



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

REGULAR TOWN COUNCIL MEETING

Thursday, December 14, 2017

8:00 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
Heather Christmas, Treasurer
Jose Guanch, Building Department
Laura Aldrich, Town Clerk
Rich Rosell, Director PSD
Mark Shaw, PSD

OTHERS PRESENT: RESIDENTS: Bill Cull – Sea Forest & Joanne Sardella – Pebble Lane, Finance Committee; Joe Baird, Sea Watch; Nancy Auwaerter, Ocean Colony; Melissa Mittag, The Estuary; GUESTS: John Culbertson, MSW Consultants; Jim Moller, JIPOA; Dylan Reingold, Indian River County; Scott Floyd (arr. 9:23), Republic Services; Bob DeLaCruz & Kurt Hawker, Waste Management; REPORTERS Janet Begley, Press Journal, and Lisa Zahner (arr. 8:50), VB 32963

1. Call to Order

- a. Invocation – Vice Mayor Ochsner
- b. Pledge of Allegiance
- c. Roll Call – Town Clerk

The meeting was called to order by Mayor Barefoot at 8:04 a.m. The invocation and Pledge of Allegiance were followed by the roll call as reflected above.

2. Agenda Reordering, Deletions or Emergency Additions. None.

3. Proclamations / Presentations. None.

4. Consent Agenda

- a. Approval of November 13, 2017 Planning, Zoning & Variance Board Minutes
- b. Approval of November 16, 2017 Regular Town Council Meeting Minutes
- c. Approval of Invoice from Town Attorney dated November 30, 2017
- d. Approval of PSD Request to Purchase 5 Replacement MSA Cylinders Per 2017-18 Budget
- e. Approval of PSD Purchase of 2018 Chevy Tahoe as Budgeted for Chief Rosell

With no discussion, a **motion** by Councilman Haverland with support from Councilman Auwaerter **to approve the consent agenda passed 5-0.**

5. Town Attorney (8:08)

- a. Resolution 17-10, Urging Opposition to SB 574 & HB 521 Which Attack Home Rule

Councilman Auwaerter said this relates to SB 574 and HB 521 that one senator wants to preempt tree cutting and removal restrictions. It was noted that every governmental body is against this, and the Town Clerk should include this in the news alerts so the residents also may contact the legislature. The FLC has numerous editorials on this as well, and the City of Vero Beach Council has passed the resolution.

Mr. Clem read the Resolution printed by title as follows:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO OPPOSE SENATE BILL (SB) 574 AND HOUSE BILL (HB) 521, WHICH ATTACK HOME RULE POWER BY PREEMPTING TO THE STATE REGULATIONS THAT RESTRICT THE REMOVAL AND TRIMMING OF CERTAIN TYPES OF TREES THAT ARE INTEGRAL TO THE CHARACTER OF OUR TOWN; AUTHORIZING TRANSMISSION OF THE

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.

RESOLUTION TO PERTINENT PARTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

With no further discussion, a **motion to pass Resolution 17-10 as presented** was made by Vice Mayor Ochsner with support from Councilman Auwaerter, **which passed 5-0.**

b. Resolution 17-11, Supporting Proposal 61 of the Constitutional Revision Commission (8:13)

Councilman Auwaerter said this Proposal to amend the constitutional provision that limits the legislature by allowing only one preemption and requires a 48-hour notice, so extraneous items aren't pushed through. It requires 2/3 vote of the House. It is proposed to the local government committee, on which our County Commissioner representative Bob Solari sits. Mayor Barefoot and Councilman Auwaerter discussed this prior to the Town Attorney reading the Resolution by title as printed below, and the remainder of the content:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, URGING MEMBERS OF THE FLORIDA CONSTITUTIONAL REVISION COMMISSION TO PLACE PROPOSAL 61, WHICH AMENDS THE FLORIDA CONSTITUTION TO CREATE A HIGH BAR THAT THE FLORIDA STATE LEGISLATURE MUST EXCEED TO PREEMPT LOCAL REGULATIONS, ON THE BALLOT IN 2018 FOR CONSIDERATION BY ALL THE VOTERS OF THE STATE OF FLORIDA; AUTHORIZING TRANSMISSION OF THE RESOLUTION TO THE FLORIDA CONSTITUTIONAL REVISION COMMISSION, THE INDIAN RIVER COUNTY LEGISLATIVE DELEGATION, THE FLORIDA LEAGUE OF CITIES, AND OTHER INTERESTED PARTIES; AND PROVIDING AN EFFECTIVE DATE.

