



MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963
REGULAR TOWN COUNCIL MEETING
Wednesday, November 19, 2014
4:00 p.m.

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

ABSENT: Thomas W. Cadden, Councilman (*excused*)

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

RESIDENTS: John Porta & Jerry Solin, Finance Committee; Jerry Burr & Jim Moller, John's Island Security & JIPOA

GUESTS: **PROFESSIONAL:** Christopher Marine, Legal Representative for 6000 A1A, Inc.; Messers Bob Gibb and Bob Ritter, Applicants/6000 A1A, Inc.; Scott McGuire, Civil Engineer/Land Use; Peter Moore, Architect; Woody Coley, Project Supervisor; Ralf Brookes, Attorney for Complainants; **RESIDENTS** (Approximately 30) Bill Beardslee (PZV), Dale Stump, J. Lee Etheridge, Joe Hilt, Jerry Jones, Nancy Shaver, Doris Brandi, Bernice Johnson, Richard Johnson, Dorothy Kay Chasewood, John Porta (Finance), Paul Zimmerle, Elizabeth Zimmerle, Joan Rathke, Frank Rathke, Barbara Tilney, Charlotte Terry, John Hilton, David Becker, Judy Bramson, Terry Crowley, Bill Baker, John McCord, John Lowenburg, Bruce Worth, David Gruber, David Bottomley, William Smith, Scott Sterner

1. **Call to Order**
 - a. Pledge of Allegiance
 - b. Invocation (Councilman Slater)
 - c. Roll Call
Mayor Barefoot called the meeting to order at 1:02 p.m. with the Pledge of Allegiance and Invocation repeated.
Town Clerk Aldrich called the Council role as shown above.
2. **Proclamations / Presentations** (*None*)
3. **Consent Agenda**
 - a. Acceptance of October 13, 2014 Planning, Zoning & Variance Board Minutes
 - b. Approval of Regular Town Council Meeting Minutes dated October 23, 2014
 - c. Approval of Invoices Associated With Electric Utility Service Issues
A motion to accept the PZV Board Minutes from October 13, approve the Regular Town Council Minutes dated October 23, and approve the invoices associated with the electric utility service issues was made by Vice Mayor Weick and supported by Councilman Haverland, which passed 4-0.
4. **Town Attorney**
 - a. Ordinance 516, Small-Scale Comp Plan Amendment Rezone Lot 1, Beachcomber Lane – **2nd Reading**
Mr. Clem read the entire ordinance 516, as printed by title below:
AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, FLORIDA, A MUNICIPAL CORPORATION, PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, PROVIDING FOR A SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT AND LAND DEVELOPMENT CODE CHANGE FOR LOT 1, SUNNY SANDS SUBDIVISION, PBI 3-99, INDIAN RIVER

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.

COUNTY, FLORIDA (A/K/A 906 BEACHCOMBER LANE, INDIAN RIVER SHORES, FLORIDA); CHANGING THE COMPREHENSIVE PLAN DESIGNATION FROM RESIDENTIAL LOW DENSITY TO COMMERCIAL AND THE ZONING FROM R1A SINGLE FAMILY RESIDENCE TO C1A LIMITED COMMERCIAL; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion was made by Councilman Haverland with support by Councilman Slater to approve the final reading of Ordinance 516 as written and read, which passed 3-1, Vice Mayor Weick opposing.

Mayor Barefoot read the conditions as recommended by the PZV Board as follows for **Site Plan Approval**: 1) the allowable use for the building to be for general office, non-medical, non-retail; 2) a hardship variance to allow four (4) less parking spaces as required in the LDC, of which two would be for compact cars; 3) a 6' non-pierced wall between lots 7 & 8 on Sunrise Terrace landscaped on the Eastern side; 4) a 10' buffer with 6' hedge planting to be provided between Lot 1 and Lot 2 on Beachcomber Lane as per LDC 163-09; and 5) the dumpster be relocated, which is different than shown on the initial application. Vice Mayor Weick said they need to consider retail as requested, and Mayor Barefoot said it is more complicated than just defining retail as having a cash register.

Mr. Clem read the definition for C-1A from our LDC, which is limited inventory for household goods, personal services or customized goods. It is not for serving a transient highway market in our current code. Vice Mayor Weick suggested we match our Land Development Code. Councilman Slater confirmed it could be without the non-retail recommendation.

Councilman Slater asked if it had adequate parking when it was first designed. Mr. Coley said it was, as they had some trees that needed to be preserved and considerations for fire access.

