



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

REGULAR TOWN COUNCIL MEETING

Thursday, February 23, 2017

9:00 a.m.

(immediately following DB General Employee's Pension Board meeting)

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
Rich Rosell, Director of Public Safety

Laura Aldrich, Town Clerk
Heather Christmas, Finance
Jose Guanch, Building Official

OTHERS PRESENT:

Andrew Sowers & Randy Rogers, Finance Committee; **Chris Hendricks**, PZV Board Chairman; **Jim Moller**, JIPOA; **Dennis Longwell**, **Thomas Farnsworth, Jr.**, **Hap Schroeder**, **Caroline Ervin**, **Dean Phypfers**, Residents of JI; **Joyce Van Nest**, **Fred Tochtermann**, **James & Cheryl Lazevnick**, **Bob Clark**, **Tom & Mary Kasher**, **Mark & Mary Lou Morgadonna**, **Richard Beneduce**, **Terry & Jeff Zukerman** of Vera Cruz; **Joanne Sardella** Pebble Lane; **Matt Sitkowski**, **Bill & Barbara Kluckas**, **Bob Soos**, **Paul Parparian** Surf Lane; **Patricia & Bill Gundy**, **David King**, **Leslie & Bob Abbott**, **John & Judy Orcutt**, **Emily McDonough**, **Flossie Fowlkes**, **Scott Bell**, **Debbie Mackay**, Pebble Bay; **Charles Clogston**, **Ralph McCrae** **John Papageorge** Pebble Beach Villas; **Art & Adele Andrews**, **Summer & Joann Marshall**, & **Diana Sweeney**, Harbor Island Club; **Bill Baker**, Park Shores; **Doris Brandi**, Sea Forest; **David Haynes**, The Estuary; **Nancy Auwaerter** Ocean Colony; **Jerry Weick** Bermuda Bay; **Bill Beardslee & Linda Bolton**, Indian Trails; **Wesley Davis & Reporter Janet Begley**, **Joan** (illegible) Bethel Creek; **Martha Lindberg**, Seasons; **Mike Sabrick**; Guests **Megan Raasveldt** (DSRE), **Michael Ho** (illegible), **JoAnne Stanley**, Republic Services; **Luke Webb & Bill Baker**, Premier Real Estate

1. **Call to Order**

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

The meeting was called to order by Mayor Barefoot at 9:51 a.m. The Pledge of Allegiance was recited followed by the invocation, and the roll call is reflected above.

2. **Proclamations / Presentations**. Mayor Barefoot recognized Art Culver and John Brady, who each had six (6) years of service to the Town on the Code Enforcement Board as Chairman and Board Member, respectively. Neither of them were present, so the Town Clerk agreed to ensure that their framed Certificates of Appreciation were delivered to them. *(moved forward from 6.g.1)*

3. **Consent Agenda**

- a. Acceptance of August 25, 2016 General Employee's Pension Board Meeting Minutes
- b. Approval of January 26, 2017 Regular Town Council Meeting Minutes
- c. Approval of February 1, 2017 Special Called Council Meeting 5-Acre Property Minutes
- d. Approval for Capital Purchase, 6 Taser Units

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

4. **Town Attorney** Nothing to discuss.

5. **Mayor's Items**

- a. Electric Utility Litigation Update

Mayor Barefoot said the FMPA has quoted \$108 million to the City of Vero Beach as the amount to get out of its contractual obligations. FMPA supplies about 30% of the City's power; OUC provides the rest and requires a

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.

maximum payment of \$20 million. That \$128 million to these two entities would release the City from its contractual obligations. Also, FPL would have to pay for the infrastructure, and the City would likely want something else for the effort. The number last time they discussed about \$170 million. People are hopeful for an entire sale, and this is still very political. He added that while rates are important, many are interested in the savings offered through FPL's incentives and smart meters that are not offered by the City. So, we continue to press forward, pursuing a partial sale while full sale talks are in progress.

Councilman Auwaerter added that opponents still ask to put the partial sale aside and pursue only a full sale. He went to the FMPA meeting this week on the all requirements project, and suggested that despite the optimism, it still must be a unanimous vote with bond holder approvals.

