



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

REGULAR TOWN COUNCIL MEETING

Thursday, March 26, 2015

9:00 a.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
Richard Rosell, Public Safety Director
Laura Aldrich, Town Clerk
Heather Christmas, Town Treasurer
Tony Dudley, Public Safety Department
Mark Shaw, Public Safety Department

OTHERS PRESENT: Dylan Reingold, IRC County Attorney; Kimberly & Tim Keithahn; Joan McLaughlin, Village Shops; Residents Bill Beardslee, PZV Chairman, Bob Auwaerter, Finance Committee Member, Barbara Palumbo, PZV Board; Caroline Irvin; Gail Moloney

1. Call to Order

- a. Pledge of Allegiance
- b. Invocation – Councilman Slater
- c. Roll Call – Town Clerk

The meeting was called to order by Mayor Barefoot at 9:01 a.m. The pledge of allegiance and invocation were recited at a previous meeting, and the roll call is as reflected above.

2. Proclamations / Presentations (None)

3. Consent Agenda

- a. Acceptance of March 13, 2013 Canvassing Board Meeting Minutes
- b. Acceptance of February 9, 2015 Planning, Zoning & Variance Board Minutes
- c. Approval of February 26, 2015 Regular Town Council Meeting Minutes
- d. Acceptance of March 5, 2015 Canvassing Board Meeting Minutes
- e. Acceptance of March 9, 2015 Town Council Workshop Consumer Protection Measure Minutes
- f. Acceptance of March 10, 2015 Canvassing Board Meeting Minutes
- g. Acceptance of March 16, 2015 Canvassing Board Meeting Minutes
- h. Approval of Invoice from Supervisor of Elections dated March 10, 2015
- i. Acceptance of DB General Employee FY14 GASB 67/67 & FY15 Valuations

There being no items pulled from the consent agenda, the Mayor received **a motion** from Councilman Haverland with a second by Councilman Ochsner **to approve the consent agenda as presented, which passed 5-0.**

4. Town Attorney

- a. Ordinance 518, Dog Friendly Dining (1st Reading)

Mr. Clem said that this request to allow dogs in restaurants is for something regulated by the State in Statute 509.233, from which he has taken the exact permitted words and included them in this ordinance. He mentioned that detailed requirements are in Sections 1-5, Section 6 has reporting requirements, and Section 7 is about enforcement. He said there is a lot of detail about what can and cannot be done, and our Code Enforcement Officer will be in control of this. There is no transfer of permit to subsequent owners. The permit is issued by the Town. If a violation is found, it must be reported to the State. Permits can be revoked via the Code Enforcement Board as well as the Florida Division of Hotels and Restaurants.

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.

Joan McLaughlin, joint owner with her husband of the Village Shops and Citron Restaurant, said she would set aside the northwest corner of the restaurant, require that dogs be on leashes, and will stop allowing it if there is an issue. Extreme cleanliness procedures will be followed.

There was minor discussion, including comment from the Council, PZV Chairman and one resident.

Mr. Clem then performed first reading by title only as follows:

AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, INDIAN RIVER COUNTY, FLORIDA, PURSUANT TO SECTION 509.233, FLORIDA STATUTES, ADDING SECTION 160.052 TO THE LAND DEVELOPMENT CODE (LDC) ENTITLED “DOG-FRIENDLY DINING;” PROVIDING FOR A LOCAL EXEMPTION TO ALLOW DOGS IN DESIGNATED OUTDOOR PORTIONS OF PUBLIC FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICATION REQUIREMENTS; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

With no further discussion, a **motion to approve the first reading of Ordinance 518, Dog-Friendly Dining**, was made by Councilman Ochsner with support from Councilman Slater, which **passed 5-0**.

- b. Resolution 15-02, Permitted Retail Uses at 6000 State Road A1A

Mr. Clem said this Resolution 15-02 addresses the restrictions for the retail portion of the building to be constructed across from Town Hall. It was read in its entirety by Mr. Clem, including the enumerated list of business activities consider to be permissible retail use in designated area of the building. One question about a day spa or personal services was asked, which was answered as the same that is allowable currently in the Village Shops. A **motion to approve Resolution 15-02 Permitted Retail Uses at 6000 State Road A1A** was made by Councilman Slater with a second by Councilman Haverland, which **passed 5-0**.