Councilman Haverland mentioned seven who spoke about retail traffic and congestion, which would not be as heavy in an office building. Mayor Barefoot agreed, adding concerns raised about placement of the trash receptacle. Vice Mayor Weick suggested multiple garbage residential cans. After brief discussion, Mr. Clem said it could be approved without the dumpster with consideration for a hardship variance.

Mayor Barefoot and Mr. Marine agreed that there should be no exit towards residences on the side streets. Concerns about weekend parking in the Spectrum lot or on Fred Tuerk on the weekends were noted as never being a problem by Mr. Gibbs and others. Occasionally people will park at the end on Beachcomber, and a resident will call and the PSD will ask the person to leave. It has never been difficult to find the vehicle owner over the years, and posting multiple "No Parking" signs may help.

Consideration of a traffic calming device like a split median and lowering the speed limit on A1A were briefly mentioned.

There was an extended discussion about retail space and the volume of traffic being significantly less without it. The parking requirements are the same. Vice Mayor Weick has lived right next to the Village Shops and bank for 18 years, and it doesn't have much traffic. Mr. Clem said they could always come in for a change in the site plan, and if as part of the approval, the Council could allow a conditional variance for allowance up to a certain number of square feet for retail to go before the PZV Board.

A motion to approve the site plan without retail subject to the 5 conditions above with no turns towards the residences and subject to signage approval was made by Councilman Haverland and seconded by Mayor Barefoot.

The motion was later amended to read approve the site plan with reasonable retail space up to 3,000 square feet of subject to approval of the PZV Board and the Town Council, subject to the 5 conditions [1) the allowable use for the building to be for general office, non-medical, non-retail; 2) a hardship variance to allow four (4) less parking spaces as required in the LDC, of which two would be for compact cars; 3) a 6' non-pierced wall between lots 7 & 8 on Sunrise Terrace landscaped on the Eastern side; 4) a 10' buffer with 6' hedge planting to be provided between Lot 1 and Lot 2 on Beachcomber Lane as per LDC 163-09; and 5) the dumpster be relocated], no turn signs placed to avoid residential traffic, and signage approval by Councilman Haverland with support by Mayor Barefoot which passed 4-0.

Town Attorney Clem made a point of order to make sure there is a clear understanding of what was said. Mr. Clem said it should be stated that the parking and traffic on the neighborhood streets would be considered, as this is an additional restriction to our code.

Mr. Jones said they wrestled very well with this. There was a brief discussion about retail parking spaces.

b. Ordinance 517, Police-Firefighter's Defined Benefit Pension Plan Documents Restated – 1st Reading

Mr. Clem read the Ordinance 517 relating to the Police-Firefighter's Defined Benefit Pension Plan by title as printed below:

AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE TOWN OF INDIAN RIVER SHORES' POLICE-FIREFIGHTER'S DEFINED BENEFIT PLAN TO ADOPT THE

RESTATED AND REVISED PLAN DOCUMENT; PROVIDING FOR CONTINUITY; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

With minor discussion from Councilman Haverland regarding it having no impact on sick leave, a **motion to approve the first reading of Ordinance 517** was made by Vice Mayor Weick with a second from Councilman Haverland, **passing 4-0**.

c. **Ordinance 518, Dog-Friendly Dining – 1st Reading**

With a request from the restaurant owner in Town to the PZV Board, an ordinance was drafted and read by title by Mr. Clem as follows:

AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, FLORIDA, A MUNICIPAL CORPORATION, PURSUANT TO SECTION 509.233, FLORIDA STATUTES, ADDING SECTION 160.052 TO THE LAND DEVELOPMENT CODE (LDC) ENTITLED “DOG-FRIENDLY DINING;” PROVIDING FOR A LOCAL EXEMPTION TO ALLOW DOGS IN DESIGNATED OUTDOOR PORTIONS OF PUBLIC FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICATION REQUIREMENTS; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This basically provides local exemptions for dogs dining in designated outdoor portions of public food service establishments. It is identical to local standards and what is required in 509.233. It would require a Code Enforcement permit. A **motion to approve the first reading of Ordinance 518** was made by Councilman Slater and seconded by Councilman Haverland.

Vice Mayor Weick objected to the idea, even though personally he loves dogs and having one dog in an outdoor area of a restaurant is not a problem. However, he has witnessed when there is more than one, it can quickly turn into a zoo with fighting dogs. This is unnecessary burden on the police, he opined.

Mr. Clem said people often want to stop and eat or drink while they are walking their dogs. This ordinance is very burdensome on the restaurant owner, and if there is a problem we can pull the permit.