6. Discussion with Possible or Probable Action

a. Additional P-F Pension Payment (Town Manager/Town Treasurer)

Town Treasurer Christmas said at the beginning of the 2017 budget the Council requested that the assumed rate of return be lowered, and the Board did not enact that change. We now have an extra \$300,000 in the budget, she said, and asked permission to move those monies to the pension fund.

Councilman Haverland noted that we have occasionally contributed more than required in the past, and was concerned that we are creating more expense to the Town and subsidizing the Public Safety Department more. In looking at the beginning, the Town contributed 9% and the Public Safety Officers contributed 5%. The Town now has to contribute 56% and the officers have to put in 9%. He did not see why we should make additional payments at this point. None of the Council disagreed.

b. Research results SBA Account (Town Manager/Town Treasurer)

Mrs. Christmas said having researched the SBA account, she would feel comfortable putting \$3 million into that account and leave the reserves accessible. The SBA has 0.99 Rate of Return, and the current Center State account is 0.85 return. We need to leave \$3 million readily accessible to continue funding operations and avoid a \$12 fee for each transfer, as it does not operate as a check writing fund. **A motion to transfer \$3 million from Center State to the SBA account** was made by Vice Mayor Ochsner and seconded by Councilmember Peniston, passing 5-0.

c. Community Center Improvement – Plan B (Former Vice Mayor/Committee Chair)

Mr. Weick said at the last meeting we discussed plan A, and this is Plan B with the smaller size as requested by Councilman Haverland. He found by asking builders for cost estimates with it slightly bigger, a typical simple design is \$135-\$140 square foot. To make just the central area bigger drops the cost to \$90-\$100 square foot, so having it larger is not more expensive per square foot. He is getting estimates for the roof, masonry, trim, etc. To eliminate the porch and portico is further savings of \$140,000 - 150,000.

Plan A rough construction cost is \$444,660 and Plan B is \$289,660, a difference of \$155,000. Plan B is replacing what we have in size, whereas in the Plan A we are increasing the open area by 900 square feet and adding storage for a 3,024 SF building. The open area would be going from 1100 to 1900 SF in the center.

Councilman Haverland said he understood that the original discussions to expand kitchen and have more space was largely related to attracting wedding business and the other issue raised was room for bridge, which is growing activity. His research showed that activity at the Bridge Center is down, and bridge fees are down. He believed we have plenty of physical capacity, even though it is a noisy room not built as a bridge center.

Councilmember Peniston asked about the driveway, and Mr. Weick said we first would have to have a building permit, so no precise location determined. The driveway would cost the same in either plan. Mr. Weick opined if you are going to build something, it should be an improvement, and asked the Council if they preferred Plan A or Plan B?

Councilmember Peniston said the building was constructed in 1982 and needs to be replaced. It is used heavily by AA, Rotary, and other groups. The revenues are not important, it is the enhanced service provided to the residents. If it's something the Town wants to provide, she questioned why it should be constrained to the current footprint? We have a current lack of storage and meeting space, and she recommended that we look ahead and plan for the future. She cautioned against regretting the things we don't do, adding that not rebuilding it in a first-class manner is unwise and short-sighted.

Mr. Weick said the standard is 7 square feet per person for meetings, and to set up tables and chairs for events the standard is 15 square feet per person. The larger footprint could hold 100-120 for an event and 200+ as a meeting room. The goal is to keep it under 300 in order to not have to comply with more requirements, such as sprinklers. Mayor Barefoot asked what the next steps are, and Mr. Weick said there has to be a permit issued before we could have an architect draw plans. The Mayor spoke in favor of a larger building and making adjustments later if needed on the size.

Councilman Haverland opined that the assumption that there is more demand would be valid if we were not

almost fully built out, and totally agreed we need a new building, and any new building should be a better building. He totally disagreed that the stated funding is available, and did not see a demonstrable future need as 95% of usage is for less than 30 people.

Councilman Auwaerter agreed with Mayor Barefoot, they should look at larger building first, and reduce it if necessary. A first-class town should have a first-class building, he concluded, and made a **motion to direct Mr. Weick to spend the Town's money to get an architectural plan, and get proper pricing so the Town Council can evaluate and determine whether to proceed to the second step**, which was seconded by Councilmember Peniston. Mr. Weick said he already had an architect lined up at a very good price.