A **motion to approve Resolution 17-11 passed 5-0** upon being made by Vice Mayor Ochsner and seconded by Councilman Auwaerter.

c. John's Island/Indian River County New Reuse Water Line (8:18)

Mr. Clem wanted the Council to be aware of the subaqueous line and contract that has been entered into between the County and the John's Island Water Management District (JI WMD). He asked the Council to review the agreement in the interim period before a workshop meeting to discuss reuse water in general is called for some time early next year to discuss what it is like now and what it would look like going forward. This is not something that Staff should be making the decision on without the Council's direction.

Mr. Clem said we have not been part of this contract, and the County and the JI WMD have a very important provision included that the Town must grant a franchise agreement. Our water and reuse water system should be well understood by the Council, he added.

Vice Mayor Ochsner agreed, adding that there have been reuse problems for years, and it requires the County, the City and the Town getting together to resolve them. While the million-gallon tank didn't settle our reuse problems, adding another pipe to create a loop to stabilize the pressure may be a solution to investigate. Mr. Clem said he has a memo ready to send to the Council and a copy of the contract that has already been entered into between those two parties. It is a 2-step process, first they agree to have a contract, then the Town approves before they can move forward. Mr. Clem said it is very clear to him and to Mr. Stabe that the City of Vero Beach Manager Jim O'Connor and their Water Utility Director Rob Bolton will need to be involved, as these are 25-year issues. Mr. Clem noted there are many developments which are not being served, and it could be considered to be a "taking" by one neighborhood that impacts others.

Councilman Haverland asked Mr. Moller if this is time sensitive, and he replied that they are working with DEP on permits and plan to start the project this summer. He requested an answer by February.

On a related note, Mayor Barefoot asked if Florida Gas was still interested in bringing a line under the river, and Mr. Moller said some preliminary work has been done, but they have not been provided with any cost savings numbers by Florida Gas.

6. **Mayor's Items** (8:28)

Mayor Barefoot mentioned that at the Taxpayer Association luncheon yesterday, it was reported that 10 of 19 municipalities have already approved the **sale of the City of Vero Beach Electric utility to FPL**, and more approvals are expected next week. There are still one or two questionable member city votes to gain before the February FMPA Board meeting.

He also briefly discussed the Hospital Board meeting.

7. **Discussion with Possible or Probable Action** (8:35)

a. Ambulance Fees Analysis as Requested (Town Treasurer)

Mrs. Christmas explained at the last meeting, she was directed to explore using a collection service for ambulance fees rather than writing off those that are uncollected. Her recommendation is not to use an agency for this service, as it would only be for about \$1,000 year, and the internal controls and time involved reveal a cost-benefit analysis that is unfavorable to pursue this. If the Council directs, she will do this, she added, and is prepared to offer the names of agencies as recommended by the billing agency.

Councilman Haverland recounted how this works, and received clarification that we aren't reimbursed by someone who doesn't have insurance, who could be non-residents. Our net is 96% of what is eligible, or \$4,000 attributed to uninsured filers. Mayor Barefoot and the Council all agreed to leave it as it is.

b. Sick Leave Analysis as Requested (Town Treasurer) (8:38)

Mr. Stabe said this was discussed at length at the last meeting, and Mrs. Christmas had done an extensive analysis. The Mayor also met with her and had done his own analysis. Over the past 10 years, there are no deviations of significance. She found that the unadjusted sick leave rates based on historical averages compared to national averages for municipalities for general employees and for the healthcare industry nationwide, and based on the unadjusted numbers our PSD officers use about two days per employee more on annual basis. After adjusting for employees with extended leave (hospitalization, paternal/maternal, etc.), it's about one day more than the national average. He said his opinion is after significant analysis, this is an administrative issue. Chief Rosell keeps a close eye on this, and he recommends that we continue to monitor this closely. The Contract negotiations is the time to address any changes. Workers Compensation is not included in the numbers, nor are partial shifts.

