



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

REGULAR TOWN COUNCIL MEETING

Thursday, March 22, 2018

9:00 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 Official  
Laura Aldrich, Town Clerk  
Rich Rosell, Director Public Safety Department (arr. 9:23)  
... Chris Beaumont, Public Safety Officer

**OTHERS PRESENT:** RESIDENTS: Bill Cull – Finance Committee, Ian Ferguson-Brown, Sea Forest; Sue & Tom Ether, Anne Dunn, April Minton (The Shores); Leslie Hunt (Ocean Pearl); Nancy Auwaerter, Ocean Colony; GUESTS: Christine Noll-Rand, Carr Riggs Ingram; David Knight, Knight-McGuire & Associates; Jim Moller, JIPOA; Chris Marine, PZV Action; Scott Floyd, Republic Services; Dina Reider-Hicks and Bob Delacruz, Waste Management; REPORTERS Janet Begley, Press Journal, and Kathleen Sloan, 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 9:06 a.m. The invocation and Pledge of Allegiance were followed by the roll call as reflected above.

2. **Agenda Reordering, Deletions or Emergency Additions.** Mayor Barefoot made the announcement that the FMPA had approved the sale of the Vero Beach Electric Utility to FPL. The PSC is expected to meet and approve the transaction in early April. They are eager to move it along and should close the deal by June 30. FPL is paying a little more, \$108 million increases to \$112 million to accelerate the closing. The Mayor thanked all of the Council, residents and everyone for hanging in there for the last four plus years. The impact to the businesses is substantial, he added, citing as an example that the hospital will save \$700,000 per year in electric costs, and the RFP respondents for the hospital management were very observant of the cost to power the facility. He termed this as a major win for the community.

3. **Proclamations / Presentations.**

- a. Audit Presentation for FYE 9-30-17 by Carr, Riggs Ingram/Treasurer Christmas

Christine Noll-Rand, partner with CRI who is in charge of the Town's audit, reported that the financial statements were reviewed in close detail with the Finance Committee. The clean and unqualified opinion is that the Town's finances are sound. The change in accounting principles this year was that GASB 74 and GASB 75 were implemented. It changed the calculations of Other Post Employment (OPEB), and due to the sale of Town property we added additional OPEB funding resulting in an asset. The Town is the only municipality she is aware of in Florida with full funding for the Police-Fire Defined Benefit pension plan, which is actually overfunded by about \$200,000. The Town was also able to put a little extra towards General Employee pensions, leaving a net pension liability of about \$200,000.

There was one recommendation made to have OPEB calculations reviewed so that at least two sets of eyes have confirmed the numbers, which has already been implemented.

Councilman Auwaerter asked if she had any concerns with information management, and Mrs. Noll-Rand did not, as suggestions had already been remedied.

A **motion to accept the audit results** was made by Councilmember Peniston with support from Vice Mayor Ochsner, which **passed 5-0**. Mrs. Christmas received compliments from the Council.

*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.*

4. **Consent Agenda** (9:22)

- a. Acceptance of (General Employee) Pension Board Minutes from June 29, 2017
- b. Acceptance of February 12, 2018 Planning, Zoning & Variance (PZV) Board Minutes
- c. Approval of February 20, 2018 Regular Town Council Meeting Minutes
- d. Approval of March 8, 2018 Special Called Town Council Meeting Minutes
- e. Approval of Purchase of 2014 Ford Taurus Police Interceptor Vehicle

A question was raised on purchasing the 2014 Ford Taurus Police Interceptor Vehicle, item 4.e. Chief Rosell was detained due to an emergency and unable to immediately answer Councilman Haverland's questions and the associated costs of ownership, so the Town Manager explained that the vehicle was needed for administrative travel by officers and could be also used by Town Hall staff. The lighting package on the car would be used on the next patrol vehicle later this year at a \$7,300 savings versus the cost of purchasing that equipment new. The item was removed from the consent agenda until the case for economics could be made for its purchase by Chief Rosell. Following a **motion** by Councilman Auwaerter supported by Councilman Haverland **to approve the consent agenda items 4.a.- 4.d only, the motion passed 5-0.**

(Returned to discussion after 7.a.) Chief Rosell arrived and the Mayor explained the previous conversation. Chief Rosell said that spending \$30,000 for a spare administrative vehicle was not economically feasible, and when this vehicle became available, they reasoned the lights alone could bring the effective cost for the vehicle to about \$4,000, considering moving the equipment. Mrs. Christmas quickly did math on officers using their personal vehicles and getting mileage reimbursement, which would cost about \$3,000 **per year** versus using the Town-owned vehicle. There is often more than one person who needs a vehicle simultaneously for travel, Chief added, which occurred three times in February alone. Councilman Auwaerter made a **motion to purchase the 2014 Ford Taurus Interceptor vehicle for administrative use**, which was seconded by Mayor Barefoot, which **passed 4-1**, with Councilman Haverland dissenting.