Resident John Lewis said that last month he had written to the Council and suggested that a determination of the overhead costs differential be explored, and asked if anyone had looked into liability, wind insurance and utility costs. Councilman Auwaerter said he did read Mr. Lewis' email, and it was a fair point. He then **amended his motion to include this as part of the study in terms of costs**, which was seconded by Councilmember Peniston. Mayor Barefoot and Mr. Lewis also added that not all bridge players are Indian River Shores residents, so this is also an amenity for the surrounding area. The **motion passed 4-1** with Councilman Haverland dissenting. Mayor Barefoot said that Mr. Weick will try to get a total cost of the project on the larger plan. Mr. Weick said the interior trim can cause the cost to vary widely, and he will work closely with Mr. Guanch.

Mr. Stabe said there should be a parameter for what is spent for the record, and \$35,000 was budgeted for the survey and architect, and Mr. Weick agreed to stay under this. He has interviewed 7 or 8 architects and is comfortable that in addition to the survey, we will be fine. Councilman Haverland asked about the architect defining costs versus through the bidding process, and Mr. Weick said he will include ongoing costs to operate. The Council thanked Jerry Weick for all of his hard work on this project.

d. Council Update from Indian River Auction and Appraisal (Mayor Barefoot)

Mayor Barefoot said he was on the phone at the last Special Called meeting, and attended the PZV Board meeting last week. The Council has read all of the emails, and understands the low density requests. He asked that speakers only address anything different, so no one be redundant. We also understand what the Southern part of town wants to happen with the property, and other sections of the Town do not believe the property should benefit just one area.

Questions have been raised that the time frame to auction the property in April was too short, and the Mayor asked Mr. Davis to address this. Also, the amount of money in the original proposal for marketing was inadequate, so Mr. Davis was asked to have an updated marketing plan with a new number and to extend the auction date to May.

Mr. Wesley Davis, working with the residents of Pebble Bay and the Chairman of the PZV Board, said this is not changing the game, they need to know what type of product is being presented to the marketplace. Under the same terms of the original agreement, they plan to boost the original advertising to include the Wall Street Journal in both the New York and Florida markets. Also, they will be advertising in the Miami market Spanish edition, as South America is moving up, the Palm Beach Post, Press Journal and 32963. A flyer will be sent to tax bill addresses, and two website domain addresses were purchased to lend a big splash as a super auction: www.irshoressuperauction.com and www.verosuperauction.com. They also have a toll-free number, 855-63ocean. An active social media campaign and involvement of the realtor community to hire every realtor are other plans for marketing.

Mayor Barefoot discussed if a buyer's offer brought through a realtor to Mr. Davis for the tentative May 6 auction could possibly preempt the auction to avoid competition and what a fair price based on the appraisal would be. Mr. Clem said there are so many assumptions on the appraisal, it should be set aside, and instead offers should be filtered through opinions of what is offered, similar to a juror making a decision based on best evidence available. Mr. Davis agreed extraordinary assumptions are necessary, such as beach access. The Mayor also asked what the Town's obligation is if the auction results are not what we expect, and Mr. Davis said there is a period of 120 days to continue to negotiate with other individuals in order to come to a consensus.

Councilman Auwaerter asked about compensation and commission, and was told that they would be materially the same, commission structure wouldn't change. They would split the 8% with other firms.

Councilman Haverland questioned the Town having to absorb marketing expenses if the auction failed to produce desirable results increasing from \$6500 to \$35,000, which Mr. Davis affirmed. He was dismayed at the expense versus zero expense with a broker, with strong suspicion that it will fail.

Vice Mayor Ochsner noted the competitors will spend up to \$50,000 in advertising and offered 5% commission versus 8%. Mr. Davis said this is what they are offering also. Very few realtors will spend the money without an exclusive right to sell, and usually expect to be recompensed. Mr. Davis said they have been working very hard to see if there will be dune access, and he believes the auction will be successful.

Mayor Barefoot said the other auction firm was proposing a maximum number of condominiums, and a 5% fee, a higher cost of transaction and density. Mr. Davis said it is not rare to hear one realtor say they will get more for the property. Mayor Barefoot said they do not want to have the density to the max.

