

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

**REGULAR TOWN COUNCIL MEETING
Thursday, February 26, 2009
3:30 p.m.**

PRESENT: Thomas W. Cadden, Mayor
E. William Kenyon, Vice Mayor
William H. Ahrens, Councilman
Frances F. Atchison, Councilmember
David J. Becker, Councilman

STAFF PRESENT: Robert J. Bradshaw, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney
Director, 8 Staff Members, & 3 Volunteers Public Safety Department
Judith Lewis, Town Treasurer
Richard Jefferson, Building Official

OTHERS PRESENT: Council-Elect Mr. Weick and Mr. Ochsner, Former Mayor Holmen-McKenna, 9 Residents, 3 Business Representatives

1. **Call to Order.** Mayor Cadden called the meeting to order at 3:30 p.m.
 - a. Pledge of Allegiance
 - b. Invocation – Councilman Becker
 - c. Roll Call – Town Clerk

2. **Consent Agenda.**
 - a. Acceptance of January 12, 2009 Planning, Zoning and Variance Board Minutes
 - b. Approval of January 22, 2009 Regular Town Council Meeting Minutes
 - c. Approval of February 12, 2009 Town Council ISBA Workshop Meeting Minutes
Mayor Cadden asked for a motion on the consent agenda, which was made by Vice Mayor Kenyon and seconded by Councilmember Atchison to approve the items as presented. With no discussion, the Council **voted unanimously to approve the items as presented on the consent agenda.**

3. **Mayor's Items.**
 - a. Proposed Resolution 09-01, Interlocal Service Boundary Agreement (ISBA)
Mayor Cadden informed the audience that the Council had discussed this topic at a workshop earlier this month. He recapped the gist of the discussion for the audience, which led to his suggestion that the Town withdraw its participation in the agreement.
Vice Mayor Kenyon addressed a meeting he witnessed with difficulty between two municipalities coming to an agreement on issues, and “new town” discussions, agreeing with the Mayor’s position.
Mayor Cadden asked Mr. Clem to comment from a legal standpoint, who said that the most recent draft of the agreement addresses some of the most complex planning issues he has ever seen. Besides the potential to become very expensive for the Town, we could be forced to take sides, especially on “new town” issues.

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.

With the very technical and in-depth work that has already been done, he continued that interlocal agreements between two or three entities could serve the purpose.

Councilman Becker said that the Town actively and vocally supported the process of establishing the interlocal agreement as a counter-proposal to Charter. The document that was prepared by staff is now being brought before the elected officials to voice concerns or objections. Councilman Becker said that the Council should ask for simplification and for an acceptable final document, adding that his concern is that a decision is not necessary at this moment, as the incoming Council will have enough background to carry on with the process.

Mayor Cadden disagreed. He asked Mr. Bradshaw how long it might take to complete the draft of the agreement, and Mr. Bradshaw said presently it is not moving forward but regressing. The Mayor added it is wasting time, is still flawed, and requires a 20-year commitment.

Councilman Ahrens said that the agreement seems unworkable as it stands now. He agreed with the Attorney, the Vice Mayor and the Mayor.

Councilmember Atchison stated that her concern is that the advisory committee would require the approval of all five municipalities and the County. She favors interlocal agreements instead.

Mayor Cadden asked Mr. Clem to read Resolution 09-01 in its entirety, which title is printed below:

Resolution 09-01

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, TOWN COUNCIL WITHDRAWING SUPPORT OF THE INTERLOCAL SERVICE BOUNDARY AGREEMENT (CHAPTER 171 PART II, FLORIDA STATUTES) BETWEEN THE FIVE MUNICIPALITIES AND INDIAN RIVER COUNTY; AND ENCOURAGING IMPLEMENTATION OF SEPARATE MUTUAL AGREEMENTS.