5. **Town Attorney** (no comment)

6. **Mayor's Items** (None until Council Comments)

7. **Discussion with Possible or Probable Action** (9:13)

- a. Change Order for PSD Hurricane Repairs

Mr. Stabe explained when the contractor began repairs to the building, they discovered that during the reconstruction of the building in 2006 when they filled the doorways to the former vehicle bays, the stucco company did not properly prepare the surface prior to stuccoing, and the mesh and block seal were not used before the wire lath and much. It could be a significant cost to properly seal it with wire lath and mud across the entire front of the building. No action is requested at this time, as a quote is being prepared to bring to Council next month. It will be General Fund Repair & Maintenance expense, as this is not FEMA or storm related. (returned to Consent Agenda, 9:22)

- b. Building Department Reserve Funds

1) Staffing Analysis & Reserve Fund Recommendation (9:42)

Council discussed what the funding level should be. Mr. Guanch recommends upping the staffing level by at least one certified full-time inspector and a \$700,000 funding level. Councilman Auwaerter said he had reviewed the County's financial statement and their enterprise fund for building has \$6.1 million, with surplus of revenues of \$700,000. He thought the presentation provided by Mr. Guanch was fair and reasonable. Councilmember Peniston agreed and said it benefits more people as it applies over a longer period of time to draw down the reserves. The Mayor said the comprehensive approach rather than focusing on the reserves makes it easier for the staff, contractors and customers, and is an excellent reduction in forms. Vice Mayor Ochsner liked the simplification and reduction methods, and fully agreed as well.

Mr. Stabe suggested that the monies budgeted for minor upgrades to the building could be used to bring someone in to look at the footprint of Town Hall, and possibly build another separate building for the Building Department.

The staffing was discussed in relation to a very detailed 22-page ISO report, the 23% increase in permits and heavy load of approximately 30 +/- plans to review on Fridays. One part-time inspector averages 72 inspections/week but is only certified for structural inspections. Another inspector assists on Fridays only, 5-6 hours/week. Mr. Guanch does all of the inspection for the trades (e.g. electrical,

mechanical, plumbing, gas, security, pools). By just adding one full time inspector, Mr. Guanch stated, the Building Department could issue permits and review plans in 5-10 days, which is unheard of anywhere. Without help, the department is drowning. Councilman Auwaerter added that management activities take time and there is no time for vacation.

2) Permit Application Process Simplification (9:36)

Mr. Guanch asked to skip the conclusion of 7.b.1 to discuss this. He created a simpler system with one multi-permit trade application, created a combination building permit, and one permit fee rather than several permits and permit fees, one permit number to track the job now instead of seven and eight forms were eliminated.

3) Permit Fees Restructure (9:40)

Thirteen permit types were reduced to a flat fee rather than scaled according to size of the job using averages. This is a reduction of \$284,600 annually in permit fee revenues, and a draw-down of reserves by almost \$100,000 a year. (returned to 7.b.1)

4) Resolution 18-01 Decreasing & Simplifying Building Permit Fees (10:05)

Mayor Barefoot read Resolution 18-01 in its entirety. It included the permit fee schedules as part of the resolution. A **motion to approve Resolution 18-01 as presented** was made by Vice Mayor Ochsner with support from Councilman Auwaerter which **passed 5-0**. The Mayor and Council commended Mr. Guanch for such a nice job in preparing for this. Running the department in a manner that best balances the interests of the taxpayers and the customers who need the service is his job, and he does it very well, the Mayor added. It was recommended that he start looking right away for his full-time person. Mr. Stabe commended Mr. Guanch as one of the most conscientious chief building officials available.

c. Pension Board Term Length (Mayor Barefoot) (10:11)

Mayor Barefoot noted that there are two appointments to this Board for which the Council is responsible, and that there are two terms that are expiring in November, one of which the Council will fill. Councilman Auwaerter said as Chairman of the Finance Committee in the past, there are some who are enthusiastic at first then lose interest. He is in favor of reducing the terms to 2-years for both the Finance and Pension Board, with Councilman Haverland's suggestion of a term limit of four (4) terms.

