

MAYOR
THOMAS F. SLATER

VICE MAYOR
ROBERT F. AUWAERTER

COUNCIL:
JESSE L. "SAM" CARROLL, JR.
BRIAN T. FOLEY
DEBORAH H. PENISTON



TOWN MANAGER
ROBERT H. STABE, JR.

TOWN CLERK
LAURA ALDRICH

TOWN ATTORNEY
CHESTER CLEM

MINUTES REGULAR TOWN COUNCIL MEETING

Tuesday, December 11, 2018

9:00 a.m.

6001 SR A1A, Indian River Shores, FL 32963

1. Call to Order

- a. Invocation
- b. Pledge of Allegiance
- c. Roll Call

The meeting was called to order at 9 a.m. The invocation was given and the Pledge of Allegiance was recited before the Town Clerk called the roll as follows. ELECTED OFFICIALS: Mayor **Slater**, Vice Mayor **Auwaerter**, Councilmember **Peniston**, Councilman **Foley**, and Councilman **Carroll**. Also noted to be present were STAFF: Town Manager **Stabe**, Town Clerk **Aldrich**, PSD Chief **Rosell**; Exec. Asst. **Fentress**, Town Clerk Assistant **Pallo**, Building Official **Perry**; RESIDENTS: Brian **Barefoot** (John's Island); Nancy **Auwaerter** (Ocean Colony); Ralph **McCrae** (Pebble Beach Villas); Barry **Wiksten**, Bill **Driscoll**, Randy **Bennett**, Roger Teese(?), Jody **Baker**, Steve **Evans**, and T. **Hoffman**, (all from The Shores); GUESTS: Amy **Adams**, Canaveral Scientific; Mike **Korpar**, Sam **Nelson** and Jim **Moller**, John's Island.

2. Agenda Reordering, Deletions, or Emergency Additions

Mayor Slater announced that after discussion with The Shores, Mr. Driscoll's encore presentation was withdrawn from the agenda. Mr. Stabe requested to **add two change orders** that he received late yesterday to the agenda as discussion items **under Item 7**, which was followed by Vice Mayor Auwaerter requesting to address **two items related to collective bargaining for discussion** to be added as **Item 9c** for review prior to the Closed Executive session later today at 3. A **motion to approve the amended agenda** was made by Vice Mayor Auwaerter and seconded by Councilman Foley, which **passed 5-0**.

3. Presentations/Proclamations

- a. Old Winter Beach Road Presentation (Repeat) (Bill Driscoll) – *Item withdrawn*.

4. Consent Agenda

- a. Approval of November 19, Organizational Meeting Minutes
- b. Approval of November 19, 2018 Regular Town Council Meeting Minutes
- c. Approval of November 29, 2018 Special Called Town Council Meeting (Town Manager Candidates) Minutes
- d. Approval of Invoice Dated November 30, 2018 from Town Attorney
- e. Approval of Holland & Knight Invoices Dated October 26, November 28 & November 30, 2018

A motion was made by Councilmember Peniston and seconded by Councilman Carroll **to approve the consent agenda as presented**, which **passed 5-0**.

5. Town Attorney – Nothing to report.

6. Mayor's Items

Mayor Slater offered a review of this year's accomplishments, citing the 12-year battle with the City of Vero Beach about their electric utility, which was finally being sold to FPL, as there is little likelihood that it will proceed to the Supreme Court as they have never received nor heard a case like this one. The cell tower is another major accomplishment, with AT&T up and operating, and by February we are anticipating Verizon to also be active. The high performance of our Public Safety Department, especially the life-saving rescue activity last month in Sebastian Inlet is noteworthy. The A1A widening of bike lanes with an on-demand light at Fred Tuerk is another major project that was many years in the making. The pension plans are over 100% funded, which took a number of years. The Town and the Council deserve congratulations for all of the accomplishments this year.