Councilman Auwaerter said a report like the one provided for November sick leave may be helpful to continue to receive, Councilman Haverland said this was triggered by budgeting what may be unrealistic numbers that assumed an 8% absenteeism rate. Mayor Barefoot thanked Mrs. Christmas for providing the information, which was a lot of work but very helpful.

c. Solid Waste Franchise Agreement 2018-2023 (Town Manager) (8:44)

Mr. Stabe had provided the franchise agreement, scope of services and rates ahead of an additional memo dated December 11 that compared current waste/recycling rates with proposed rates which had been requested by a councilmember. The franchise agreement for twice a week (curbside/side door/back door/in-ground) solid waste pickup should be signed by Republic Services' regional manager later today and then it will be overnighted to us. He asked for approval to have the Town sign what we have now and then replace the signature pages, as time is of the essence in notifying the residents, HOAs and others in the Town.

One councilman noted the "dramatically different" cost increase for back door service of 100% versus a 19% increase for curbside. A quick discussion ensued about the sale of the Treasure Coast Services franchise to Republic Services, the commercial (condominium pricing) aside from the Town's assistance, whether the Town is responsible to negotiate on their behalf, the competitive bid process, and the resultant best pricing received.

John Culbertson, Principle of MSW Consultants, said Indian River Shores is very unique, and residents should expect a high premium for the unique service demands. The County went in one direction for recycling and didn't include the Town in their contract, and the exclusive franchise in addition to trash and yard waste now includes multi-family trash and roll off construction renovation market. Historically, before the Town began working on this, there was no governance in the commercial venue, so they had to come up with transparency and consistency. Because of truly premium services, the Town conducted time and motion studies, and this tiered rate structure for curb and back door is supported by this analysis. The blend of commercial, multifamily, roll-off and single-family rate structures has caused all the bidders to have similar rates. Mr. Culbertson said he suspects the roll-off and commercial rates helped to keep single family rates artificially lower in the past, since only residential pricing was set by the franchise. This is now a level rate structure, he said.

A question regarding a broad enough market search for bids was responded to by Mr. Culbertson stating that we had three (3) bids from three highly qualified organizations that service this area, which is good for small town comparison rather than a larger service area that could yield better pricing, like Indian River County's 70,000 households. It was noted that the Waste Management (WM) proposal included charging the residents for purchasing a \$500,000 truck. Mr. Culbertson continued by sharing concern with the unforeseen outcome that the Town's recycling was not able to be "tucked into" the County's recycling procurement even though all of the residents are charged an assessment, which drew some discussion about failed expectations that are driving the temporary extension of the recycling agreement. The County's quota for recycling was mentioned and the disincentive that higher rates can cause.

Joe Baird spoke on behalf of Republic Services to explain level of service, stating they bid on automated trucks to pick up recycling, which is not concierge service. Automated trucks yield the same price everywhere. It's very complicated and time/motion studies are critical, as the Town has a whole different level of service than the County. Everyone bid what it takes to do service to the Town's residents as they are accustomed. It was noted that regardless of service, we will have trucks that don't fit into our communities to pick up the big bins. One elected official asked if a large user can opt out, and was told that the Town doesn't allow that as the Code requires mandatory pickup of garbage. The convenience center and the landfill are always accessible to our residents.

Mr. Clem said the franchise runs out at the end of the year and the contract before them is for solid waste. The recycling will be extended for four (4) months if the Council agrees. Mr. Stabe said before Republic Services lost their contract with the County, he as a County resident had to pay more for once a week trash and recycle service than someone who lived on Ocean Drive in John's Island who had their waste and recycle picked up from a 600' long driveway walk. That how good of a deal the Town's residents were getting.

After more minor discussion, a **motion to approve the solid waste franchise agreement and to authorize the Mayor to execute the agreement on behalf of the Town passed 5-0** as made by Councilmember Peniston with support from Vice Mayor Ochsner.

The annual rate adjustment as stated on Page 12, paragraph 9.2, which should be adjusted to NTE 3% annually, was questioned if it was addressed. Using the last sentence as the calculator yields 25% higher rates, the Vice Mayor added, which Mr. Clem said are set to a maximum 3% increase. Councilman Auwaerter agreed this must be fixed to reflect $1.036 \times 75\%$ as the actual increase as the Vice Mayor explained, and to remove the ambiguity. Mr. Culbertson thanked them for catching that, said they will align the formula with the sentiment. In order to go forward with this, the Town Attorney advised Republic to make the change and insert it, then the Mayor can sign the corrected agreement so we do have a contract in place.