Mr. Clem was **directed to prepare the required ordinance** to change the Finance and Pension Board terms to 2 years with a 4-term limit. The State mandates terms for the Planning, Zoning & Variance Board.

d. Consideration of Council Meeting Date Change in May (Councilman Haverland) (10:17)

Councilman Haverland requested that the meeting in May be moved to an earlier date, with May 17<sup>th</sup> being suitable to the other officials. A **motion to move the May 24, 2018 Council meeting to May 17<sup>th</sup> at 9 a.m.** was made by Councilman Haverland with support from Vice Mayor Ochsner, which **passed 5-0**.

e. Recyclables – Mandatory Pick-up Ordinance (Town Attorney/Town Manager) (10:18)

Discussion opened regarding the approaching end of the extension for the recycling agreement with Republic Services, and letters dated March 19 and March 20 from Mr. Clem about recycling. Chapter 54 of the Code of Ordinances makes garbage collection mandatory, but recycling is not mentioned. In order to get the best price possible, and for Indian River County to meet the state's requirements, it would have to be mandatory.

Vice Mayor Ochsner said to make it mandatory, we need cooperation with the County. Mr. Clem expounded on attempts since mid-2017 for assistance from the County with Waste Management or Republic Service to no avail. Reluctantly, he recommended that the Council explore options for a plan of possible litigation. The residents have paid at least \$98,000/year based on \$2.59 single family and \$2.33 multi-family per month for three years for no service. No one else in the County has this burden but the residents in Indian River Shores. The Florida Statutes puts the primary burden on the County, Mr. Clem added, and some for the municipalities to cooperate. We are trying to do our part, but to date without cooperation from the County. Our very good consultant with statewide experience used an outside attorney in the past, and he asked for authorization to contact this attorney for legal advice regarding taking funds without representation. Mr. Clem added that our extension with Republic Services only goes through April 30, which is rapidly approaching as is the County budget preparation. He **recommended that 1) we move forward with a mandatory recycling ordinance; 2) that he and the Town Manager be authorized to seek assistance with our consultant about outside legal counsel; and 3) strongly recommended that we go to the County Commission with our request first** rather than going to legal action. Mr. Clem asked for permission to draft an ordinance for first reading at the next meeting. A **motion authorizing the Town Attorney to**

**prepare an ordinance making residential recycling pickup mandatory within the Town** was made by Councilman Haverland and seconded by Councilmember Peniston, which **passed 5-0**.

f. **PZV Board Report & Recommendation for The Strand Development Phase I and II Split** (10:32)

Mr. Clem reported as Mrs. Palumbo had chaired the meeting and was not present. A development that was approved by the Council, The Strand, is requesting to split to two phases. Chris Marine, representing the applicant, said the preliminary approval was last September. The developer will place a bond for the infrastructure and move forward with townhomes west of A1A. They request that the Council approve the Planning, Zoning and Variance Board's recommendation to approve two phases, first the 21 townhouses, and 41 of the 47 single family homes. Phase II is the final six single family homes and possibly a marina. Drainage issues with Indian Trails were mentioned, with Mr. Marine saying that the initial drainage was not properly done 35 years ago, and the St. John's River Water Management District never required any corrective action. The developer, Patton, is not required to correct another subdivision's drainage, but has offered to do so by setting aside some land at the north end of The Strand that will hopefully be used to help Indian Trails with their drainage issues. **A motion was made to allow The Strand project to proceed with the Phase I and Phase II split as requested by the applicant** by Vice Mayor Ochsner, with support from Councilmember Peniston, which **passed 5-0**.

g. **Council Sound and AV Upgrade (Town Clerk//Town Treasurer)** (10:37)

Mrs. Aldrich said that the software that has been used was purchased in 2006 for \$7,900, which was a large expense at that time for the microphones, software and initial training. Over the past several years, it has become less reliable, and the new software requested not only fixes this but uses a Word document to type directly into, which saves time in producing minutes. What the Council has requested as an upgrade to the hardware is also included in the package. Mrs. Christmas added that the infrastructure currently used for recording is from the 1990's, and although the speakers mounted in the ceiling are operational, the equipment is too weak to drive the sound. The projector situation we have been using greatly interferes with the dais, so the recommendation is to have television monitors behind the Council with individual monitoring screens before them. Mrs. Aldrich added that the initial installation included extra Cat 5 wiring for monitors, and the pull-up tray for the computer has already been installed. This is still an expandable system, should more improvements or statutory requirements be needed later.