Councilmember Atchison **made a motion to approve Resolution 09-01 to withdraw support from the Interlocal Service Boundary Agreement**, which was seconded by Vice Mayor Kenyon. There being no further discussion, Mayor Cadden called for the vote, which **passed 4-1**, with Councilman Becker casting the dissenting vote

b. **Proposed Water Conservation Ordinance from St. John's River Water Management District**

Mayor Cadden explained that the St. John's River Water Management District has adopted ordinances similar to South Florida Water Management District, which allows two waterings a week during Daylight Savings Time and once during Standard Time. No consideration is made regarding reuse water. If the Town stops receiving reuse water from the City of Vero Beach, it will be dumped in the Lagoon, which is detrimental from an ecological standpoint. The City of Vero Beach adamantly opposes this ordinance, and he recommends that the Town does also. Mr. Bradshaw added that the Florida League of Cities is opposed to this based on questioning the legal authority of the Water Management Districts to impose this type of request. In addition, Mr. Bradshaw said if this ordinance was adopted, we would have to ask our Public Safety officers to enforce water use, which is an unfunded mandate that we cannot support. Mr. Clem asked about the current regulation on watering in the Town, and Mr. Bradshaw said that we already have an ordinance in place and maintain local jurisdiction now. The Town Attorney said that no action to oppose the ordinance is needed.

4. Planning, Zoning and Variance Board

Mr. Jefferson reported that there was no meeting in February.

5. Town Attorney

- a. Ordinance 495, Public Hearing and 2nd Reading: LDC Comp Plan Amendment (School Concurrency)

Mr. Clem said that the first reading of this ordinance was last month, and since then it has been published. He performed the second reading as follows:

ORDINANCE 495

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, AMENDING §168.02 AND §168.03 OF THE TOWN'S LAND DEVELOPMENT CODE BY ADOPTING CONCURRENCY MANAGEMENT PROCEDURES COMPLYING WITH CURRENT FLORIDA STATUTES INCLUDING, BUT NOT LIMITED TO, SECTION 163.3180 (13), REQUIRING LOCAL GOVERNMENTS TO ADOPT LAND DEVELOPMENT REGULATIONS TO ENFORCE CONCURRENCY MANAGEMENT PROCEDURES FOR PUBLIC SCHOOL FACILITIES CONSISTENT WITH THE ADOPTED INTERLOCAL AGREEMENT FOR COORDINATED PLANNING AND SCHOOL CONCURRENCY; BY AMENDING §168.02.1 PURPOSE AND INTENT AND §168.02.3 DEFINITIONS TO ENSURE CONSISTENCY IN TERMINOLOGY; BY AMENDING §168.02.4 TO CLARIFY GENERAL PROCEDURES AND ESTABLISH CONSISTENT LEVEL OF SERVICE STANDARDS FOR PUBLIC SCHOOLS; BY AMENDING §168.02.5 TO ESTABLISH CONSISTENT CONDITIONAL AND FINAL CONCURRENCY DETERMINATION PROCEDURES, TO ENABLE THE TOWN TO ASSESS FEES FOR TOWN CONSULTANT SERVICES REQUIRED IN REVIEW OF REQUESTS FOR CONCURRENCY DETERMINATIONS, AND TO REFINE EXEMPTED PROJECT DEFINITIONS FOR CONSISTENCY; BY AMENDING §168.02.6 TO SPECIFY SCHOOL DISTRICT RESPONSIBILITY AND STATE FOR EVALUATING PUBLIC SCHOOL FACILITIES CONCURRENCY AND INTERGOVERNMENTAL COORDINATION, INCLUDING EVALUATION OF PUBLIC SCHOOL FACILITIES AS WELL AS COUNTY AND STATE ROADWAY; BY AMENDING §168.02.7 TO ACHIEVE CONSISTENCY IN CONCURRENCY MONITORING AND TIMING OF FINAL CONCURRENCY RESERVATION; BY AMENDING §168.02.8 TO SPECIFY PROCEDURES, METHODOLOGY, AND STANDARDS FOR IMPLEMENTING PUBLIC SCHOOL FACILITIES CONCURRENCY AND INTERGOVERNMENTAL COORDINATION, INCLUDING EVALUATION OF COUNTY AND STATE ROADWAYS AND PUBLIC SCHOOL FACILITIES; BY AMENDING §168.03 BY CLARIFYING INTERGOVERNMENTAL COORDINATION AND ESTABLISHING A PROCEDURE FOR IMPLEMENTING THE STATE LEGISLATIVE MANDATE FOR A PROPORTIONATE FAIR-SHARE OPTION TO MITIGATE DEFICITS IN PUBLIC SCHOOL FACILITIES; AND BY PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Mr. Clem said that this ordinance was drafted by the Town Planner, Mr. Solin, to put us in conformity with the State school concurrency requirement. **A motion to adopt Ordinance 495 amending the LDC of the Comprehensive Plan relating to school concurrency as written** was made by Vice Mayor Kenyon and seconded by Councilman Ahrens. The motion **passed unanimously**.