Councilman Haverland said if we hire a broker to sell the property, any advertising expenses would not be deducted as a Town expense. Mr. Davis said he was paying to sell the property, not the Town.

Councilman Auwaerter said we have already signed the contract, and did not want to have the added expense. He recommended that the Town and Mr. Davis split the added expenses. Mr. Davis reiterated that he expects the \$35,000 to come out of the firm's pocket based on their successful auction. This agreement moves the date to May 6 or May 13 to meet with the County Commission meeting date since they have the right of first refusal, and will be advertising heavily during season. The dune crossover access may take a little time to work out with the County. Mr. Davis said there would be due diligence, and they would answer every question, with everyone playing on the same playing field. The property is sold as is, where is. Normally the realtor doesn't do this, the buyer would.

More discussion about advertising followed, and Mr. Davis said even though he is not sure exactly what is being sold, he is willing to increase the budget and "put his money where his mouth is." Mayor Barefoot said this is an evolving conversation between his firm and the Town, and who eats the marketing cost if the marketing and auction is unsuccessful. How do you define success?

Councilman Auwaerter made a **motion to have the Town refund to the auctioneer \$17,500 in the event of a failed auction that is not subject to confirmation**, which was seconded by Councilmember Peniston. Councilman Haverland reminded him that we pay 50% of the advertising if the auction fails. He said it should be based on the actual amount up to \$17,500. Councilman Auwaerter restated to add to the **motion that the Town will contribute the lesser amount of \$17,500 of the total advertising budget based on actual expenses**.

Mr. Davis addressed a concern about having only three house lots, stating they are offering it both as a single-family home site, or up to 3 lots separately and in combination, in order to maximize the sale price.

Questions posed by residents: *Is it sold with reserves?* No reserves, but subject to Council's confirmation. *Why is it being sold?* It's been declared as surplus property. *Is it absolute?* Subject to confirmation. *Why is it selling in a condensed period of time, and why not just sell it by realtors?* Mr. Davis said it is governmental surplus, and is being sold in this manner predominantly because with Sunshine Law governmental transparency, the terms and conditions are all in the open, above board. With a realtor transaction, we would not know if this was the best deal or if there were any undisclosed side transactions. Mr. Davis added that with so many first-class realtors in the area, all of them are hired and able to represent the client. Councilman Auwaerter added under the Sunshine Law, negotiating sessions are required to be conducted in the public other than active litigation matters. *Does the highest bidder get the property?* Not necessarily, it is subject to the Council accepting, rejecting or countering the price.

Questions were asked that would be addressed later in the meeting: *Could a developer come in and overbid the three bids for three lots and possibly put 20 homes in? Is this like e-Bay "buy it now" or ramp up the auction price, when we don't know the buy it now price? Are we working out the encumbrances and density?*

Two residents spoke against selling the property.

The **motion was restated in its entirety that in the event of a failed auction, the Town will reimburse the auctioneer 50% of its marketing expenses up to a maximum of \$17,500**, made by Councilman Auwaerter and supported by Councilmember Peniston. The definition of a failed auction was discussed as one that failed to produce a buyer with an acceptable offer at the conclusion of the auction and 120 day negotiating period. The **motion passed 4-1**, with Councilman Haverland dissenting. Mr. Clem clarified that this was to approve the addendum to the auction agreement to increase the marketing budget *as amended* and to move the auction date to Saturday, May 6, 2017.

The Mayor called for a 15-minute recess at 11:25 and reconvened at 11:40.

e. PZV Board Meeting 2-13-17, Council Action Required (Chris Hendricks, PZV Board Chairman)

1) Create a 5' Walkway Through 5-Acre Tract (**either a 5' Easement** or a 5' Right-of-Way)

Chairman Hendricks reported that at their February 13 meeting they approved removal of an oak tree at 311 Sea Oak in John's Island with no remediation. They discussed a variance request for an oversized Adirondack chair on Reef Lane that is 6' tall, 5' wide. The Board concurred that it is a Code Violation and suggested the chair be moved to the back yard. Code allows two (2) square feet of decorative objects, this is 33 square foot chair. The owner has 10 days to move it to the back yard. A proposed accessory structure for 36 Sago Palm for a boat dock not behind the house was tabled until history of the lot could be reviewed.