Councilmember Peniston **amended her motion to include the change to paragraph 9.2 reflecting the formula rewording as discussed**, which was seconded by Vice Mayor Ochsner. One more question about the annual rate adjustment based on the CPI and any federal, state and local entity being the only basis for charge was asked by Councilman Auwaerter, which Mr. Culbertson affirmed, adding that there could be an additional "pass-through" cost for roll-off service for a remodeling job for the tipping fee if it is excessive. **The motion passed 5-0.**

d. Republic Services Contract Extension for Recycling Services (9:27)

Mr. Stabe explained that this fourth amendment to the Waste Hauling Agreement is for the four-month extension at the new proposed recycling rates. A **motion to approve the contract amendment for recycling services with Republic Services** was made by Vice Mayor Ochsner with support from Councilman Haverland, **passing 5-0.**

e. Promotion of PSD Lieutenant Mark Shaw to Captain (Chief Rosell/Lt. Shaw) (9:28)

Chief Rosell announced that ahead of attending the FBI Academy in January, Lt. Mark Shaw was being promoted today to Captain. The Council offered kind comments of congratulations.

8. **Town Manager** (9:29)

a. Public Safety Salary/Benefit Study Update

Mr. Stabe said that Dave Everetsen, Municipal Solutions, has been successful in locating 113 municipalities nationwide who require triple-trained officers. He is attempting to secure data from 30 of these agencies, and will have initial draft report ready for an electronic meeting with the Finance Committee members in late January. A councilmember expressed that it will hopefully be weighted towards Florida or southern states, and the Town Manager Stabe said there aren't many left in the State of Florida, but they will factor in other considerations. Another councilmember said the focus is likely the paramedic versus EMT benefits. A comment about bigger city governments and police unions being very different from our PSD was responded to that the likelihood of a large-scale agency with triple trained officers is minimal.

b. Cell Tower Update (9:33)

The Town Manager said that the drilling began on Monday this week, and as of yesterday had easily gone 49' and they were cleaning out the hole. They did not have to use bentonite, just a polymer with soda ash. More than 25-7' long bolts, each secured with a five-pound nut to hold the tower, will be set in concrete above the surface to secure the tower. Samples of concrete taken during the pour will be pressurized tested to ensure it meets/exceeds the required PSI. This Saturday there will be 17 trucks delivering concrete to the

site. Our DataPath Representative was here Monday to take and send photos to other carriers in an attempt to draw their interest in placement on the Tower now than construction is underway.

c. Community Center Update (9:37)

Town Manager Stabe said the civil engineering drawings including the Mechanical, Electrical and Plumbing (MEP) are being done now, and then we will be able to put together a bid package. The timeline will be no rentals beginning in March, demolition in April, and construction immediately following. There is a possibility that we can have it done earlier than the necessary November election date. Building Official Guanch will be assisting in preparing the bid package and specs.

Mayor Barefoot asked if the Bridge Center is using this, and two councilmembers mentioned that the attendance is falling, and the game structure has been changed so that they are now are peaking at eight tables (down from 18 last year) in the morning and four in the afternoon.

d. Pedestrian Crosswalk at Fred Tuerk & A1A Update

There is a positive response from FDoT that they will install a crosswalk. Some residents are questioning the need for a fully actuated traffic signal, which is something the Town has never requested, only a pedestrian crosswalk. The **FDoT** responded that they analyzed it extensively, and *they proposed the safest solution* with minimal affects to traffic. Timing adjustments of the signal should help prevent any traffic backup, and adding a left turn lane on Fred Tuerk will be addressed in the future if timing cannot resolve this. Councilman Auwaerter offered that “fully actuated” means if a vehicle approaches the light, it hits a loop underground that trips the light by weight of the vehicle, or a pressed button by a pedestrian. The timing interval will not allow immediate reactivation, and the vehicle on Fred Tuerk or Beachcomber must have a few seconds to stop and make a right turn on red without activating the light. A recommendation was made for a Public Safety Officer to be at the light when it first becomes active in December 2018. Mr. Stabe added that they are putting in all new infrastructure.

e. Traffic Camera Statistics (Chief Rosell/Lt. Shaw) (9:45)

Chief Rosell said their vendor who supplies the statistics, Indian River County, still is not able to provide any data, although it is being collected.

