



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

REGULAR TOWN COUNCIL MEETING

Monday, March 28, 2016

1:00 p.m.

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

STAFF PRESENT: **Robert Stabe**, Town Manager **Laura Aldrich**, Town Clerk
Chester Clem, Town Attorney **Heather Christmas**, Finance
Rich Rosell, PSD Chief **Jose Guanch**, Building Official

OTHERS PRESENT: *Residents:* **Bob Auwaerter (& Nancy)**, Finance Committee Chairman; **Bill Cull**, Finance Committee; **Chris Hendricks**, PZV Board Chairman; **Ron Davis**, PZV Board Applicant; **Jerry Solin**, P-F Pension Board; **Approximately 50 residents in total, including these and Bermuda Bay residents** Connie Ferguson, Elizabeth Jacobsen, Maria Murray, Susan Mehiel, Penny King, Tom & Judy Peschio, Bob Matthai, & Paul Rancatore; **Estuary residents** Jesus Diaz, Denis Conlon, **John's Island residents** Sandy Kasten, Paul Kaneb, Bob Gibb, John Dillon; Gigi Smithers, and Paula Knier; **Park Shores residents** David & Susan Taylor; **Ocean Colony resident** John Steiner; *Guests:* **Rick Edwards**, CityScape Consultants, Inc.; **Venus Hinds & Matthew Carver**, Berman Hopkins Wright & LaHam; **Jim Moller**, JIPOA; **Wesley Davis**, IRC Commissioner; **Dylan Reingold**, IRC Attorney; **Joe Baird**, IRC Manager; **Janet Begley**, Press Journal; **Lisa Zahner**, 32963

1. Call to Order

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

The meeting was called to order by Mayor Barefoot at 1:05 p.m. The Pledge of Allegiance and invocation were recited and the roll call is as reflected above.

2. Proclamations or Presentations

- a. Proclamation for April as Child Abuse Prevention Month
- b. Cell Tower Research Findings (CityScape – Rick Edwards)

Mr. Stabe introduced Rick Edwards, who said they were asked by the Town to review the existing gap analysis to try to determine the best solution to the wireless service issues currently being experienced by the Town that will carry forward for the next several years. He had 45 copies of his extensive and thorough report, and wanted to give an overview and leave room for questions. He mentioned they had done a master plan for Indian River County in 2004 which included the Town. They identified all of the local carriers for each existing site and modeled the propagation for each one, which is called a search ring, and identified the gaps where there is no service. He emphasized that they did not look at any previous data other than what they had done for the County in 2004, so that what was done during this study was based on technical information, pure facts, and without any bias that could be construed as prejudicial.

That being said, Mr. Edwards continued with the mapping presentation. There are two sites that were first identified as possible locations, and one of the locations happened to fit in the center of the search ring. They did a grid over the full length of the Town and the width of the Town, even though over 80% of the area is over water. They did a population grid and determined a population center almost where Town Hall is. He discussed carriers who use certain frequencies. The resultant findings of the propagation study placed the center of the search ring right over Town Hall as the optimum location based on computer modeling. The data modeling had already been done at 130' and the 120' height was also effective, with the first gaps that appear being right at the Town's extreme northern borders at 110'. There would have to be another 5' allowed at the top of the facility. They recommend north of the parking lot at Town Hall as the optimum location. He said eventually there will likely be the need for smart or head cells at the north end of John's Island Club, but there has to be a central tower location for those cells to work. What they recommend is the lowest height that will serve best with the least visually intrusive impact, so 110' is the optimum height. They had investigated 80' LTE, which revealed

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.

no problem over the entire town. The 60' height was not sufficient for any carrier. He recommended that the higher frequency carrier be at the top, and the Datapath model using LTE from Town Hall works. Below 110' we have an area of concern, but it could be filled in using the tower on 69th Street.

CityScape's RECOMMENDATION is to have a facility in general vicinity of Town Hall, 110', total tower 115' tall. The top section would have a Public Safety Roof Antenna.

Mayor Barefoot asked if we could have a shorter tower, and Mr. Edwards said no, but we could supplement a minimum 110' tower if carriers would use the 69th Street tower. The Sea Oaks facility could also be increased to 100' if the landlord is a public entity, based on a federal law recently passed, as owned property has the right.

Councilman Haverland asked about the 69th Street tower, which currently has only two carriers. The towers will communicate. The carriers on the 69th Street will not totally help as it only has two major carriers, we will have to have all four major carriers. Locations within the County where all four carriers are was discussed by Council and Mr. Edwards. Early on the uninterruptable service areas were addressed. When high speed broadband is more prevalent, they will be helpful. Capacity issues will require more towers and/or addition of small cells. The frequencies are allocated, the owners of the 69th Street tower will have to have more frequencies.

