



MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963
SPECIAL CALLED TOWN COUNCIL MEETING
Monday, February 2, 2015
2:30 p.m.

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

STAFF PRESENT: **Robert Stabe**, Town Manager
Chester Clem, Town Attorney
Laura Aldrich, Town Clerk
Adam Brobst, Public Works

RESIDENTS: Barbara Palumbo (PZV); Bob Auerwater, Finance Committee; Vince George, Patty Gundy, John McCord, Joan Volkert, Will McDermott, & two others

GUESTS: **Jim Moller**, JIPOA; **Jason Brown**, IRC Budget Director; Reporters **Meg Laughlin**, VB 32963 & **Colleen Wixon**, Press Journal; VB Resident Mark Mucher

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation (Councilman Slater)
- c. Roll Call

Mayor Barefoot called the meeting to order at 2:30 p.m. with the Pledge of Allegiance and Invocation repeated. Town Clerk Aldrich called the Council role as shown above.

2. **Florida Auditor General's Operational Audit of the FMPA & City of Vero Beach's Plans in Response**

Mayor Barefoot opened by stating that today is not about our lawsuit with the City, of which the core is to protect our residents and control our utility destiny. That lawsuit is in abeyance. We and the City of Vero Beach should have shared concerns with the preliminary FMPA Audit findings, and the opportunity it presents to push for the FMPA to get ready for a proposed sale to FPL. We have the details of the audit, which are highlighted as:

1. "Inconsistent with industry practice" is repeated over and over again in the audit. These practices include fuel hedging, engaging in interest rate swaps, and overly generous expenses (travel, entertainment, and benefits and salary).
2. These inconsistencies resulted in losses over \$350 million; the costs are passed down to the FMPA-member utilities, including the City and our residents. These imprudent business decisions have led to huge increases in rates that continue to plague our citizens.

Other member-cities of the FMPA, including Green Cove Springs, have recently expressed outrage at the mismanagement. The City agreed to work with FMPA as part of our mediated agreement that is keeping the lawsuit in abeyance, to ask them to stop their opposition to the sale and work toward a solution to allow it to move forward.

Now, last week the City had a special called meeting to discuss the audit. Mayor Barefoot stated he thinks the City made a good decision to call for FMPA to make necessary changes to ensure the mistakes they've made will never be repeated. However, they did not discuss how to hold FMPA accountable for the mistakes they've made and damages they've caused the residents in our communities. There also was no discussion about having FMPA drop its opposition to the sale of Vero's electric system to FPL.

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.

The Mayor said he believes this could be a missed opportunity, and hopes they will discuss it at their Council meeting tomorrow. He encouraged them to watch both County and City meetings about the FMPA Audit on television, as he had, and which were attended by the Town Manager, Vice Mayor and Town Attorney.

Councilman Haverland added it seemed to him that not only are the executives of the FMPA liable for gross mismanagement, but the improper selection of investment bankers, auditors and bond council were involved in either gross mismanagement or fraud. He hopes the City would seek reimbursement for their losses from these entities who have obscured what was going on at the FMPA.

Mayor Barefoot said most businesses rotate auditors every 3-5 years, and they had the same auditor for over 20 years. They could keep borrowing to fund their losses with no oversight by anyone. Councilman Slater and Vice Mayor Weick commented about the self-perpetuating losses. Local governments have oversight, and they should also. This is outrageous, which is why we are fighting this battle.

Mark Mucher, 617 Indian Lilac Road, City of Vero Beach, spoke at both the County and City meetings, and requested both groups to consider a Phase II audit. He said Mayor Barefoot gave a good explanation, and added one more thing: the City has been a member of the FMPA for almost 40 years. The City has paid their share of debt, and now the FMPA says the City has negative \$100 million equity. The City's equity should be addressed. The County Commission received the recommendation well, but the City Council didn't seem interested at all. He asked the Town Council to also push for a Phase II audit.