Councilman Haverland questioned if there is a delineation or marker between Town and County limits on Jungle Trail (there is none), and if having a camera on Jungle Trail is a good idea. It seemed to him to be a lot of money for not a lot of traffic. Vice Mayor Ochsner said the traffic is irrelevant, it’s to help catch the bad guys and is mainly used for investigative purposes. The Councilman had more questions, and Chief offered to get statistics. Duck hunting was discussed briefly, with no random gunfire lately.

f. Departmental Reports (Building, Finance, Town Clerk, Public Safety) (9:51)

Councilman Haverland noted that the **Building Department**’s report is a significant improvement, with discussion about the timeliness of inspections and the standard to be noted on the report. Minor inspections such as a fence may be rolled over due to a large job inspection or an excessive load in one day. In another local jurisdiction it takes 30 days for plan reviews, while here we have 15 days for plan review.

Mr. Guanch gave end of year highlights. The Building Department also does scanning, and last year scanned 6,600 large documents, 39,000 small format documents, answered 9,000 phone calls, issued 53 new single-family construction permits, and had 229 demolitions. There are 203 active new Single-Family Residences being planned, 5,200 inspections were completed in 2017, and about 462 plans were reviewed. In 2017 there were 53 Certificate of Occupancy's issued.

Councilmember Peniston noted that the fees collected this year more than doubled, which he explained were due to some very big projects, which have higher fees involved due to the amount of time they take in comparison. He added that they have been working with the Town Clerk on the website, and will have the ability to have open permits searchable, it should be up and running in a week or two.

Mrs. Christmas said they are in the middle of the audit right now, and PSD will be over budget about \$35,000 because of workers comp, and we had cut the budget for OT. Also, we received the actuarial valuation from Foster and Foster at the last Pension Board meeting, and will be able to reduce the contribution to 36.34% of salary. Two employees entered drop last year which changed the percentage, and even though some cushion was built in, we will be \$125,000 short for pension from what is budgeted. The Town is fully (over) funded in OPEB, so there is no contribution needed this year, which could help with this.

9. Council / Committee Reports or Non-Action Items (9:59)

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

TCRLC – No meeting.

TCCLG – Councilman Haverland attended and said there was nothing of significance to report.

Beach & Shores Preservation – Vice Mayor Ochsner reported that two of Councilman Auwaerter’s neighbors were there for the discussion of Sector 4 with James Gray, County Coastal Engineer, where he confirmed that it is eroding faster than Sector 3, which is critically eroded. At the meeting, Vice Mayor Ochsner asked what needed to be done to change the designation to critically eroded beach for Sector 4, and was told it will be done as part of the process of updating the designation plan. Meanwhile, the Vice Mayor will be setting up a meeting with Commissioner O’ Bryan to try to speed up the process.

MPO Councilman Haverland yesterday, and the focus was on eliminating cars on Jungle Trail, which doesn't look like it will happen.

Councilman Auwaerter and Councilmember Peniston had no reports.

10. **Call to Audience** (10:01)

Jim Moller, JIPOA, Jim Moller, said John’s Island is in the process of dune restoration, as they have the DEP permit. Bids were requested bids from six (6) contractors for 64,000 tons of sand, which will be opened today. The project should start January 2nd with sand placement on the entire length of John’s Island. They are also trying to get Sector 4 designated as critically eroded, as only four homes in the development are in Sector 3. The beach renourishment is fully funded by John’s Island as they can't get funds because it is not critically eroded.

Beach Access - Mr. Stabe added that bids are being sought for the Beachcomber dune crossover repair, with the engineering firm doing drawings for the bid. On Beachcomber Lane, the residents can use the ATV access, which is relatively steep. The repairs are being done through FEMA funds, and will be done as quickly as possible.

11. **Adjournment.** The Mayor wished everyone a Merry Christmas before adjourning the meeting at 10:05 a.m.

Respectfully submitted,

/s
Laura Aldrich, Town Clerk

(Approved by the Town Council at the [January 25, 2018](#) meeting)