



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

Thursday, October 22, 2015
9:00 a.m.

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

ABSENT: Brian M. Barefoot, Mayor (excused)

STAFF PRESENT: Robert Stabe, Town Manager
Chester Clem, Town Attorney
Chief Rich Rosell, Public Safety
Lt. Mark Shaw, Public Safety
Laura Aldrich, Town Clerk
Heather Christmas, Finance
Darlene Wiltzius, Finance
Sgt. Shawn Hoyt, Public Safety

OTHERS PRESENT: Bob Auwaerter, Chairman, John Porta, & Bill Cull, Finance Committee; Chris Hendricks, PZV Board Chairman & Linda Bolton, Member; John's Island Representatives Jim Moller, Bob Gibb & Brian Kroh; JI residents (appx. 7); Bermuda Bay residents (appx. 23), 9 +/- residents from other neighborhoods; Janet Begley, Press Journal & Lisa Zahner VB 32963

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation – Councilman Slater
- c. Roll Call – Town Clerk

The meeting was called to order by Vice Mayor Weick at 9:02 a.m. The Pledge of Allegiance and invocation were recited and the roll call is as reflected above.

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

3. **Consent Agenda**

- a. Acceptance of July 13, 2015 Planning, Zoning & Variance Meeting Minutes
- b. Acceptance of August 10, 2015 Planning, Zoning & Variance Meeting Minutes
- c. Approval of September 24, 2015 Regular Town Council Meeting Minutes
- d. Approval of September 24, 2015 2nd Budget Public Hearing Minutes
- e. Approval of September 25, 2015 Special Call Meeting Minutes 2nd Reading Ordinance 520
- f. Approval of Invoices from Holland & Knight dated September 24, 2015
- g. Approval of Invoice from Town Attorney dated September 30, 2015
- h. Approval to Purchase Town Manager Vehicle as Budgeted FY15/16
- i. Approval to Purchase Public Safety Police Vehicle as Budgeted FY15/16
- j. Approval to Purchase Radar Units as Included in Capital Budget FY15/16
- k. Approval to Purchase Portable Radios as Included in Capital Budget FY15/16
- l. Approval to Purchase Life Pak 15 Cardiac Monitor as Included in Capital Budget FY15/16
- m. Approval to Purchase Traffic Cameras as Included in Capital Budget FY15/16

Councilman Haverland questioned **Life Pak 15 Cardiac Monitor** (item “l”) as having a sole source provider, which was explained by Lt. Shaw and the Town Manager that they have used them for over 20 years, and while there are other vendors which are comparatively priced, a different vendor may have compatible hardware and computer software but we would have to change many other parts. The County also uses this equipment, and it needs to be interchangeable. We have two

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.

units, as both are over 12 years old. Councilman Haverland asked if they were under state contract, with concern was that we would never get a deal if we were a steady customer. The Town Manager said when he has ordered them over the years, they have been the same price as the County pays dealing directly with the company, and our equipment must be interchangeable with the County.

He also questioned the **traffic cameras**, noting that we suggested the high bid for various reasons. Having a good idea of what it does and reporting it against what actually happens is advisable, Councilman Haverland added. Councilman Ochsner echoed the sentiments, stating that it was discussed and rejected once with Chief Schauman. We need specific justification why we are installing cameras, and **requested that it be pulled from the agenda** for more discussion about it. Councilman Haverland agreed. The Vice Mayor said it was useful in case of crime, not for general purposes. Councilman Haverland said about 4 years ago there were two cities who had these cameras in the state, and he asked for more justification, more input from those cities and the impact it had on them. The Town Manager noted that there is a neighborhood in Town that uses these cameras, and over the years, there have been a number of crimes that have occurred in that neighborhood that have resulted in successful apprehension and prosecution because of this tool. Councilman Haverland asked for some way to measure that it was money well spent, and endorsements from entities that have installed them. **The traffic camera purchase was pulled from the agenda to be brought back for discussion in November.**

A motion to approve the consent agenda with item “m” Traffic Cameras removed was made by Councilman Ochsner with support from Councilman Slater which passed 4-0.

4. **Town Attorney**

a. Resolution 15-09, Supporting LMS (County)

This was read by title by Mr. Clem for Local Mitigation Strategy adoption as follows:

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, RECOMMENDING APPROVAL FOR ADOPTION OF THE 2015 REVISED INDIAN RIVER COUNTY UNIFIED LOCAL MITIGATION STRATEGY (LMS) PLAN; AND PROVIDING AN EFFECTIVE DATE.