- b. Ordinance 496, 1st Reading: Adopting State Flood Damage Prevention

Mr. Clem continued that this was initiated by the Building Official, Mr. Jefferson, in order to bring the Town into compliance with State requirements for flood plain management. The information from the State was put into the Town's format, which Mr. Clem read by title as follows:

ORDINANCE NO. 496

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA PROVIDING FOR REPEAL OF CHAPTER 165.01 – 165.06 OF THE LAND DEVELOPMENT CODE CONCERNING FLOODPLAIN MANAGEMENT AND DAMAGE PREVENTION; PROVIDING FOR SUBSTITUTION OF THE PROVISIONS STATED IN 165.01 - 165.07 HERewith; PROVIDING FOR VARIANCE PROCEDURES, HISTORIC STRUCTURES, AND

STRUCTURES IN REGULATORY FLOODWAY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Vice Mayor Kenyon asked if there was anything different in this from what we had in place, and Mr. Clem said it gives more definition, and the Building Department said it was necessary. **A motion made to approve the first reading of Ordinance 496 regarding floodplain management** by Vice Mayor Kenyon, supported by Councilman Ahrens, received **unanimous approval**.

- c. Ordinance 497, 1st Reading: Adopting Florida Building Codes

Mr. Clem stated that this ordinance was also initiated by the Building Department. When the Town adopted the Florida Building Code, it did not include the adoption of amendments to that Code as they occur. This adopts the entire code and its administration, which will keep the Town current. He read the title as follows:

ORDINANCE NO. 497

AN ORDINANCE ADOPTING THE FLORIDA BUILDING CODE AS IT PRESENTLY EXISTS AND AS IT MAY BE AMENDED IN THE FUTURE TO GOVERN BUILDING IN THE TOWN OF INDIAN RIVER SHORES; SETTING FORTH STANDARDS ACCORDING TO STATE REQUIREMENTS; POWERS AND DUTIES OF THE BUILDING OFFICIAL; REPEALING SECTION 150.010; REPEALING ANY PROVISIONS OF THE TOWN ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

After minor discussion, Vice Mayor Kenyon made a **motion to approve the first reading of Ordinance 497 adopting the Florida Building Code**, which was seconded by Councilmember Atchison. **The motion passed unanimously.** Mr. Clem said that since this is the first reading on these two ordinances, anyone interested might review them at Town Hall.

6. **Town Manager**

- a. 07/08 Audit Presentation (Ross Whitley, CPA Firm Berman, Hopkins, Wright & LaHam)

Mr. Bradshaw introduced Ross Whitley, from the Town's contracted CPA firm, to present the results of the final 07/08 Audit. Mr. Whitley called the Council's attention to several highlights of the audit. Changes made in auditing standards beginning with this audit now required them to review and document internal controls, and provide risk assessments through walk-throughs. Their recommendations are included in the comments. It was reported to the Auditor General that the Town had no material weakness or significant deficiencies in compliance, and there were no financial distress or deteriorating conditions noted. Three prior-year recommendations have been resolved.

