mrs. Adams agreed to complete on behalf of the roadway project that provides access to hurricane evacuation routes (OWB Road), which is eligible for this type of funding. Time became of the essence at this point.

Vice Mayor Ochsner added that the Town took responsibility for the road a long time ago, and it was not built properly. We have the option to turn the road back to the County, but it must be built to standard first. The County recognizes the responsibility to participate. The idea is to have the legislative allotment to share in this, with an estimated project cost of \$1.3 million and \$600,000 in funds from the State. The rest of the cost would be divided between the Town and the County. The Town has funds available in the Road and Bridge Fund.

The next step is for Council approval to submit the application, which was already submitted without committal to participate due to submission cutoffs. Mrs. Adams works very closely with Erin Grall and Debbie Mayfield, who are both very enthusiastic about our project, and among other projects, are ready to fight the fight on our behalf. As the Vice Mayor mentioned, the \$350,000 left to split with the County could be further reduced with another local matching grant, and we have \$556,000 currently in the Road and Bridge fund.

Councilman Haverland asked about the use of the Road and Bridge fund over the last 5 years and how the funds are dispersed to the Town, which is from the 25% of the State revenue sharing and local gas tax, about \$70,000 annually. A **motion to approve submittal of the appropriations project request for FY 17-18 for road improvement project on Old Winter Beach Road** was made by Vice Mayor Ochsner and seconded by Councilman Auwaerter. Councilman Haverland asked if the remaining part is subject to percentages, and Vice Mayor Ochsner said only one Commissioner asked if it was 50/50 split, so this will be part of the brainstorming session. Because of the Emergency Management Evacuation component, Mr. Stabe added, we were told that the Governor could pull this project for additional funding. Mr. Stabe said he plans to set the meeting ASAP, including both legislators Grall and Mayfield. The **motion passed 5-0**. The Mayor thanked Mr. Stabe for the very well done presentation and for taking the initiative.

g. 5-Acre Property Status (Mayor Barefoot)

Mayor Barefoot said in order for the Town to begin to do something with this property asset, it has to be declared as surplus so that we can propose to or plan to dispose of it. He proposed that a motion be made to declare the 5-acre property as surplus, and as part of that motion, to direct the Town Manager to research and provide recommendations to the Council for effectively marketing the surplus property. Before receiving a formal motion, he acknowledged that the resident's request for beach access needs to be addressed, whether to carve off the 5' walkway. Councilman Haverland disagreed that there was a Council commitment to this, although it

certainly had been discussed. Vice Mayor Ochsner said he had committed to providing a pathway to the residents. Mayor Barefoot continued that restrictions also have to be addressed, which Mr. Clem said with R2A zoning it is something like 6 units per acre. Mayor Barefoot asked if we wanted to place restrictions and include the 5' easement.

Discussion ensued, mentioning the new construction near the Village Beach Market not having the appearance that the Council wants in the Town. Mr. Clem said the determination for the use of the property must be made by the Council or delegated to the PZV Board. All agreed that balancing the appearance against the limited use and maximum usage for the sale was the goal. The first step is to declare the property as surplus, then perhaps go to the PZV Board for input and hearing. The Mayor suggested that having a joint meeting may be more efficient than two meetings to hear all the pros and cons. Mr. Clem added it could then be adjourned and a follow-on Council meeting called to have a motion for restrictions, which could contain the 5' walkway, single/multi family, # units, etc. Mayor Barefoot agreed, adding there are a lot of different ways to go about this with an auction process, from hiring a specific firm and so on.

**A motion to declare the property as surplus and to direct the Town Manager to research and provide recommendations to the Council for effectively marketing the surplus property** was made by Mayor Barefoot and seconded by Councilmember Peniston. Councilman Auwaerter asked about the process, and the Mayor said after the Town Manager's recommendation, the Planning Zoning and Variance Board would consider the Council-recommended action. **The motion passed 5-0.**

## 7. Town Manager

### a. Traffic Camera Statistics (Chief Rosell/Lt. Shaw)

Mr. Stabe said there were some changes to the statistics based on the Council's request, and Vice Mayor Ochsner asked about the category for the one arrest that was made. Chief Rosell said the officer pulled someone over for a minor offense that led to that person being arrested for drugs. Abbreviations for the statistics were discussed briefly, with an updated Legend provided.

### b. Cell Tower Update

Town Manager Stabe reported that DataPath gave him a date of **no later than February 20** to be in Town with plans to seek permitting for the cell tower. Bore soil samples were completed two weeks ago. The Town Manager suggested that they may want to have a special called PZV Board meeting and maybe a special called Council meeting to allow them to begin ASAP. The next PZV Board meeting is set for February 13, which they conceivably could meet.