Councilman Ochsner asked if the 110' would accommodate all four and attract all four carriers, and Mr. Edwards said yes. When the report was completed, he said he went back and read all of the minutes from 2012, and the reports generated for this study have the same results as what was discovered in 2012.

Councilman Slater said what we do today needs to fit in the long term goal, and asked if what we are doing now is essential as a building block. Mr. Edwards said it is transition to wireless broadband, LTE stands for Long Term Evolution. The infrastructure has to be in place with sufficient speed, and when it is, it will all be wireless. There will be no need for cable or satellite television, or DSL in the home – it will all be wireless. One of the feeders for this technology will be our tower. Mr. Edwards' talk of self-driving cars brought chuckles, and then he added that Chrysler is coming out with wi-fi cars next year.

He showed a slide of the first tower built and it is still in use today, the Eiffel Tower, and Marconi has the top elevation. He spoke about light takes elevation to work, the band wave is light for cell towers. The future is broadband, Councilman Slater added. It is germane to the conversation, to make sure the steps we take now fit in to the future.

Mr. Edwards summarized the best he could by saying we need a tall structure in this community. The rest of it can be built out with smart cells.

Vice Mayor Weick asked if they considered the Fred Tuerk Drive location. Mr. Edwards said the search ring is void of all knowledge of anything other than the best place for a tower. The computer model runs into the water problems as it won't serve the eastern portion of the Town. Vegetation on A1A also interferes.

Vice Mayor Weick asked about Fred Tuerk being a better location due to it being nearer to the electricity and not in a flood plain, and thought the tower would be more central there. Mr. Edwards said the computer model takes the manmade structures and trees into consideration, and the population center. The Vice Mayor added our Ordinance 524 said the location of the tower has to have minimal adverse effects on surrounding and nearby residents. He said it was ten homes versus 100 homes. The computer answered the questions, Councilman Ochsner replied, adding that the Council decides what adverse effects are relative to height and best coverage, not the computer.

Resident Comments.

John Steiner, 15-year resident and Treasurer of Ocean Colony, which is 28 single family homes, reported that at their recent HOA meeting, they determined they are all in favor of a new cell tower sooner rather than later, as they are unable to call for emergency from within any of the homes. He has an extender, which works in one or two rooms, so if you are in any of the other rooms, it is ineffective.

Susan Mehiel, Bermuda Bay, asked if there will be a decision made today on the location. We will make decision today or take it under advisement depending on how this conversation goes, Mayor Barefoot replied.

Penny King, President of Bermuda Bay HOA, said there has been a pretty good process so far on this. She cautioned against taking a vote today without another workshop and then a Town Council meeting, calling it "a terrible end to this process." Bermuda Bay residents want good cell service but not at the sacrifice their community. She recommend that everyone work together to come up with a solution, and all they are asking is that it be as small as possible. She thought Mr. Edwards had said the carriers aren't as interested in being here because the population in the summer is smaller, and he said the larger deterrent is the opposition from the residents. If it were easy to do, it would have been done. The carriers take the path of least resistance. Mrs. King said they are in the process of choosing a law firm to represent the Bermuda Bay residents. She said if it could be put at Bee Gum Point, it would be much less intrusive.

Mayor Barefoot said the Council has to make a decision, and we have had workshops. Mr. Edwards has made a recommendation, and the Mayor asked her what type of outcome she would expect based on the recommendation. The search ring can't be that far from Bee Gum Point, and asserted that location would not affect as many people, especially if it were disguised as a lighthouse that would look appropriate there.

Susan Mehiel, Bermuda Bay, continued by reading some excerpts from a real estate finding in Bridgewater NJ, that compared sales of homes over the past two years with some with views of a 120' monopole cell tower and others near that cell tower, and found a 2-20% (citing 10%) reduction in the price per square foot of homes. The Appraisal Institute mentions potential health hazards causing great concern among the public. The homes closest to the structure are most impacted. The Mayor interrupted her and spoke of that community, which is very close to his other home, is very different than the Town. Councilman Slater noted that the author of this article has written 10 articles, and is a member of the "Defeat Cell Towers" group. Mrs. Mehiel said that no one in the room would honestly say they would buy a house within 200', 300' or 600' of a cell tower, which elicited chuckles. The Mayor said she had exceeded her 3 minutes, and asked her to be seated. She continued by asking if data streaming would also be improved, and if modeling parameters included the potential end of the world that environmentalists have been predicting (? 53:45). To meet safety needs, she asked for lower towers and less intrusive towers, and use small cells on street lights and a larger tower at the 7-11 that would be better.