- c. Ordinance 521 Def. Contribution Pension Plan - Employee Eligibility Clarification (Town Manager)

Mr. Stabe said there were concerns with our Adoption Agreement for the General Employee Defined Contribution Pension. In the Adoption Agreement, Page 2, Number 3, the excluded employees was modified to add “except per diem (part time) public safety officers.” As there are some per diem officers who could be eligible and it was never the intent to offer this benefit, the wording is clarified by this ordinance.

The second section on page 3 for matching contributions was discussed, which was changed to reflect that employee's may contribute less than 5% with no contribution by the Town to the 401A Defined Contribution plan. It has been the standard that in order to get the Town's 11% participation, a 5% contribution was required from the employee. This was suggested by the League of Cities.

The Council discussed the Town contributing something proportionately if the employee contributed less than 5%, such as 2% for every 1% from the employee. It continues 4% by the Town for 2% employee, 6% Town for 3% employee, 8% Town for 4% employee, to the maximum 11% Town contribution for 5% employee contribution. This helps employees who may not have the full 5% to contribute in the future, Mayor Barefoot said.

Mr. Clem agreed it could have the first reading today with an amended Adoption Agreement for the final reading next month, and read the title of Ordinance 521 as follows:

AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE TOWN OF INDIAN RIVER SHORES’ GENERAL EMPLOYEE’S DEFINED CONTRIBUTION PLAN TO CLARIFY EMPLOYEE ELIGIBILITY AND MATCHING EMPLOYER CONTRIBUTIONS; PROVIDING FOR CONTINUITY; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Ochsner **moved to adopt first reading of Ordinance 521 with employees contributing 1% to be matched by 2% from the Town, with maximum Town contribution 11%, and part time public safety officers excluded from Defined Contribution Pension participation**, which was seconded by Councilman Slater and **passed 5-0**. Discussion that the Ordinance title would have “EMPLOYER” stricken as shown above.

5. **Mayor’s Items (Possible or Probable Action)**

- a. Discussion of Proposed Electric Rate Ordinance

Mayor Barefoot said there was a very good suggestion made at the last meeting by Mr. Auwaerter which has been incorporated on page 6 of this draft ordinance. The second Mediation has been set for May 1 at 9 a.m. in our Community Center. This ordinance is not proposed to go into effect until November 2016. The plan is to wait until after the April 23rd Council meeting and the Mediation session. Mayor Barefoot encouraged all of the Council to also participate and ask questions at the mediation. This is why we are not having a first reading; the Town is no less committed to putting this into play at the appropriate point in time.

Tomorrow, Friday, the Auditor General will make the final report on the FMPA. There will be a hearing Monday morning at the Joint Legislative Auditing Committee to review the final report. The FMPA had 30 days to respond to the initial finding, so this hearing at the Joint Legislative Committee Monday is important. He asked if the Council is interested in sending a short letter to the Chair of the Joint Legislative Committee to have our request on the record that they look closely at the FMPA and its impact to all of their customers. He offered to sign it on behalf of the Town. He found it interesting that the same financial advisor who got the FMPA into the hedging and interest rate swaps is now proposing that the way they can buy themselves out of the Taylor swaps is to issue more debt.

Dylan Reingold, Indian River County Attorney, said he will bring attending the mediation on May 1st to the Board of County Commissioners at their April 7th meeting. He said he planned to attend the Monday, March 30th 9 a.m. Joint Audit Legislative Committee meeting in Tallahassee and will express the County's concerns at that meeting. He offered to relay message from the Town as well, and has offered to also speak on behalf of Green Cove Springs and Ft. Meade, who have expressed concerns about the FMPA. Vice Mayor Weick said he appreciated that Mr. Reingold would bring our concerns to them in Tallahassee.

Mayor Barefoot said he will draft a simple letter, which Mr. Reingold offered to hand deliver. Vice Mayor Weick said excellent idea.