The PZV Board received a request from Council, and based on the drawings of three possible proposed (3) lots, voted to recommend approval by the Council of a 1' variance on each to meet the 120' LDC

requirements. They also recommended approval of a 5' easement for a walkway dedicated for pedestrian use on that property. Third, they recommended that the Council take steps to reduce housing density. Mayor Barefoot asked if they are recommending anything specific, and Mr. Hendricks said the maximum is about 30 units, and typically 20% of the property is needed for driveway, easement, etc. They thought 24 units is reasonable, with these and other considerations, and in his opinion, it should be even less. Vice Mayor Ochsner opined it should have a maximum density to mirror Reef, Surf and Pebble Lanes, which have about 11 single family homes.

Mayor Barefoot clarified that what is proposed is to market three (3) lots. Mr. Hendricks added that to comply with Code, there has to be a variance. Vice Mayor Ochsner's proposed 11 homes may have a different variance than the scenario, with 3 lots. Mr. Hendricks noted that the best return of investment with density would be something like what is selling in Rio Mar, three homes per acre.

There was discussion among the Council that they have to deal with the 5' easement or right of way before they could approve the variances. Vice Mayor Ochsner reported that the 5' right of way was unanimously voted by Beach & Shores to be formalized and maintained to perpetuity 8-0. He then **made a motion to carve off 5' from the south edge of the property for the Town's residents to access**, which was seconded by Councilman Auwaerter.

Councilman Haverland discussed the Town's limited number of amenities and opined this 5' path would have a marginal benefit at a large expense to the Town. Carving off from the overall acreage would probably decrease the value by \$500,000 and make it less desirable as a single lot purchase. The nearby access to the beach and limited use were other reasons he gave for believing it is not an amenity that benefits a significant number of Town residents and is a significant cost, thereby earning his disapproval.

Councilmember Peniston agreed with him, citing the potential hazards of crossing the road, reduced value of the land and only benefitting one percent of the Town's population.

Vice Mayor Ochsner commented that although there are costs involved, we did have an appraiser that said the cost impact on the sales price is negligible. For 40 years they have had access, and with the sale by the County there was an expectation of open space. Anyone buying the adjacent lot will know about the walkway going in, and the community at large is better served.

Councilman Auwaerter said if maximizing the property value was the goal we would build the most number of units. He was the original proponent for the sale as the Finance Committee Chairman. People like he and his wife cross over A1A often on foot. He saw value in having a permanent right of way, and used Google maps to measure distances from Pebble Bay Circle at A1A walking along the current path or going around CVS to Tracking Station beach, and found that the distance is almost the same and is actually shorter going around CVS. Admittedly, they would walk with a lot of traffic, store customers and construction tradesman and cars in the parking lot at the Tracking Station Park to consider.

Mayor Barefoot discussed from the Town's perspective, the issue is not an easement but a 5' right of way that the Town would have the expense of establishing and maintaining it. There also is a liability to the Town for pedestrians. Another big issue not yet discussed that has a major impact is the dune crossovers for the three lots. The County would have to approve the crossover, but installation would be someone else's expense.

Resident comments for beach access path. *Joyce Van Nest*, a resident of the Town in three neighborhoods since 1989, said it depends on the weather and the season how much that land is used, and believed the original intent was that it would be maintained for the residents West of A1A to come to the ocean. She and her family have been using it regularly for 16 years, and said the Town has the legal right to sell the land, and moral obligation to give the west side people access to the beach away from the dangerous CVS and 7-11 corner. She said pedestrians are subject to a \$65 ticket for standing in A1A, and they could tell potential buyers that only 40 people use the easement. *Patty Gundy*, Pebble Bay, addressed the history of the parcel and apparent support of some of the County Commissioners to have the 5' path in exchange for granting ocean access. She was asking for 5 feet of 5 acres for residents in these 645 homes to get to the beach as they always have. (Applause) *John Orcutt* Pebble Beach South, bought their house over 20 years ago for the beach access and have continually used it. *Fred Tochterman*, Vera Cruz, coming here since 1970, one of the reasons they bought there was the beach access and go 2-3 times a week. Going to the Tracking Station is not nearly as attractive to any homeowner in the area. Asked the Council to consideration not only the 650 people, but the Community, concluding it really is a moral obligation to continue to have access to the public. *Mark Morgadonna* addressed benefitting one homeowner who purchases the property by putting 400 people in jeopardy walking to the Tracking Station access, the Town's liability, and the impact on the resale value of the 400 Vera Cruz properties west of A1A.