He added that this would be the third adoption by the Town over the years. Councilman Haverland asked what we are mitigating, and Mr. Clem explained that this mostly for stormwater, flooding reimbursement funding, allows us eligibility to participate in FEMA funding in the event of a hurricane. We must be part of the process to receive the benefit. **A motion to approve Resolution 15-09** was made by Councilman Haverland with second by Councilman Ochsner which **passed 4-0.**

Mr. Clem continued that we have an employee who has been on administrative leave, and through workings with a labor attorney, we have reached an agreement to allow her to received six months' severance less salary amounts already paid which will release us from future litigation. Councilman Slater asked if the Town was at fault in any way, shape or form, and was told we were not, we handled everything as we should have. Mr. Clem said the settlement is the best interest of the Town. **A motion to approve the settlement** was made by Councilman Ochsner with second from Councilman Slater, which **passed 3-1** with Councilman Haverland voting against it as an excessive settlement, based on the amount and the circumstances.

5. **Mayor's Items - None**

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

a. Appraisal of Town-Owned Property (5 Acres) (Town Manager)

Mr. Stabe said at the request of a Councilman and a Finance Committee member to find the cost of appraisal, which is about \$3,000. Councilman Haverland said there is an interesting comparable about half a mile down, the former Surf Club which is 7 or 8 acres. Councilman Haverland questioned if is it worth \$2 million or \$10 million, and asked that we instead ask three real estate

agents to do a market analysis. We had asked the appraisal from when the property was acquired years ago. The property is not ocean front, and there are some utilities that the City uses on the northwest corner. Vice Mayor Weick also was against the formal appraisal at this time, believing it to be worth \$2 million. **Mr. Stabe was instructed to proceed with obtaining a realtor market analysis.**

b. Recommendation of Contractor and Amount for Fred Tuerk Drainage (Town Manager)

Mr. Stabe said that we received a total of two proposals, and recommended Kempf's Site Development Construction for their bid of **\$44,790 with an additional \$5,000 for unexpected expenses contingency**. Councilman Ochsner said they had just experienced a project done by with Kempf, and could not say enough good about the contractor, calling the experience "perfect." **A motion was made to approve Kempf as the contractor at the amount as recommended by Mr. Stabe at \$49,790** by Councilman Ochsner with support by Councilman Slater, which **passed 4-0**.

c. Finance Committee Alternate: Bill Cull, Applicant for 4-Year Term (Town Manager)

An application was provided for Bill Cull to be a member of the Finance Committee, which the Chairman Bob Auwaerter had spoken with him and agreed with the appointment. **A motion to approve Bill Cull as an alternate member of the Finance Committee** was made by Councilman Ochsner with a second from Councilman Haverland, which **passed 4-0** with no further discussion.

d. Baffle Box – Stormwater Grant Closeout (Town Manager)

We have paid the invoices that have been approved by Council, Mr. Stabe noted, and now it is time to close out the \$72,500 grant from the SJRWMD. The total project was around \$122,103, which was under budget with a savings of \$22,897, so the Town's savings portion is \$11,448. It is now complete, and preliminary water testing by our Public Works Director shows a dramatic reduction in both nitrogen and phosphorus.

Councilman Ochsner asked about the Treasure Coast Construction Management overrunning by \$5800, expressing concern that the project manager didn't manage very well. It seems that the difference is between them and Suntree and not us. Vice Mayor Weick said he was there during the installation, and the crane was sitting idle during a heavy rain delay and the paddle installation was not done prior to delivery. Mr. Clem said that with the rain and allocating who was responsible for what, the crane and the baffle box was not allowed to go forward because the manufacturer of the baffle box had additional work to be done before it could be installed. Then the rain came, the hole was ready, and it was a mess. Mr. Clem said these are just extra costs, and both our engineer and his position is that if they are doing this to try to make an additional profit, we would argue the point. This was just a cost of doing business. There are manufacturing requirements that must be met, and the rains did make a very dramatic impact. In order to get the grant, we had to have it completed time-specific and the contractors all have to be paid in order to receive our matching funds. Our engineer also was not pleased with the turnout.

Councilman Haverland asked if we had an agreement with the contractor at a specific price, and the Town Manager said we did, \$49,500. The contractor agreement was discussed as fixed price at a higher level, so under the circumstances, we are under budget and the job is completed. Councilman Slater noted that the contractor would not be coming to us for a refund check. Mr. Clem said the engineer to manage this was a very good thing to do, and overall this came out pretty well. The Town Manager said he wanted this wrapped up and finalized in order to make sure we don't lose the grant. Vice Mayor Weick said we learned a lesson on this, and the principle is what was being argued. **A motion to approve the closeout of the baffle box grant** was made by Councilman Haverland and seconded by Councilman Slater, which **passed 3-1**, Councilman Ochsner dissenting.

e. Update on Ability to Buyout Pensions (Councilman Haverland).