Councilman Slater **withdrew the motion**. The Ordinance was **not approved**.

d. **Resolution 14-11, Against All Aboard Florida Cost Impact**

Mr. Clem read the title of the Resolution as follows:

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, REQUESTING ANY AND ALL INVOLVED GOVERNMENTAL UNITS AND PUBLIC AGENCIES TO REQUIRE ALL ABOARD FLORIDA AND FLORIDA EAST COAST INDUSTRIES TO PAY ALL COSTS ASSOCIATED WITH THE ALL ABOARD FLORIDA PROJECT AND ITS IMPACTS ON LOCAL COMMUNITIES; PROVIDING FOR AN EFFECTIVE DATE.

With little discussion, a **motion to approve Resolution 14-11 against a cost impact from All Aboard Florida to the local communities** was made by Vice Mayor Weick with support from Councilman Slater, which **passed 4-0**.

e. **Resolution 14-12, Final Budget Adjustment FY 13-14**

The title of the Resolution was read by Mr. Clem as follows:

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA OF FINAL AMENDMENT TO THE BUDGET FOR FISCAL YEAR END 2014 AS PROVIDED IN EXHIBIT “A”; AND PROVIDING FOR AN EFFECTIVE DATE.

A **motion to approve Resolution 14-12, final budget adjustment for FY 13-14** was made by Councilman Slater and seconded by Vice Mayor Weick, which **passed 4-0**.

5. Mayor’s Items

Mayor Barefoot asked if the process to fill Councilman Cadden's position would be to post it on the website, accept applications and invite any candidates to the next Council meeting. Mr. Clem clarified that there is a screening process, then at the next meeting the Council would discuss and then appoint someone to fulfill the remainder of the term, which would expire at the March 2015 election.

6. Discussion with Possible or Probable Action

a. **Republic Services Contract Extension Option**

Mr. Stabe said the Town received the final offer on November 18, 2014 from Republic Services, which is an option for the last 3-year contract renewal for \$1 per month for each year, afterwards to be followed by an RFP.

Councilman Slater made a **motion to accept the 3 year contract extension with the provision that during the third year we prepare a full RFP with adequate time to prepare the bid**, which was seconded by Vice Mayor Weick.

Councilman Haverland strongly disagreed, saying this is approximately a 24% increase over 3 years. He felt that it was their fiduciary responsibility to bid it out, and that at the Public Hearing the rate was not justified. He expressed displeasure with the approach to justify the rates that were received yesterday. The **motion passed 3-1**, with Councilman Haverland dissenting.

b. FY 14 Ambulance Charges for Service Write-Offs (Town Manager)

A brief explanation that the ambulance fees are booked at full fare, and our payments not covered by insurance yield approximately 75% collection. A **motion to approve the ambulance charge for service write-offs for FY 14** was made by Vice Mayor Weick, seconded by Councilman Haverland, and **passed 4-0**.

c. FY 15 DB Pension Pre-Payment of Employer Portion (Town Manager)

This is the Town's portion of pension payments, Mr. Stabe explained, which was followed by a **motion to approve the defined benefit pension pre-payment** made by Councilman Haverland, with a second by Vice Mayor Weick, which **passed 4-0**.

d. Emergency Replacement of Air Conditioner for Postal Center (Town Manager)

This was an informational update that the air conditioner in the Postal Center needed major repairs, as it was last replaced in 2001. It was budgeted to replace the complete system, which was done earlier this month.

e. Council Appointee to MPO Citizen's Advisory Committee - Susan Mehiel, Applicant

One application was received for this opening, which was from Susan Mehiel. A **motion to recommend appointment of Susan Mehiel by the Town for the Metropolitan Planning Organization (MPO) Citizens Advisory Committee (CAC)** was made by Vice Mayor Weick with a second from Councilman Haverland, which **passed 4-0**.

f. Treasure Coast Regional Planning Council – Town Representative (Mayor Barefoot)

Mayor Barefoot volunteered to be the Town's representative to the TCRPC, to which all were agreeable.

g. OPEB Trust Fund/Funding – Possible 1st Reading Ordinance 519 (Councilman Haverland)

Councilman Haverland said there was a lot of unfunded liability based on both implicit and explicit costs, and asked if the trust can pay both costs and reduce the unfunded liability. **Councilman Slater** said he was in favor of establishing a trust to use to pay explicit, implicit and buyouts, and **excused himself from the meeting** (at 5:28 p.m.) in order to catch a flight. Treasurer Heather Christmas also departed at that time due to illness.