Resident comments against beach access path. *Luke Webb*, a resident and real estate agent gave his professional credentials before stating that ocean view rather than oceanfront effects the value, as does having three lots versus one large parcel, zoning, and sea grapes. Land with any encumbrances is less valuable; downzoning and cutting the parcels limits the buyer pool. The Town has very strict LDC rules and as an additional fail-safe, the PZV Board. There are plenty of oceanfront parcels for sale. He concluded that buyers tend to not like an easement, as privacy is what a high-end buyer wants. *John Lewis*, John's Island, spoke against the 5' right of way due to Council's responsibility to keep residents safe and be fiscally prudent, not causing benefit for a small percentage of the entire community and diminish the potential value by 10-15%.

Resident comments in favor for leaving it natural/not selling. *Terri Zuckerman*, Vera Cruz, spoke about its importance of leaving it in its natural state. *Another resident* said it was a miracle that they still have the access, believed it was zoned parks & recreation, and thought the motivation should be something besides money.

MOTIONS. Vice Mayor Ochsner made a **motion to carve off 5' of the south edge of the property as a right-of-way for the Town residents to access the beach**, which was seconded by Councilman Auwaerter. There was discussion about amending the motion to include cooperation by the County for access for dune crossover for the three lots. The Mayor said the County is unofficially trying to cooperate, but we have no assurance they will give the access. Councilman Haverland said the County has no reason to object to the dune crossover, they have approved probably 70 already if they conform to requirements. Councilman Auwaerter asked for Mr. Clem's advice, who said it is very important to get it on the record what exactly they are trying to do. An **amended motion to have a 5' right-of-way subject to dune crossover approval secured from the County** was made by Vice Mayor Ochsner and seconded by Mayor Barefoot.

A resident discussed the 5' right-of-way being the access point for the residents on the 5-acres, which the Mayor said would remove the enhanced value the property would have with the three dune crossovers approved by the County. Mayor Barefoot added it is not black and white, the goal is to get certainty. Mr. Clem clarified this isn't a dune crossover situation, it is about crossing over the County park land. Councilman Haverland said they were tying something together that is unrelated, as the County has told us they would work with us. *Matt Sitkowski*, Surf Lane, said you are shutting down access for hundreds of people that has been there for 40 years, sold with the intent to have perpetual access, and you are asking the County for access for three luxury homes.

The Mayor called the question on the amended motion, which **passed 3-2** with Councilman Haverland and Councilmember Peniston voting Nay. The Mayor announced if for some reason the County didn't grant the access, the Council would be back here discussing this again. (*Many residents left.*)

2) Create up to Three (3) A1A to Ocean View Lots

At the recommendation of the PZV Board, the Mayor asked for a **motion to approve to divide the property into up to 3 east-west lots allow the 1' variance and 5' reduction**, which was made by Mayor Barefoot and supported by Vice Mayor Ochsner. After some minor discussion, the **motion passed 5-0**. *Joyce Van Nest* asked about the width of the lots after the 5' right of way, and was told by the Town Manager that they would be 117' each on A1A, and each had a 1' variance approved to meet the 120' code requirement for the parcel.

3) Maximum Density Discussion for 5-Acre Tract

Following some discussion, Councilman Haverland made the first **motion to have maximum 15 units per 5 acres, with a maximum of 5 units per lot** which was supported by Councilmember Peniston. More discussion followed among the Council, a resident (*Leslie Abbott*) and Attorney Clem, which led Councilman Auwaerter to suggest that with a three single-lot configuration, they each be limited to one house and one guest house maximum. As the entire 5-acre parcel, he suggested limiting it to up to 11 units.