7. **Discussion with Possible or Probable Action** (9:08)

a. The Shores POA Possible Settlement Agreement Regarding Old Winter Beach Road (Town Manager)

Former Mayor Barefoot was asked to be an intermediary for the Town in this matter, and Mr. Barefoot addressed the status of the project by recapping that over the past year, the Town secured funds to address the Old Winter Beach Road flooding issue. The State's and Town's \$1.2 million in fund money had to be spent within a certain timeframe, and after a delay caused by a tropical storm the Town Manager had to request and received an extension for when project's completion. The definition of landscaping was clarified, and the mess that the residents have had to cope with among other matters have been addressed. There have been meetings with Mr. Barefoot, the residents some of The Shores' Board members, project manager Amy Adams, the Town Attorney, and others who have been involved with the project. The Board of Directors of The Shores approved an agreement that has been reached that the Town will compensate The Shores \$110,000. Importantly, the road had to be moved 25' due to misalignment within the existing easement, so there was a first easement on the West end of the property, to accommodate the 25' movement of the road. They also dealt with John's Island Management to accommodate pipes that had to be laid under the road for reuse irrigation lines, and work to be done at the east end. He recommended that the Council **accept and approve the \$110,000 compensation to The Shores** as they understood they would be compensated **for destruction of the landscaped property**. This will be formalized in a written agreement by the Town Attorney and allow everyone to move forward.

Mayor Slater asked if this was a global settlement whereby The Shores releases the Town from further obligations, and the former Mayor affirmed. Vice Mayor Auwaerter asked which funds this will be drawn from, and was told it will be determined later between the Attorney, Town Manager, Treasurer and Project Manager for the best interest of the Town.

Councilman Foley thanked former Mayor Barefoot and the residents of The Shores for coming forward on this, and he is delighted for the excellent post-dispute resolution that the Town was able to agree on with The Shores.

Mayor Slater asked for a resolution authorizing the Town Manager to agree up to \$110,000 if the Shores POA is in agreement. Mr. Clem said he will come up with an agreement in a simple format that will settle the issue as far as The Shores is concerned. It will have to come back to Council for final approval. A **motion to approve up to \$110,000 for a global settlement with The Shores conditioned upon The Shores approval** was made by Mayor Slater and seconded by Councilmember Peniston, which **passed 5-0**. The Mayor thanked Brian Barefoot for his good work on this.

Mr. Driscoll, The Shores, also thanked the Council and Brian Barefoot for the reasonable gesture to the betterment of the Town, adding they appreciated this.

b. April Meeting Date Change (Councilman Carroll) (9:20)

Councilman Carroll said he had a conflict with Council meeting scheduled for April 25th, and suggested April 22nd in the morning or any day the prior week. Monday, April 22nd at 9 a.m. was agreeable to all of the Council. A **motion to change the regular Town Council meeting date from Thursday, April 25th to Monday, April 22nd** was made by Councilman Carroll and supported by Vice Mayor Auwaerter, **passing 5-0**.

c. Variance for 271 Indian Harbor Road for 6.3' to Rear Setback (Chris Hendricks/Chester Clem) (9:21)

Mr. Clem addressed this item brought forward from the Planning, Zoning & Variance Board that was discussed yesterday, a home that was built on Indian Harbor Road in the 1970's with some encroachment that needs to be approved in order to conform to our Code so that they may sell the property. A **motion to approve the variance requested for 271 Indian Harbor Road for 6.3' to the rear setback** was made by Vice Mayor Auwaerter and seconded by Councilmember Peniston, which **passed 5-0**.

d. Donate 2 PSD Surplus Vehicles to Panhandle Community in Need After Hurricane Michael (Chief Rosell)

Chief Rosell said the State Police Association contacted him regarding Blountstown, a city in the Florida Panhandle, that had their public buildings severely damaged by Hurricane Michael. Donations have been requested for vehicles, in particular, to get them through until their replacement vehicles are supplied through FEMA/Insurance. We have tried to auction our surplus vehicles, and only received about \$500 for them. We have two that we were getting ready to auction, and respectfully ask that the Council approve them as a donation instead. The Vice Mayor agreed, noting that the County and municipality where they are needed are not affluent. A **motion to approve donating two surplus Public Safety patrol vehicles to a community in need** was made by Councilman Carroll with support from Councilman Foley, which **passed 5-0**.