Councilman Auwaerter asked if using iPads rather than eight (8) LED touchscreens wouldn't be a better alternative, and Mrs. Christmas said the monitors do fold down. Mrs. Christmas said she verified that they are under a State contract so the quote is \$15,000 less, and we budgeted \$20,000 as a wild guess. Councilman Auwaerter supported by Vice Mayor Ochsner made a **motion to authorize the Town Manager to proceed with the proposal to upgrade the sound and AV for the Council Chambers as presented**, which **passed 5-0**.

8. **Town Manager** (10:43)

a. **Public Safety Salary/Benefit Update**

Mr. Stabe reported that very early this morning he received a draft from Mr. Evertsen which was not as specific as expected. The initial approach for a wide range of data yielded less than expected, so they determined to use 114 certified local governments that have consolidated public safety departments, and the results included 38 communities. After several months with constant contact they were successful in getting data from only 12 communities. Usually that is more than enough, but several of those do not have pay ranges, only one salary level. The second approach involves the analysis of pay and salary range information from comparable communities in Florida, which is in the process of being gathered and assembled now as a preliminary report. Mr. Evertsen suggested that the Town develop an internal classification that mirrors the current collective bargaining agreement, and we plan to develop this using the current STEP system. Mr. Evertsen is in the process of contacting Finance Committee members to show progress and obtain their feedback. Input was provided to Mr. Evertsen by both Mr. Stabe and Councilman Haverland, and he wants to schedule a final report presentation by April 26th meeting after reviewing results with the Finance Committee members.

Councilman Haverland thought that Mr. Evertsen's interaction with Finance Committee will be simply to state that there is a lot of data, and agreed the final report should be done by April. Council expected it January 31. He asked that the Council be provided with a copy of the current (collective bargaining) contract so that Robbie can answer any interpretive questions. He asked if the other Council members thought that would be a good idea to meet with the Town Manager about the contract, they could all pick a date after they

read the contract. Councilman Auwaerter and Mayor Barefoot voiced approval of the idea. This would have to be done in a public meeting, not a negotiating session. They agreed to set a meeting about a week before the April meeting, certainly before the budget.

b. Cell Tower Update (10:54)

Mr. Stabe said that ATT has requested a site visit from DataPath, which is positive news. There is trenching needed for fiberoptic cable before equipment can be installed.

c. Traffic Camera Statistics (Chief Rosell) (10:56)

Chief Rosell said there has been nothing unusual to report. Councilman Haverland asked about the regular report they used to receive with department activity, training, events, etc. They are appreciated, he added, and requested that it be provided for next month.

The Chief expressed pride in Captain Mark Shaw for graduating from the FBI Academy. The Chief also informed them of an arrest made of two individuals for fraud against a John's Island couple. Detectives were able to have \$460,000 of the theft refunded of the \$563,000 fraud. A storage pod was needed to store the evidence. The Detective did a great job, and the Department wants to keep this from happening. If anyone has even a remote suspicion that someone is trying to take advantage of them, they may call Chief Rosell anytime on his cell phone. This couple had a personal accountant and family members watching out for them. Our PSD was able to clear the case and recovered money.

He announced that April 28th is the annual Special Olympics and Public Safety Day, 8 am is the run, exhibitions of equipment, tours of ambulances and vehicles.

Councilman Auwaerter mentioned that the Chief helped him facilitate a discussion about border security, and Customs border control agents informed them that there is much that is illegal coming to the beaches. Councilman Auwaerter also brought this up at a Treasure Coast Regional Planning Council (TCRPC) luncheon afterwards, and mentioned that he had a discussion with our Chief about night vision goggles. The Executive Director, Michael Busha, found a grant for purchasing them, and we will have one of our officers involved in the training. The Town will receive the \$2,000 night vision goggles from TCRPC. At night, a PSO periodically is detailed to sit on the beach at John's Island watching for offshore and onshore activity. The older model goggles on hand work, but new goggles would be very helpful.

d. Departmental Reports (Building, Finance, Town Clerk, Public Safety) (11:03)

Mrs. Christmas said she believes the Old Winter Beach Road budget is coming in significantly lower than projected. In the PZV Building Capital Expenditure fund, they will not be doing the renovation this year, as Mr. Guanch wanted to do a little more analysis and discussion and include it in next year's budget.

9. Council / Committee Reports or Non-Action Items (11:04)

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

**TCRLC** – Councilman Auwaerter said home rule legislation was all beaten back but it required a tremendous amount of lobbying. Proposals were made to try to limit the voice of municipalities in Tallassee.