Stan Ziemski, a 17-year resident of Bermuda Bay and 30 year resident of the County, said he loves Indian River Shores. He said he fully appreciates all the time and effort put in by the Council, and hopes they not make a decision based on a computer model, but will fully consider the effect of a cell tower on the real estate. His house is probably closest to where the cell tower will be if sited on Town Hall property. The beautiful trees at the north end of the parking lot would have to be compromised, and so many wonderful things that the Council has done should consider Bee Gum Point, it can't be that far away. They will hire counsel if it comes to affecting their property values, and he urged the Council not to "pit neighbor against neighbor."

Bob Gibb, John's Island, said this doesn't need to be dragged out any longer, it's been 12 years already since talks began in 2004 for a cell tower. He said real estate values would be 10% higher if we had reliable cell service. People won't buy in our community because of poor or no cell reception. It is not acceptable. An apology was offered for the "pitting neighbors against neighbors" comment by Mr. Ziemski to Mr. Gibb.

Willow Brost, Bermuda Bay, said she will keep her opinion to herself, and asked the specifics on having a tower on property at different locations. Since it was pinpointed at Town Hall, for example, what is the radius of moving it with percentage points of quality of service? What is the radius and shape of the area, which in this case is long and narrow? Mr. Edwards said that was a good question, and there is less room east and west to shift it. The computer is very good at identifying things, and removes any bias. Adjusting the service ring results in the level of service decaying. The Figure 10 with the search ring was too small to clearly identify its borders. Extended discussion about moving the ring followed, with Mr. Edwards unable to answer if moving it 200 yards to the west would result in degradation of service. Mr. Edwards said the search ring identified one of the areas that was available to be used as Town Hall, and projected the service on that location. They did not explore outside the ring.

Jesus Dias, lives in The Estuary and is a property owner in Bermuda Bay also, said he saw the crane demonstration, and asked Mr. Edwards if he didn't look at the Bee Gum Point location. Mr. Edwards said they were given specific locations to look at, and one site fell within that ring. Councilman Haverland asked what it would entail to further explore 300 yards west of the ring, and Mr. Edwards said he could do that. An overlapping discussion about what he was told to look at was terminated when Councilman Slater said he had done computer modeling to find the best site not based on specific locations, and recommended to spend extra time and money to model Bee Gum Point.

Mayor Barefoot asked if anyone here would oppose having the tower put on the end of Fred Tuerk.

Sandy Kasten, Sago Palm Drive in John's Island, said the report clearly established where the tower needs to be placed for good service, and also that the tower could be disguised. He asked what options there are for covering the tower, so if it were a feature to view in the community rather than a blot.

Bob Matthai, Bermuda Bay, said he appreciated the very thorough work. He asked if the model where having two towers, one here and one at JI, was considered, and how tall they would have to be. Mr. Edwards said they did, and only one site is needed, as it cannot be adjusted in height to cover the entire Town.

Paul Rancatore, Bermuda Bay, said the goal is to plan for the future, and asked how small towers with repeaters on telephone poles on A1A as is done in Morocco would work in our Town. Mr. Edwards said this is the plan for the future. Wireless broadband is not of sufficient speed in the US, the economies of scale isn't there yet, and the cost is too excessive. We have to build the highest facility we can now, and understand how the process started, where it is now, and where it is going. In Europe and Japan, all carriers share infrastructure. In the United States, all carriers use independent structure because they compete for business. The carriers

aren't developing this yet. Mayor Barefoot added the carriers will decide if it's economically feasible, it's not our decision. The cost is in the millions, we have to deal with our problem in the here and now. In addition to the real estate values, the life safety issue is a real problem. He gave two examples of a need where a cell phone would not work. Cell service is critical. If our decision saves one life, and if some home is disadvantaged, that is what we have to deal with. Bee Gum Point owners don't like the idea, and Bermuda Bay residents don't like it. We have to put it somewhere. He said we are happy to take another week or two and model it. He said the communities could work with Mr. Edwards, and they can model it differently. We can see the pros and cons of each, and have another workshop when the new models are done.

Judy Carnevale, Bermuda Bay, mentioned the 69th Street tower only having two carriers, and asked if there was any guarantee of carriers coming if we build this? There is no guarantee, but the tower builder won't build unless there is commitment from the carriers, and the carriers won't commit to a contract until they know location and height, Mayor Barefoot explained. It has to be a good economic decision for them.