6. **Discussion with Possible or Probable Action**

a. March 9, 2015 Meeting Report - Planning, Zoning & Variance Board (Bill Beardslee)

Chairman Beardslee said there were two issues at their March 9 meeting, the first being the removal of tree of special concern that was tabled from the November meeting. It was approved with mitigation of two oak trees. The second was a request for a 4' chain link fence on Beachcomber Lane, which was approved with landscaping in accordance with Ordinance 502.

Mr. Beardslee said that today was his last day as Chairman and member of the PZV Board, and thanked the Town Council for their support over the years. With hundreds of decisions, only a handful of the actions were modified. He thanked the members of P&Z for preparation, thoughtfulness and good judgment. He recapped that when he joined as an alternate in 2002, Jerry Weick was the Chairman, and he set the example and taught him how to do the job and do it well, and thanked him. He was called by Richard Jefferson in December 2007 and requested to be a permanent member **and** Chairman. Mr. Beardslee noted that he was also very fortunate to have Chester to keep him out of trouble. When the Council had them develop a fertilizer ordinance, Laura was ready with a strong modification to the state ordinance, which he thanked her for. He could always count on Gary Doyle to help with tree retention issues and working through to reasonable decisions. He has had the good fortune to work with Robbie first as PSD Director, now as Town Manager. He is a great resource and sounding board.

Lyndsay and especially Liz have been invaluable to us. Liz serves as the PZV Board secretary, putting the packets together and providing the minutes. Without her preparing them for meetings, it would be chaos. Finally, he said he was honored when Brian asked him to participate in the selection of a new Building Official, and has had the good fortune to work with Jose almost daily since. He is knowledgeable and a truly dedicated professional. So he said goodbye and thank you to everyone.

Mayor Barefoot presented him with a Certificate of Appreciation and a thank you card, saying he had done a terrific job, although he wouldn't be totally retiring from Town service. There were thanks and applause from the Council and audience.

b. Board or Committee Appointments (Town Manager)

1) Planning, Zoning & Variance Board Recommendation for Chairman

Mr. Stabe asked for the Council's **ratification for Barbara Palumbo as Chairman of the PZV Board**, which was made in the form of a **motion** by Vice Mayor Weick with support from Councilman Ochsner, which **passed 5-0**.

2) Code Enforcement Board Full Member from Alternate – Doug Howder
Mr. Stabe also asked for **approval of moving Doug Howder from Alternate to full member of the Code Enforcement Board**, which **motion** was made by Vice Mayor Weick with a second by Councilman Ochsner, **passed 5-0**.

3) Code Enforcement Board Alternate Member Appointment – Bill Beardslee
Next the **appointment of Bill Beardslee to Alternate member of the Code Enforcement Board** was requested, which motion was made by Vice Mayor Weick with a second by Councilman Ochsner, **passing 5-0**.

c. Town Policy Statement –Appointing Members to Town, County or Local Boards
A new **policy statement regarding appointment to Town, County or local boards was formalizing a process was unanimously approved** following a **motion** from Councilman Haverland with a second from Vice Mayor Weick. Councilman Haverland said it was well laid out, and Mayor Barefoot agreed it was a good work to set clear directions.

d. 2014 Disbursement Approvals (Town Manager / Town Treasurer)
There were two checks that were processed without a second signature as required by Town policy for any expenses over \$5,000, one for \$7,530 to return an impact fee to Croom Construction Company and one to Ten-8 Fire equipment for \$5,703. Our process has been reviewed and modified to prevent this from occurring again in the future. Councilman Haverland asked if the bank has any responsibility to look for these, and was told they do not. The Town requires the signatures, not the bank.

A **motion to approve the corrections and disbursement to these two items** was made by Councilman Haverland and seconded by Vice Mayor Weick, **passing 5-0**.

e. Moving Council Meeting Date in July to 16th or 30th (Councilman Slater) (Request withdrawn)

7. Town Manager

a. Collective Bargaining Contract Negotiation Commencement Date

Mr. Stabe said he had arranged to begin the Collective Bargaining with the Public Safety Department Union Representatives on April 1, 2015. He asked the Council for dates for holding a closed executive (shade) session. Councilman Haverland suggested that the Town Clerk coordinate their availability, and everyone agreed. They discussed how long and how often the meetings might last, and what key items might possibly come up. Factual information such as the current contract and pertinent data will be provided prior to executive sessions. Sunshine Law and Public Records in respect to distributing this type of information was discussed by Mr. Clem. The Town Clerk offered to provide a recap of what items were discussed at the last negotiation, and the Town Manager agreed to provide his list of anticipated issues for both sides along with historical reference.

b. Departmental Reports (Building, Financial Balance, Public Safety)

Mr. Stabe officially introduced the new Public Safety Director, Rich Rosell, who began employment on March 20th. The Council warmly welcomed Chief Rosell.