Because of the additional testing and documentation that was done, there were immaterial recommendations noted by the Auditor. They recommended that the Town routinely reconcile bank deposits to the Building Department's cash receipt slips rather than the cash summary sheet. Another recommendation concerned two old performance bonds for landscaping received by the Building Department that have not been returned. The third comment was to approve the final payroll process by spot-checking what actually is set to be disbursed. Finally, a procedure requiring a request for disposal of fixed assets needs to be implemented to ensure removal of that asset from the Town's fixed asset schedule. All of these recommendations have been addressed in the Town's response letter at the end of the audit.

Mr. Whitley distributed a three-page letter from his firm recapping the audit, with the Town's prepared adjusting journal entries that occurred after closing the books for the audit to begin and the Town Manager's audit response letter.

Town Treasurer Judith Lewis commented that it was a great audit. Mr. Whitley closed by thanking the staff. There being no further comments, a **motion to adopt the Audit** was made by Councilmember Atchison, and seconded by Councilman Becker **passed unanimously**.

- b. ATV Purchase

The Public Safety Department has submitted a request to purchase a replacement ATV, which was not budgeted and is a capital expense. Vice Mayor Kenyon asked Chief Schauman who oversees the use of the ATV, and Chief Schauman said that he does. The Vice Mayor was concerned about the operational safety. Chief Schauman replied that as part of the Accreditation process, everyone is trained who uses the equipment. The old ATV was unsafe, which is why the new one is needed. **A motion to purchase a Kawasaki Brute Force 650 4x4-i from Florida Sports Cycle and Marine for \$7,144** was made by Vice Mayor Kenyon and supported by Councilman Becker, which **passed unanimously**.

Mayor Cadden asked Chief Schauman to come to the front to address the audience and Council about the major milestone they had accomplished last week in achieving Accreditation by the State of Florida. Chief Schauman explained in one word that accreditation is accountability. Accreditation is a board for law enforcement which requires certain standards of operation, similar to the financial audit for the Town. Under review were 39 standards composed of about 270 policies. The auditors were impressed with the volunteer program and with the support received from the Council. Out of about 700 agencies in the State, only 120 are accredited. Mayor Cadden said that when he first came on Council, this was a goal, and he commended them for going through the process and becoming accredited (audience applauded).

7. Call to Council – Committee Reports

Metropolitan Planning Organization (MPO). Councilman Becker reported that the major topic was what to do with the stimulus package funds that are to be received by the MPO. Mayor Cadden said that this was also discussed at the Treasure Coast Council of Local Governments, as the City of Port St. Lucie and St. Lucie County are seeking several hundred million dollars, with many projects on the books waiting for funds.

Land Acquisition Advisory Committee (LAAC). Councilmember Atchison reported that they met, and are down to \$600,000 in funds. Identifying projects remains their objective.

Treasure Coast Regional Planning Council. Councilman Ahrens said that this four-county group (Palm Beach, Martin, St. Lucie and Indian River) discussed a bill that is pending in Tallahassee to eliminate DRI (Developments of Regional Impact) in existing dense communities, which they oppose and have sent a strong letter to legislators stating such.

Affordable Housing. Councilman Ahrens reported that HUD has given the State of Florida \$450 million for affordable housing, which unfortunately goes to entitlement communities (counties with a population greater than 200,000). Indian River County does not qualify, but received \$4.6 million to be used by banks who have taken over foreclosed property to restore it for resale. Of this \$4.6 million, \$1.3 million is for the restoration of possible rental properties, also only available for use by banks.

Treasure Coast Regional League of Cities (TCRLC). Vice Mayor Kenyon reported that they did not meet this month, and the next meeting is in March.

Treasure Coast Council of Local Governments (TCCLG). Mayor Cadden reported earlier that they had discussed the stimulus money, and offered to have this group also send the letter that the TCRPC sent in opposition to the DRI bill.