Councilman Haverland recapped an article that ran in the Wall Street Journal last month, whereby a 65-year old retiree would be offered a lump sum buyout for pension costs so the retiree could invest it as they will and the Town would not have a liability on the books. He suggested that

we consider doing something like this. He had turned it over to be discussed at the Pension Committee meeting and was not able to attend. He asked if the Pension Board discussed it, and Mr. Stabe said it was not discussed with other pension related issues they had asked about. Councilman Haverland asked for a list of everyone (no names) who is currently receiving a pension and everyone who would be eligible within 5 years, and the projected amounts of those pensions at the time they are likely to begin, he would put together something for the Council to consider at the next meeting. Councilman Slater asked if it would go through the Pension Board, and Councilman Haverland said it is an economic decision for the Council, and it is not the Board's decision. Mr. Stabe agreed to provide this information.

f. Update on Ability to Buyout Current Retiree Medical Benefits (Councilman Haverland)

The Councilman asked if there is any reason we could not offer a similar program to buyout retiree medical benefits for existing employees, in hopes of reducing the liability by more than the cost of the buyout. Counsel suggested that we could do this, Councilman Haverland added, and he and the Treasurer have begun to work on this. So if a 45-year old employee scheduled to retire at age 60 would get 51% of the cost of medical plan plus the implicit subsidy of \$6,000 roughly per year, so it would be \$10,000 year in value from 60 to 66, so \$50,000 in the future would be paid. It is offering it in terms reasonable for the Council, and the employee may be happy with that amount. We understand our obligation today, and the unknowns are turnover ratio, termination of employee prior to the retirement, etc. It is an earned liability, Councilman Ochsner noted.

g. Moving the Election Date to November.

We are the only ones in the County that has elections in March, Councilman Haverland said. If we held them in November we would save \$5,000. The history of people who vote in November versus those who vote in March elections seems fairly clear to him. He made a **motion that we move our elections to November** from March at the first available time, which was seconded by Councilman Ochsner. Councilman Slater said that on the basis of the number of votes in November, he agrees that it seems better to have it during the general election for our Town, as absentee ballots are much more commonplace.

It is quite a process, Mr. Clem said, which would have to have an ordinance for a first reading, then be placed on the general election ballot. It requires a charter change to set the date differently as well. There would be a cost of about \$6,000 one-time and would yield savings afterward. The **motion passed 3-1**, with Vice Mayor Weick dissenting.

7. **Town Manager**

a. Town Manager Performance Evaluation Preparation Status

Mr. Stabe is still waiting on budgetary figures and response time statistics from PSD. He will send the evaluation form, goals & objectives and accomplishments, and project status as soon as it is prepared.

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

There were no questions from the Council. The Town Clerk noted that TRIM package had been approved this week with no infractions noted, maintaining the 10 year record of this. Mr. Stabe said this was the first time we had done electronic filing for Truth in Millage, and Laura did a phenomenal job with this. She thanked him, and noted that our County was one of the last to implement this process, being roughly 509 out of 654 taxing authorities to engage in the electronic filing program.

Mrs. Aldrich also noted that it is City Government Week, and she had put together some interesting facts to help promote it among the Town residents. Local government is a vital part of governing in Florida, and she expressed sincere appreciation to the Council and every volunteer, Board and Committee member for their time, which is unpaid. They all do a great job, she added.

Director of Public Safety Rich Rosell said yesterday afternoon they were alerted of a possible drowning at Marbrisa, a 19-year old male was floundering in the ocean. When we arrived, two officers went in and were caught in the rip tide and separated, three more PSD officers went out and

they all saved each other's life. It was unbelievably heavy surf. Councilman Haverland asked if the call came to us, and Director Rosell said it did, and then we asked for backup from the County since it was at a County park. The young man entered the surf from Marbrisa, and had drifted north. Three of our PSD officers were hospitalized, treated and released, along with the 19-year old male who may still be there. We saved his life, and it was a job well done. We could easily have lost five officers.