### c. Workshop for Septic/Sewer Improvements Status

As instructed, Mr. Stabe did make contact with Dr. Brian LaPointe, and he may be available for February or March. Mr. Stabe reported he is still doing his best to get potential dates and a time set, but has not been able to contact Dr. Thomas Bellinger with FIT who had a far different view point. Councilman Haverland added that he went to the ORCA meeting last night and scientist Dr. Edith Widder may be interested in speaking. Mr. Stabe agreed to reach out to her as suggested.

### d. Community Center Improvement Update (Former Vice Mayor/Committee Chair Jerry Weick)

*(Item 7.f. below was discussed prior to this)*

The Committee is comprised of Architect Bill Voss, Councilmember Debbi Peniston and former Vice Mayor Weick. Mr. Weick presented a plan drawn by Mr. Voss. The current Community Center is 2,000 square feet (SF) with 1,200 SF available in the open area. The new proposed building is 1,800 SF in open area, and a total of 3,000 square feet under air, 33% larger. It is usually used for meetings and parties, so there were only minor changes in design to have a big window in the back for parties, and for meetings, they could face the West with 2 windows on the outer corners and a large space for projection between them. Also included in the plan is locked storage areas for maintenance and frequent users (bridge and weekly meeting groups). A closed kitchen with a service counter meets caterer's requirements with two double ovens and an oversized refrigerator. There could be stainless steel tables in the center for food prep.

This former model home for The Victoria has a deteriorating foundation, and in 2003 a replacement building was designed with a portico and circular driveway. This design is a modified version of that plan, which includes a canopy over the entrance, helpful to caterers, election staff, etc. for unloading. This design also includes handicap parking along the edge of the driveway, two trey ceilings, a mop closet with a sink, and reusing some of the bathroom fixtures, tables, and chairs. Other design details such as sound dampening panels, heavy duty electric, and plumbing features were discussed.

Mayor Barefoot asked if the building would be moved to the west, and Mr. Weick said the current building will be totally torn down and rebuilt between March and November 2018. He asked if there was sufficient parking

for the size of building, and Mr. Guanch said it should not greatly affect it, and could gain a few parking spaces on Fred Tuerk by lessening the angle of the parking spaces. Mr. Weick's calculations of 15 SF per person is a capacity of roughly 130 people. He was trying to design it for a maximum of 200 occupants at 7 SF per person. When the bridge group plays, they often have 20 tables, 80 people, during season, and they are very crowded.

Vice Mayor Ochsner said it is nice to have it here, but he finds it hard to justify for \$20,000/year in revenue. Councilmember Peniston disagreed, citing the substantial outcry when the bridge game chose to leave and now have a lot of excitement that it is back. Bridge is becoming a popular past-time, and at John's Island they have three (3) sessions with 150 people. It isn't only for financial reasons that it is important to have a Community Center, a lot of groups use it and it is an important part of the Town, she added.

Councilman Haverland said the facts showed that there were 407 events including meetings last fiscal year, it is clearly heavily used. He didn't think there were that many parties, with 23 one-time users. There was only one paid-for wedding last year, and he stated that the most players at a bridge game was 48 this past year. He checked four (4) months of figures, and 98% of the users have 50 or fewer people. It is currently accommodating them easily, and to build a building to use three (3) times a year to spend twice as much doesn't seem to be efficient.

Councilmember Peniston said that having extra space is very little cost, not double. She and Councilman Haverland continued to counterpoint.

Mr. Weick said there are many who come and do not rent the building for events because it is too small. Mayor Barefoot said he didn't want the local restaurants and facilities to think we are competing with them. Councilman Haverland opined that two thirds (2/3) of our gated communities have large clubhouses.

Councilmember Peniston suggested having an architect draw two sets of plans, one the same size and one larger. Mayor Barefoot added that once we get a survey, we can get into the cost benefit discussion. Cost estimates from Mr. Guanch were discussed, or a resident builder who could give an estimate of the two size considerations to get a ball-park figure based on sketches.

Community Center Manager and Management Assistant Stefanie Osborn said Bridge just started back using the Community Center two or three weeks ago, and they need more room. The popular Soup Bowl event overflows to the porch, and the HOAs don't have enough space or a place for their own annual meetings, many use the Town's Community Center. As far as weddings, with more space and a nicer building, the beautiful setting would be enticing and fewer would turn away without booking the facility. Mr. Stabe added that storage for the regular users is a big problem, and to build the same size would reduce the usable space.

Mayor Barefoot asked Jose and Jerry to find a builder to give us some estimates with the basics, a 2,000 SF square building. The cost of the building was discussed by many.

The Town Clerk reminded them that this building was brought here for the residents as an amenity, as the Town offers few. The Home Owner Associations (HOAs) need it, support groups desperately need it and count on it, and they also have storage issues. The reason not much is in the storage room now is that the steady users had recently been instructed to remove their supplies due to the demand for space in order to not show favoritism. We also want to have a place where our residents are proud to come, such as when we used to have Town picnics. That was a highlight of the year for some. We used to average more weddings a year, and we have lost this business because the building is so run down. Councilmember Peniston agreed. Mayor Barefoot said that all agree that the building needs to be replaced.