Mayor Cadden said that Representative Poppell had called this morning, and the State is underfunded now by \$3.5 - \$5 billion.

Utility Commission Meetings. No Report.

Parks and Recreation. No report.

Economic Development Council (EDC). No report.

Mayor Cadden also recognized former Mayor Barbara Holmen-McKenna in the audience.

8. **Call to Audience.** None.

9. **SPECIAL PRESENTATIONS: OUTGOING MAYOR & COUNCILMAN**

With this, Vice Mayor Kenyon continued the meeting by recognizing the changes that have occurred in the Town under the leadership of Mayor Cadden and Councilman Becker, who are leaving the Council due to term limits. Improved relations with the County and other municipalities, very active participation in meetings, and smoothly handling three major hurricanes as the only municipality who was able to cover the cost of clean-up with reserve funds were noted, also crediting the Town Manager for the hurricane recovery effort. The Public Safety Department's accreditation is a huge accomplishment, as is the public safety officer's step plan for their salary, and the major change in their pension plan based on Florida Statutes Chapter 175/185. The building restoration at a very modest price, a Town charter review and amendment, enactment of a wetlands ordinance, a habitat conservation plan, and a stormwater ordinance were accomplished, as well as a reduced millage rate and the emergency fund replenished to \$2.4 million. Councilman Becker was instrumental in establishing a website. These two, the Mayor and Dr. Becker, have been involved in so much, he concluded, and then invited guests to the podium to bid farewell.

Mr. Jack Mitchell said that he has been involved as a concerned citizen for many years, as has Mr. Clark Daugherty, who asked him to speak on his behalf as he was unable to be at the meeting today. He told the Mayor and Councilman Becker that they have his deepest respect and admiration for the amount of time unselfishly given in making our Town better, and for getting our Town on the right track and keeping it there. The dedication in spite of the lousy compensation (audience laughed) is appreciated, and especially the action to protect the citizen's rights for home rule and giving us the opportunity in this town to control our own destiny. The citizens will never be able to repay you and the people who preceded you for the good job you have done, he added, and personally thanked them. "You accepted responsibility, and what you have done has made me very proud of every member who has sat on this council over the last 37 years. You give back to the people of this town. Good luck to you, and thank you both for having done such a wonderful job, and we appreciate it."

Mr. Brian Kroh, General Manager - John's Island Club, thanked Mayor Cadden for what he has done as Mayor. The Club has spent a lot of time interacting with the Town the last few years, with the hurricanes and recovery, working together as a community with a major construction at the club during the time you have been Mayor and Dr. Becker on the Council. Thank you for the leadership that you have given to the Town of Indian River Shores and the counsel that you have given the Club also. Thank you and good luck to both of you.

Mr. Peter Young, General Manager – John's Island Property Owners Association, addressed Dr. Becker and Mayor Cadden on behalf of the residents and owners at John's Island. For their diligence, work, and dedication in undertaking broad and deep subjects, and devotion to making this Town better, he conveyed his thanks. During his short (2-year) tenure, Mr. Young said he has learned a great deal from attending the Council meetings and respects them all, and thanked them for all that they have done.

Councilmember Atchison thanked both of them for their time, adding that she has immensely enjoyed her four years on the Council with them. She appreciated Councilman Becker's thoughtful, incisive comments, his role in playing the devil's advocate and providing balance, for being patient and an excellent mentor. To Mayor Cadden, "no patience (hammer down and off we go!)," she called him a marvelous leader for the Council. His firm and unhesitating resolve has taken the Town through some tough times, and she thanked him for that.

Mr. Clem said that he certainly has enjoyed the past eight years of working with both Dr. Becker and Mayor Cadden. One massive change he recalled was the Lost Tree Village Corporation exiting the scene, with its litigation and acquisition issues. He thanked them both for their major parts in that.

Councilman Ahrens said that it has been a marvelous six years with the Mayor's leadership, and he thanked him.