The **motion was withdrawn**, and the Mayor made a new **motion to have a maximum density of 15 units on the entire 5-acres, whether it's multi-family or single family**, which was seconded by Councilman Haverland. Extensive discussion followed, beginning with *Bob Abbott* asking why 15 units, and the Mayor said it could be 12 or 20, it is a purely arbitrary but reasonable number. They discussed this, and the Mayor invited Realtor Bill Baker's input on recent similar property sales and the current absolute auction that will be conducted on an oceanfront estate in Indian River Shores. Councilman Haverland quoted nearby condominiums densities as 77 units in Pebble Beach Villas, Harbor Island Club's 40 units on a much smaller parcel of land, also Vera Cruz with 30 units also on a much smaller property. Mayor Barefoot said the traffic study will be the limiting factor. A drawing for the Council made by the Town Manager was based on Vice Mayor Ochsner's inquiry if a street with single family residences like Reef, Surf, and Pebble Lane could be duplicated, which it can. The **motion passed 4-1** with Vice Mayor Ochsner opposing.

For **restrictions on individual lots** Mr. Davis suggested that they follow the logic and restrict 15 units divided by 3 to 5 units per lot, considering setbacks and other detractions required. Discussion about having only one unit per parcel and additional structures for guests ensued, with a comment that once you limit it to one you can't expand it to 3 buildings on land that can't be subdivided. Mr. Davis didn't see how seven units would fit, it should be 3 or less. Mayor Barefoot agreed it would be difficult to get 5 units.

Resident comments. *Nancy Auwaerter*, Ocean Colony, said a buyer who wanted to purchase a lot for a luxury home may not buy it if the next lot could build 5 homes on it. *Paul Paparian*, Surf Lane, asked for a realtor's opinion of what would property selling price with 11 units versus 3 ocean view units. *Richard Beneduce*, Vera Cruz, asked if the market would bear more for single or multi-family homes, and Mr. Davis said the market will answer that question. The original intent is to offer three estate sized lots to the market.

Mr. Stabe asked the Building Official for input, and he discussed R2A multi-family, capped as 15 units for the whole parcel and townhouses, zero lot lines, and other options for 117' wide parcels. Our LDC has a minimum 60' setback from A1A. In comparison, the Surf Club slightly south of Town on A1A is on 3.9 acres, 11 units, and will have about \$300,000 in landscaping upon completion. Mr. Clem addressed that whether there are 3 estate-sizes lots or more development to each lot, there will still be 3 driveways to A1A. They asked Mr. Guanch what the Land Development Code said about guest houses, which he quoted as a guest house is allowed a maximum of 15% size of the main house (a 5,000 square foot home allows a 750 square foot guest house). They discussed whether they were guest houses or units they could have on the property, with the limitation on the guest house being very restrictive. Garages have different requirements than a house. Councilman Auwaerter made a **motion to have each lot fee simple property that cannot be subdivided with one main house with a maximum of two smaller dwelling units with a maximum of 2,000 square feet under air**, which was seconded by Councilman Haverland. The **motion passed 5-0**. Mr. Davis said they are calling them 3 units owned by one person with two units capped by size. Councilman Auwaerter asked if they could direct the Town Manager and Building Official to double check and make sure there are no loopholes in this and get back with the Council ASAP, so that even if they had to call a Special Called Council meeting they could do so quickly. (*many more residents left*)

f. PZ&V Board Applicants for Alternates – Matt Hutmaker & Patricia Gundy (Town Clerk)

The Town Clerk said they have two openings for alternates, and two applicants, Matt Hutmaker and Patricia Gundy. A **motion to appoint Matt Hutmaker and Patricia Gundy as alternates to the PZV Board** was made by Councilman Haverland with support from Vice Mayor Ochsner, **which passed 5-0**.

g. Code Enforcement Board:

- 1) Certificates of Appreciation: Code Enforcement Board Members Art Culver and John Brady (already done at the top of the meeting)
- 2) Reappoint Bob Geeseman as Member. Accomplished by **motion** from Councilman Haverland supported by Vice Mayor Ochsner which **passed 5-0**.
- 3) Reappoint Beverly Ford and Bill Beardslee Both as Members from Alternate Status. Accomplished by a **motion** by Vice Mayor Ochsner and second from Councilman Auwaerter, **passing 5-0**.

h. Dock Space Lease from The Estuary (Town Manager)

Mr. Stabe said this was an agreement we have had with the Estuary that is expiring, and received a **motion to renew the lease with The Estuary for 25 years at no cost to the Town for the Public Safety Department's Marine Unit** made by Councilman Haverland with support from Councilman Auwaerter, **passing 5-0**.