Councilman Haverland agreed, this is an unconsolidated entity. They are responsible for things that didn't show up on the balance sheet. There should be a demand for an audit to show the market value of the assets and liabilities on the equity. They have a grossly underfunded medical retirement liability and underfunded pension plan. This might suggest they have the option of getting out of the legal contracts. Mr. Mucher said the City has been trying to get out of the all-requirements project of the FMPA for many years, and the FMPA still wants a check for \$46 million to dissolve their membership in this project, not including the negative value of "entitlement contracts" that require them to purchase high priced electricity from Stanton, Stanton II and St. Lucie Nuclear.

3. **Proposed Resolution 15-01 (Mayor Barefoot)**

Mayor Barefoot read the draft of Resolution 15-01 in its entirety, which is printed by title below:

**A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA
REGARDING THE FLORIDA AUDITOR GENERAL'S OPERATIONAL
AUDIT OF THE FLORIDA MUNICIPAL POWER AGENCY (FMPA) AND
THE PLANS OF THE CITY OF VERO BEACH IN RESPONSE TO THAT
AUDIT**

There were 13 points made in the resolution regarding the Auditor General's Operational Audit which was just released as preliminary findings on January 21, 2015. It encourages the City to meet as soon as possible with the FMPA as part of the City's obligations under the Interim Mediation Agreement to try to resolve the lawsuit by working with the FMPA "to effectuate the sale of the City's electric utility system to FPL." As part of that meeting the Town encourages the City to:

- a) Discuss with FMPA the findings in the audit report including, but not limited to, the FMPA's hedging and swap losses;
- b) Discuss with FMPA the need for the City to promptly recover the damages that its electric customers have suffered; and
- c) Request that the FMPA end its opposition to the sale of the City's electric utility system to FPL, and take whatever action is necessary to allow that sale to move forward.

Vice Mayor Weick suggested that they add Mr. Mucher's suggestion under a) for the Phase II audit.

Councilman Haverland said what you want is a market appraisal of the assets and liabilities that are related to the Town's FMPA obligations to the City. With more discussion, they came up with a **new item a**:

- a) Discuss with the FMPA the need for an immediate market valuation by an independent auditor of all assets and liabilities associated with the City of Vero Beach and its contractual arrangements with FMPA.

Then it would be renumbered from a., b., and c. to b., c., and d.

Mr. Mucher suggested that this be addressed with the Auditor General, rather than the FMPA. It came out in the County Commission meeting that the legislature had budgeted for this and it was not noticeably expended. That could provide the funding and leave FMPA out of the request.

There was discussion about who should address this action, and about FMPA not fulfilling their obligations. They **reworded item (formerly a)** to:

b) Request that City demand that FMPA promptly recover the damages that its electric customers have suffered; and

Mr. Clem and the Council agreed that this wording is fine.

Mayor Barefoot reminded them that the City is required to pursue dialog with FMPA. This is putting “a little more meat on the bone” for the City.

Jason Brown, County Budget Director, spoke on behalf of the County Administrator and County Attorney who are on their way to Tallahassee. The County has requested an accounting of the \$200,000 that was set aside to perform this audit, as they believe it was completed by in-house AG staff, and a fair market evaluation of the generation assets, which looking at their financial statements, is shown based on book value.

With the Resolution rewording in Section 2 to be verified and completed by the Town Clerk, a **motion to approve Resolution 15-01 with recommended changes** was made by Vice Mayor Weick with a second from Councilman Ochsner, which **passed 5-0**.

Procedurally, this will be delivered this afternoon by the Town Manager with a cover letter that has already been prepared to the Vero Beach City Council.

4. **Adjournment**

Having no further comments or business, the Mayor adjourned the meeting at 3:07 p.m.

Respectfully submitted,

/s
Laura Aldrich, Town Clerk

*(Approved by the Town Council at the **February 26, 2015** meeting)*