**TCCLG** – Councilman Haverland had nothing to report.

**Beach & Shores Preservation** – Vice Mayor Ochsner said the County's appeal to the State for critically eroded status of Sector 4 was denied because they review a wider range (30 year timeframe), and it hasn't eroded so much over a long time period. Recently, however, it had 20' of dune erosion. During a conversation with someone from Coastal Tech after the meeting he was told if there is at least 20' from structure to the dune, there will not be assistance provided, it's up to the Town or neighborhoods to take care of this. Councilman Haverland noted that RioMar beach is 70' wider than 35 years ago, and ours is so much smaller. John's Island spent \$3 - \$3.5 million after Hurricane Irma.

**MPO** – Councilman Haverland had nothing to report.

Councilmember Peniston had no report.

Mayor Barefoot passed a **letter of resignation** effective April 25 to each of the members at the dais. He wanted to give an opportunity for any residents who are interested to contact the Town Clerk for an application. On the 26<sup>th</sup> the Council will be able to select the resident to fill the vacancy.

His focus has been on the electric issue, which looks like it will turn out well. It was five years ago today when he was elected. This summer he will be away quite a bit celebrating his 50<sup>th</sup> wedding anniversary, and didn't think that was fair to the Council. He thanked everyone, saying for the time they spent together, a lot was accomplished.

Councilman Haverland said that the Mayor's involvement on the electric was much greater than most

people would understand, thanking him for his leadership and very active involvement.

A **motion to accept with regret Brian Barefoot's resignation effective April 25<sup>th</sup>** was made by Councilman Auwaerter with support from Vice Mayor Ochsner, which **passed 5-0**.

10. **Call to Audience** (11:12)

Anne Dunn, resident of The Shores, was present with Sue and Tom Ether to discuss the proposed reuse water pipeline project a mile under the river and 16" pipe. The noise, they contend, is not comparable to road work, house building, etc., as they have been told it will be all day long for up to two (2) months, and a straight 24 hours per day for up to a week. The original permit to FDEP from JIWMD did not contain noise considerations, there were no studies performed and no noise mitigation contemplated. After concerns were raised, noise level proposals are now required in County code. It is up to the Town to enforce the noise limits, according to the County. The Indian River Shores code is qualitative, as opposed to EPA and the County's code. While the Town Manager assured them he will make sure the Town responds to noise complaints, they don't want to be forced to call him and Chief Rosell hourly for two months. They appealed to the Council to have the John's Island Water Management District and contractors take definitive action if the noise levels are exceeded.

Vice Mayor Ochsner and Mr. Ether discussed noise levels, and they didn't know the answer to Councilman Haverland's question about how loud it would be at 100'. Town Manager Stabe said our noise ordinance is not well defined, which gives the Public Safety Department a lot of latitude to squelch the noise when there is a complaint. This is large scale construction, which is very different. Normally, timeframes for construction is during set hours, and this covers a 24-hour period for one week.

When digging the hole for the baffle box in 2015, Mr. Stabe recalled they had to dewater for several days and that he made sure there were mufflers on the machinery and other methods to minimize the noise impact with success. When they do the subaqueous line, the bore pit will house the equipment below ground level. They could also mound dirt and force the sound to the river. If it gets very loud we could have the contractor put up a sound wall.

Councilmember Peniston asked if residents were gone during this time frame, and was told they will be there. Councilman Auwaerter asked if the state agency permit exceeds our sound ordinance?

(11:22 Councilman Haverland left)

Mr. Clem said we can ask them how they will meet our ordinance, but it is only specific by time of day, not for sound levels. Vice Mayor Ochsner said in addition to this equipment being in a hole, we should also strongly encourage that a sound-absorbing structure be above it, like baffles or acoustic panels.

Mr. Ether requested a noise mitigation study, with appropriate equipment installed. Chief Rosell said he could get a decibel meter, and maybe talk to Jim Moller.

Per 150.004, **Mr. Clem said, if the work is deemed necessary the Council may adopt a measurement at the next meeting.** We could be proactive by giving a heads-up now to John's Island and also **enact the resolution.**

The Mayor thanked them for bringing this to Council's attention.

11. **Adjournment.** The Mayor adjourned the meeting at 11:32 a.m.

Respectfully submitted,

/s \_\_\_\_\_  
Laura Aldrich, Town Clerk

(Approved by the Town Council at the April 26, 2018 meeting)