e. Addition to Agenda – Old Winter Beach Change Order 7 and 8 (9:24)

Mr. Stabe apologized for the late additions, which were received late yesterday and are needed prior to the meeting at the end of January. Change Order 7 changes asphalt from one 2' lift, or pavement height, to two 1 ½" lifts, for \$64,826 for an extra 1 ½" height. The concern by Mancil's was that it is difficult to put pavement down and move the equipment on top of the newly paved area, and the product is not smoothly finished. This

also gives an opportunity, since we have an agreement with the Shores, to add the sprinklers and plantings without damaging the road. It supports a higher level of road traffic, and the Indian River County Public Works Director agrees with this improvement for 5-8 years longer service of the road.

Change Order 8, Mr. Stabe continued, dovetails into this. The first 1,000' of Old Winter Beach Road from A1A was to be milled and resurfaced, but the sub-base was too thin. The engineer, Mancil's and the County all recommend full depth restoration by injecting cement, asphalt and base together for more strength in the road. This is a County Road, and according to the County Administrator and their Public Works Director, they have agreed to participate financially to correct this deficit. At a minimum, they will split the cost of this Change Order 8. There are three (3) vendors who do this, Mancil's and two others. We do not know our final cost. Mr. Barefoot agreed that it was the County's intention to split the cost. **The motion was made to approve Change Order 7 for two 1 ½" lifts and Change Order 8 for full depth reclamation, with Change Order 8 not to exceed \$30,586.01** by Vice Mayor Auwaerter and seconded by Councilman Foley, which **passed 5-0**. The Mayor noted a lesson was learned, that we always will be thorough before we look at future projects like this, such as considering landscaping and irrigation, and the surprise that it was not properly built in the right-of-way.

(Lisa Zahner arrived 9:36 a.m.)

8. Town Manager Updates

- a. Departmental Reports (Building, Finance, Town Clerk, Public Safety)
Departmental reports were provided with no questions.

9. Council/Committee Reports or Non-Action Items

(MPO, EDC, TCCLG, TCRPC, IRC PSC Citizen's Oversight Committee, CoVB Utilities Commission)

- a. Committee Reports

Councilman Foley went to TCCLG, and said there was nothing significant to report.

- b. Informational Updates or Comments

Town Clerk Aldrich thanked the Council for allowing her to have a full-time assistant, and said she was thrilled to introduce Michelle "Chelley" Pallo, who started yesterday. The Council welcomed her.

Chief Rosell reported they have closed out accounting on Hurricane Michael, and the residents of Indian River Shores have donated over \$15,000. Some public safety officers had made trips to the Panhandle, first with the City of Sebastian Police Department, once with a resident who donated his plane and time to fly officers there with a load of relief items, and a third trip with a church group to feed Thanksgiving dinner to 400 people. He appreciated it all very much. Mayor Slater thanked him and the Department, calling us a very blessed Town to be able to do this.

Two spreadsheets were provided by Vice Mayor Auwaerter for review prior to the executive closed session for collective bargaining. The first spreadsheet shows Defined Benefit Plan contribution funds for the pension for each Fiscal Year. The sources of funds are the members, the Town, then the 175/185 Pension fund from taxes collected as part of insurance premiums for homes and vehicles. Per the Union agreement, the Town hands this all to the PSD personnel. No other municipality does this like our Town does except St. Lucie County, and Indian River County allows a very tiny portion to go to the officers. The Town provides the entire 175/185 funds, although the Town could retain them. The personnel receive more dollars from the 175/185 plan than they contribute to the plan, aggregately.

The second spreadsheet has a union analysis from the Treasurer, to which he added two rows of change versus baseline if the contract continues to stay in force. This is for review prior to the 3 pm Council Closed executive session. The Mayor wanted to make sure the PSD is well-compensated and the Town is fair about it.

10. Call to Audience

11. Adjournment (9:46)

Respectfully submitted,
meeting.

Approved by Council at the January 24, 2019 Regular Town Council

/s
Laura Aldrich, MMC
Town Clerk