Mayor Barefoot reported that he had received a complaint regarding the permit process, and had discussed it with Robbie and Jose. He explained in detail that there was not a problem with the Town's timelines. It is most likely attributable to the intense competition for subcontractors during this time of the year. Residents need to be aware that contractors and architects may be unexpectedly delayed. It is not the Town that typically causes delays, as the Building Department generally holds to a 10 workday maximum for permits. Inspections are completed the same day if called in before 11, and almost always are done within 24 hours.

Mayor Barefoot continued by commending Jose's work. We are considering hiring a plan reviewer/Code Enforcement Officer, which is a nice problem to have. Inventory of properties for sale at John's Island has dropped over 50% this year. Homeowners should have their permits in place so the contractors can get underway on May 15. The Town Manager added that the Building Official could not be present as he is having his ISO assessment of the Building Department this morning.

8. Council / Committee Reports or Non-Action Items

a. Election Date for 2017 – Possible Reschedule, Charter Amendment (Councilman Haverland)

Councilman Haverland was surprised that the Town was the only one having an election this March, and spoke with Leslie Swan recently and found that the costs would be less than \$1,000 if we had them in November. He viewed this as wasted money. Vice Mayor Weick said this has been discussed

throughout the years, and the reason we hold them in March is that is when the residents are here. It costs more, but November is more complicated when there are other elections and choices on the ballot.

Councilman Haverland said in a national election year, people who might not otherwise be here in November will be or will vote absentee, but he questioned the cost-benefit.

Mayor Barefoot noted how low the turnout was, and even with a hotly contested election in the City of Vero Beach in November there was only a 23% turnout.

Vice Mayor Weick saw no reason to change. Orchid and many others south of us have March elections, which is the standard for a seasonal resident's community. Councilman Haverland said he will find out how we compare with voter turnout in November election.

The Town Manager pointed out that there would be a charter amendment necessary which requires a vote at a general election, and the terms would have to be adjusted.

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

EDC. Vice Mayor Weick reported that they did not meet.

Beach & Shores. Councilman Ochsner said the sand replacement has been completed, and the dune grasses should be done at the end of the month. They have presented a modified beach preservation plan to the Board of County Commissioners. A presentation by the Army Corps of Engineers is also up for decision, with Sector 5 (in the City of Vero Beach) possibly being a candidate for a Federal beach project. The downside is that there is a feasibility study at 50-50 cost, which is expected to be almost \$3 million to understand if it is a candidate for the federal program. If the Study affirms it, the construction of the beach is handled. The Committee approved the Army Corps project because there is no commitment, it just keeps the County in the running for the project. The County can do some of the work themselves.

TCRLC. Councilman Slater said they mostly discussed going to Tallahassee for legislation at the open session regarding the Lagoon and All Aboard Florida.

TCCLG. Councilman Haverland attended and had nothing to report.

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

The Town Manager asked to add the swearing in of Chief Rosell before the Council at this time, which was approved and he was sworn in by the Town Clerk.

9. **Call to Audience**

Caroline Irvin asked the Council to consider having the cell tower issue on the agenda for November, when residents are here. Mayor Barefoot discussed two potential sites in John's Island, and the problem is not the Town's unwillingness but that the cell tower companies do not want to commit to the locations that have been offered. She asked if the Town could have its own tower. Mayor Barefoot said having a privately contracted cell tower may be an option if we are willing to expend all of the costs, handle the problems and reap the economic benefit. The profile of the towers are much smaller now than they were two years ago. Council instructed Mr. Stabe to investigate this and run a dual path in case the John's Island tower does not go through.

10. **Adjournment.** The meeting was adjourned at 10:46 a.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the April 23, 2015 meeting)