7. **Town Manager**

a. Traffic Camera Statistics (Chief Rosell/Lt. Shaw)

Chief Rosell said the network issues they had been experiencing had been resolved.

b. Old Winter Beach Road Drainage Improvements Grant Project Update (Town Manager)

The Town Manager said they kept it very brief and to the point, and were fortunate to have an opportunity to spend time with Senator Mayfield who is very supportive with the project. He will meet with Erin Grall and Debbie Mayfield onsite next Monday to explain the project to them, and will keep the Council apprised.

c. Cell Tower Update

Mr. Stabe said they received an update from DataPath Towers this morning that they are ready to come in for permitting to begin construction. According to Mr. Clem, they may not need any variances because of the ordinance that Council recently passed. The Building Department will issue the permit promptly upon request. No official vendors have been disclosed yet.

d. Police-Fire Pension Board Quarterly Meeting Update

A memo was provided to the Council by the Town Manager based on the minutes from their last meeting. No one had any comments, as several were in attendance at that meeting.

e. Workshop for Septic/Sewer Improvements Status

The original intent was to put together both sides of the spectrum to discuss septic or sewer science, and Mr. Stabe said that he has discovered that Dr. Bellinger from FIT has retired. So far, he has had no success in finding an alternate to present the case for septic tanks not being a major contributor to poor water quality. He has asked Commissioner Zorc if there is anyone else he could recommend. He did reach out as requested by Councilman Haverland to Dr. Edith Widder, whom many of them have heard speak about the Lagoon, and her office responded that it would be \$12,500 to have her come to our workshop meeting. He asked the Council for direction whether to continue with arranging a workshop with only one side of the equation, which may not be effective, or give him another month to see if he could possibly will find someone to address septic safety. Councilman Haverland said no one has quantified how big of an issue septic may be in relation to Lagoon problems,

Mr. Stabe said he was just made aware of another massive water treatment plant spill into the Lagoon just north of us that released millions of gallons. Councilman Haverland said having a workshop presenting just one side is not worth having, and recommended checking with Tampa Bay and Sebastian to see if they have someone we could inquire of for this purpose.

Mayor Barefoot asked for a plan before the end of the season. Councilman Haverland asked about the stormwater water flows into the Lagoon, and Mr. Stabe agreed to provide an update *at the next meeting*.

f. Departmental Reports (Building, Financial Balance, Public Safety). No comments.

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

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

TCRLC – No meeting.

CoVB Utilities – No meeting.

EDC – Councilman Auwaerter said they discussed Enterprise Florida and Visit Florida, expressing dismay that the Speaker wants to take away their funding.

Beach & Shores - Vice Mayor Ochsner said this meeting is next week.

MPO - Councilman Haverland had no report.

TCCLG –Nothing to report, Councilman Haverland said.

9. **Call to Audience**

Wesley Davis asked about property preparation, as his intent is to try to get potential buyers to eastern end and put up some sort of platform. The Mayor and Mr. Davis had a conversation Tuesday afternoon, and yesterday he met a gentleman there who suggested using a skid-steer to cut a path from the south end of the easterly side to the north end, about 300' long, then from the NE corner where the trail takes a hard turn to the southeast corner, another 300'. Having a place to park that is about two vehicles wide was the only other thing he envisioned. Mr. Stabe said he and the Mayor briefly had discussed the huge sea grape trees, 20' or more tall, and getting visibility of the ocean for prospective buyers. Perhaps when they have discussion with the County about dune crossovers this could be also brought up. Mr. Davis said the County's triangular oceanfront property is 133' at the southern end and 50' at the north, which is also higher because it is closer to the bluff, so that may be the more optimum observation point.

Mayor Barefoot said the sea grapes can be trimmed down to 6' without a permit, and then put up some sort of a platform. They discussed if it was going to be \$10,000 - \$20,000. They will have to obtain permission from the County to trim their sea grapes, and the Council authorized the Town Manager to proceed with reasonable costs after obtaining a minimum of three (3) bids, as they anticipate this will be over \$5,000.

10. **Adjournment.** With no further comments, the meeting was adjourned at 2:22 p.m.

Respectfully submitted,

/s_____

(Approved by the Town Council at the March 23, 2017 meeting)