Vice Mayor Weick stated we are putting too much aside, as we have had no problem paying explicit expenses as they arise and already have \$200,000 set aside. Councilman Haverland argued this is General Town funds invested in a pool by the Florida League of Cities, and it's only allocated in our minds. It can be redirected anytime, and he was against having the money available for a disaster. The Vice Mayor noted that no newly hired employees will be eligible for this benefit, and it averages \$7,000 per year in explicit costs.

Finance Committee Chairman Ochsner recommended that they do not set up a trust. This Committee has not met since the Town began discussing this, and would probably meet in January. He agreed with everyone that it would be nice to show reduction in unfunded liability, but they are only incurring the liability if all of the employees actually retire. The Town has already reduced its liability substantially. Chairman Ochsner offered to reconvene the Finance Committee.

More discussion followed, with Mr. Stabe noting that we get money back if there is anything left once all of the current employees have retired or departed. There is a cost to run the trust, which is the same whether it's in the trust or money market, of \$2,250 - \$10,000 for a periodic required actuarial valuation plus \$1,000 to set it up. Other fees were discussed. Vice Mayor Weick said he did not agree with locking in funds.

Mayor Barefoot said we could set up the trust and not fund it.

Vice Mayor Weick made a **motion to not fund the trust and keep it as it is designated, and the funds could only be used for OPEB**. In case of an unlikely emergency, we can borrow the funds and pay them back, he added. The **motion died for lack of a second**.

Councilman Haverland made a **motion to establish a trust for OPEB and begin funding it such that at the end of 10 years it would be fully funded**.

Mr. Ochsner said it could be set up and only funded with explicit costs, and Mayor Barefoot added it could have a calculated amount. The **motion was restated** by Councilman Haverland **to establish a trust fund with the \$200,000 now set aside**, which was seconded by the Mayor. It was noted that implicit, explicit and buyout provisions are clearly stated in the contract. The **motion passed 2-1**, with Vice Mayor Weick dissenting.

- h. Ratify Gerald Solin to 4-year Term on Police & Firefighter's DB Pension Board
Discussed in 7. c. below

7. **Town Manager**

- a. Cell Tower Update

Mr. Stabe reported that it did not look promising for a cell tower going up in John's Island. Jason Sawyer, a representative for the carrier, informed us a few weeks ago that they are still doing RF studies. There is only one other place we are considering other than where our flag pole stands, and more information and updates will be provided as they are received. The Mayor noted that the Council are hearing a lot of complaints.

- b. December Calendar – Confirm Council Meeting 12-18 at 9 a.m. and Christmas Party 12-20

The Town Manager confirmed that the Council meeting will be on December 18 at 9 a.m., and the Town's Christmas party will be held on the 20th.

- c. Committee Appointments & Vacancies

A motion to accept Jerry Solin's resignation from the Finance Committee was made by Councilman Haverland with a second from Vice Mayor Weick, **which passed 3-0.**

A motion to ratify Mr. Solin to a 4-year term on the Police & Firefighter's Defined Benefit Pension Board was made by Vice Mayor Weick with support by Councilman Haverland, which **passed 3-0.**

A motion to accept John McCord's resignation as representative on the City of Vero Beach's Utilities Commission was made by Vice Mayor Weick, supported by Councilman Haverland, and **passed 3-0.**

A motion to approve Andrew Barton as Council's appointee on the Police-Firefighter's DB Pension Board was made by Councilman Haverland, seconded by Vice Mayor Weick, and **passed 3-0.**

A motion to accept the resignation of Tom Peschio from the Code Enforcement Board (CEB) was made by Councilman Haverland, and **passed 3-0** with support from Vice Mayor Weick.

Mr. Stabe said there are now openings for alternates on the Finance Committee and CEB.

- d. Departmental Reports (Building, Financial Balances, Public Safety) (No discussion or comments)

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

- a. Planning, Zoning & Variance Board 11-10-14 Meeting Report

Mr. Beardslee said the Minutes were provided, and there were no questions.

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

Vice Mayor Weick reported at the annual **Affordable Housing Advisory Committee (AHAC)** meeting, it was announced that \$660,000 had been received.

Mayor Barefoot announced that the mediation date has been set for December 17, which will be an open session with the mediator, the County, the Town and the City. It is not necessary for everyone to go, but all are welcome to attend and listen. There is not a time or location set as of yet, although a mediator has been chosen. Mr. Clem noted that this is the last of the public meetings.

9. **Call to Audience**

(No comments)

10. **Adjournment**

Having no further business, the Mayor adjourned the meeting at 6:02 p.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the December 18, 2014 meeting)