8. Council / Committee Reports or Non-Action Items

a. Planning, Zoning & Variance Board Meeting 10-12-15 (Chairman Chris Hendricks)

Chairman Hendricks said they reviewed one request for a 1.54' variance at 561 Silver Moss Drive, which was approved.

b. City of Vero Beach Utilities Commission Update (Bob Auwaerter)

Mr. Auwaerter reported that the OUC contract was approved by the City of Vero Beach Council, and his concern was that the rate payers take on a huge responsibilities. He provided a two-page analysis, which was part of his presentation to the Commission. The graph showed that the Town's usage is 8.2% which is dropping over 10 years, and commercial usage in the Town remains more level. The contract requires a take-or-pay participation, and the future projections made by the City's consultant, Bill Herrington, was that the conservative projection was that it would increase .05% (half a percent) annually. He pointed out that we are dropping 8.2%, not increasing. FPL and Gulf Power have large diversified customer territories, and we are exactly the opposite. The other exhibit is a credit rating presentation excerpt that he is very familiar with as a bond agent for 35 years, and they are showing the potential for power demand may drop by 11%. The City believes OUC is offering a nice deal, and the OUC is actually concerned by their (the City's) power needs dropping and wanted to lock CoVB in to cover their costs. He had asked to see the underlying spreadsheets, and was told it was confidential and proprietary. He was asked to fill out a 6 page non-disclosure agreement, including a hold-harmless clause that he would go to court and defend himself at his own cost. He asked the Assistant City Attorney for Vero Beach, who agreed it was an onerous contract. He voted against the contract. A few things were removed, like force majeure.

Councilman Haverland said OUC is only one of the sources, and asked if others have a take or pay provision. He asked if the costs of the others are higher, and Mr. Auwaerter said they have not explored the level of detail of those yet. The Councilman asked if he had any idea if the people in this area are using solar, and if it impacts the demand. Vice Mayor said the LED light bulbs and television and energy efficient home usage now is greatly reducing electric consumption. Natural gas is also going to have an impact on electric usage. Vice Mayor Weick said the Commission ignored the value of the gas line, which is up to \$10 million.

Vice Mayor Weick said Bob Auwaerter did an outstanding job at this meeting, only two or three of about 15 even questioned the contract. He thanked him for the excellent work. Mr. Auwaerter said they basically gave OUC a pre-option, and it could go to the Florida Supreme Court. www.Publicpower.com is the FMPA website which allows anyone to look at the rates. Of 33 municipal agencies that report, Vero Beach has the 29th highest rate for municipal providers. They have consistently had some of the highest rates in the State. The Vice Mayor said they are lowering the December bill by about \$2 or \$3, and a lot of the cost savings are because it is now just an 8 year contract. A lot of savings also result of shutting down the power plant in Vero Beach. Councilman Slater also thanked Mr. Auwaerter for his work.

John Porta in the Estuary has observed that they lost power for about 2 hours over the past two weeks, which doesn't seem to have impacted other areas. It just seems suspicious. Councilman Slater questioned if Mr. Wright has written the contract, and if there is an obligation to negotiate for both the City and OUC. He wondered if there were a conflict of interest. Mr. Auwaerter said there has been a tremendous effort to hurry this through, and it could be election related. There was more discussion. Councilman Ochsner said this indicates that we have to keep pushing through with the lawsuit.

- c. Council Committee Reports (MPO, EDC, TCCLG, TCRPC, TCRLC, Others)
 - Beach & Shores.** Attending as alternate to Councilman Ochsner, the Vice Mayor reported that the turtle season has been very good, with a record green turtle nesting 1,736. There were close to 7,000 turtle nests in our area. The heavy storms have caused some beaches to accrue sand, and some are losing sand. South County beach is in the worst shape. He found it interesting that Indian River Shores agreed to put up signs at our crossovers to inform people about turtle nesting on our beaches, and they made a motion for the County to do the same on their beaches.
 - TCRPC.** No report.
 - TCRLC.** No report.
 - TCCLG.** No report.
 - MPO.** Vice Mayor Weick went on behalf of Councilman Haverland, and said the big news was the National Association of MPA in Washington, D.C. recognized Indian River County staff and committee members for Outstanding Overall Achievement for a small to mid-sized community.
 - EDC.** Vice Mayor Weick reported that they had accepted a target industry analysis report to attract new businesses to the County, which was forwarded to Board of County Commissioners for approval.

Councilman Haverland wondered if we have any potential of polluting the lagoon in other parts of the Town, and if additional baffle boxes should be considered. The Town Manager said yes, we have other outflows and none are as extensive as the southern stormwater drainage system. There is one on Fred Tuerk Drive, which may not have room for a baffle box, and another at Old Winter Beach Road and Jungle Trail at the Old Winter Beach Extension that could be a possible location for one. The Town Manager agreed to test the outflow to see if there is any problems at Councilman Haverland’s request. Vice Mayor Weick said the maps with pollution outflow show that there is very little problem other than street drainage stormwater runoff.

- 9. **Call to Audience** – No response.
- 10. **Adjournment.** The meeting was adjourned at 10:21 a.m.

Respectfully submitted,

/s _____

(Approved by the Town Council at the 11-19-15 meeting)