Mr. Weick asked the Council if they liked the basic design, and Councilman Auwaerter said it would be nice to have equipment that brings us into the 21<sup>st</sup> century, like wireless speakers and a projection screen. Councilman Haverland opined that we don't need the 540 addition of a covered entrance, two additional bathroom stalls, walls around the kitchen, or additional kitchen appliances. Incremental analysis with marginal costs would be helpful.

Councilman Haverland suggested that he meet with Mr. Weick and provide input on a 2000 SF building.

Mayor Barefoot opened the floor for resident comments, first hearing from **Dean Phypers**, John's Island, who had no objections for it being larger, but did not think the Town should be entrepreneurial, citing statistics provided by Councilman Haverland. If there was a study done to see how much could be gained from the wedding business, he believed it would bomb, and is also not in favor of competition for the wedding business. Everything else is fine. Next to speak was **John Lewis**, who wondered if this Community Center was not here, would the Town truly need it? It seems we have an opinion that we need to replace it, and if so, it should be classy and more acceptable. If we do really need it, is there a revenue versus cost assessment? Have incremental insurance, maintenance and operating costs been considered, and how does this match up with expected revenue? As a business proposition, it doesn't compute, but looking at it as an amenity, it is fine, so long as we are aware of the costs, including depreciation and operating costs, versus revenue stream. Mayor Barefoot said it is clear that we need a new building, but the costs will probably not be entirely covered by income. What is important is the size and type of amenities that will satisfy bridge users, AA, and other users.

e. Police-Fire Pension Board Actuarial Valuation Status

Mr. Stabe said the Police Fire Pension Board Actuarial valuation will be presented here on January 31. We requested a copy, which has been received in draft form.

f. Town Hall Complex Survey

(Discussed prior to 7 d.)

Mr. Stabe found that the Town does not have a survey for the building. Quotes were obtained and a survey of the entire Town Hall complex, including the Public Safety Department, garage and buildings, as well as the tree survey of the Community Center area was ordered for under \$5,000 and is now in process.

g. Departmental Reports (Building, Financial Balance, Public Safety).

Mr. Guanch reported that the Building Department is making progress with the new software, and will be going live soon. Mr. Stabe said the PSD has had possibly the busiest month ever, having received 78 calls for medical service alone in 25 days. Mayor Barefoot said the compliments continue to come in regarding our officers, their expertise and the quality of service. The job the Public Safety Department does sets our community apart.

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

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

**TCRLC** – Councilman Auwaerter said the form the Town Manager had related to the Old Winter Beach Road project is required now due to a change in the House Speaker, who requires it to be provided for anything that will be considered in the budget for transparency purposes.

**CoVB Utilities** – Councilman Auwaerter reported that a stormwater utility was set up that will not impact the Town. A request was made for reduction of chemicals, nitrogen oxide and phosphorus statistics for the Town.

A request from Councilman Auwaerter was made to consider moving the April 27<sup>th</sup> Council meeting to other than 26-28 April. With a **motion to move the April Council meeting to April 20<sup>th</sup> at 9 a.m.** made by Councilman Haverland and supported by Vice Mayor Ochsner, **it passed 5-0**. Mayor Barefoot noted that he will be out of the Country in March and not at our meeting on the 23<sup>rd</sup>.

**EDC** – Councilman Auwaerter said this was also cancelled.

**Beach & Shores** - Vice Mayor Ochsner said this meeting was cancelled.

**MPO** - Councilman Haverland said this meeting was also cancelled.

**TCCLG** – There was nothing to report, Councilman Haverland said.

Councilman Haverland asked when we expect to hear something back from our consultant on the stormwater master plan, and Mr. Stabe said it is in process currently, which should hopefully be completed soon. The water quality analysis will be the second phase.

Councilman Haverland asked if the Pension Board hired someone to evaluate their practices and their money manager, and Councilman Auwaerter said they have.

9. **Call to Audience**

John Hilton, Beachcomber Lane, suggested that the white delineator pole closest to A1A be pulled back from the street on the A1A Southbound lane. Mr. Stabe noted the yellow poles in the center are more critical to keep drivers in the proper lane, and agreed to look at it. Eventually, they plan to plant vegetation to keep people from cutting the corner and driving in the parking area.

Mr. Hilton also asked if the train was going through for sure, and Councilman Haverland answered that it is not determined. Councilman Auwaerter noted they have been unable to issue the tax exempt bonds since 2015, and since they proposed very high interest rates and have not had any interested buyers. A change in administration at the Dept. of Transportation may impact this. Amtrak funding may be cut, therefore smaller trains may be jeopardized. Mr. Hilton requested monthly updates, and was told there are two residents who are very involved with updates, Jack Preschak and Susan Mehiel.

10. **Adjournment.** With no further comments, the meeting was adjourned at 11:35 a.m.

Respectfully submitted,

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(Approved by the Town Council at the February 23, 2017 meeting)