Mr. Edwards said the Town is being proactive to control what it will look like as much as it can. What is being done here is in the best interest of the residents.

Vice Mayor Weick asked if the tower will improve service inside of a house, and Mr. Edwards said the signals are restricted but will be improved.

Paul Kaneb, John's Island, asked Mr. Edwards how long it would be for the optimal location to be up and running, if it were approved today, and was told it could be approximately a year.

Paula Knier, John's Island, asked if this is the second consultant who gave this same location, and was told it was not.

John Dillon, John's Island, commented on the process, a small number of people even threatened the Council. He has watched the process for ten years, and cellular services started in 1983. We have to rely on our Town Manager and Council at some point in this matter. He recounted that he has sent out an online petition to about 30 people last fall and got 100 responses. One hundred percent said we have to have better cell service. He guarantees he could get 2,000 people to respond that we have to have good cell service. You have elected people who need to make a decision to benefit all of them.

2:30 – 2:44 p.m., the Mayor called for a 5-10 minute recess, and encouraged Mr. Edwards to answer any further questions outside.

Mayor Barefoot asked that Mr. Edwards do whatever he needed to do to explore the end of Fred Tuerk Drive. The offer to use private property at Ocean Colony was dismissed as not having enough room. A **motion to approve within reason that CityScape to do additional research at the end of Fred Tuerk Drive (Bee Gum Point)** was made by Councilman Slater, seconded by Vice Mayor Weick, and **passed 5-0**. The Mayor said to make sure we have another workshop followed by a Special Called Council meeting if necessary. We will have the results of research ahead of time and posted on the website so they can be prepared. Mr. Edwards anticipated that it would be ready in mid-April. Mr. Stabe said the report given today was planned to be done in advance.

c. Audit Presentation for Fiscal Year Ended 2015 (Ross Whitley, Berman Hopkins Wright & LaHam)

Venus Hinds, CPA with Berman Hopkins Wright & LaHam, presented the audited Financial Statement for Fiscal Year Ended 2015. This is a clean opinion, there were no questions or problem with the audit. She said in this fiscal year there was the implementation of GASB 68 for the liability of the pension plan, and GASB 67 from last year for reporting the audit of the pension plan. Before these were shown as a footnote disclosure.

The Management Discussion & Analysis is the summary of the audit, and is written by the Town Treasurer. GASB 68 starts on page 14 and 15. Three additional line items, deferred inflow of resources, deferred outflow of resources, and the net pension liability for all pension plans. The deferred inflow and deferred outflows are not an asset or a liability, they are future consumption of resources. The beginning pension liability from last year and beginning liability this year have changed on these statements on page 20 and 21. The contribution is now listed as a pension expense on these statements. The fund statements are still the same.

The ending net position of \$8.7 million in assets greater than liabilities. Statement of Activities, increased the net position by \$568,000, which was adjusted beginning liability on October 1 for GASB 68.

Councilman Haverland said the Public Safety Pension plan has a \$2 million unfunded liability, and if we assume a 1% lower return on investment it would be larger, or smaller if we assumed lower. On the General Pension plan, we have \$280,000 shortfall never shows up in the same format. It has an assumed Rate of Return, and he didn't understand how it is shown. Ms. Hinds referred him to page 44, the non-discount rate is 9.59, and Councilman said that was incorrect, our discount rate is 5.9%. This is an adjustment, not the discount rate, it was explained, and the Councilman was frustrated that the Police-Fire plan had the correct information while the

General Employee pension plan did not. He said this was not the same as the actuary report, which showed an unfunded \$280,000, which he believed was correct at a 5.9% return. If these artificial numbers are required by GASB 68, it should be so in both funds. Heather Christmas said they are two provided by two different actuary firms, and Ms. Hinds tried to explain that the actuaries are calculating it differently because they are two different parts of the footnote. The Councilman said both actuaries used to do it using what the trustees said was the rate of return and the mortality table. It is disclosed in the financial statements grouped with the police fire. Mr. Stabe said the plan is closed, which may have an impact. Ms. Hinds referred him to page 42, which shows 96.99% funded, and for GASB purposes, it is correct. The net pension liability is shown as \$102,703. The Mayor said that as trustees for this pension fund, this is critical to know and understand. Ms. Hinds said they are allowed to put supplemental information in the financial statements if they want, and suggested they add the old style statement from last year to the financial statement.

Continuing, Ms. Hinds said the Fund Statements show a total fund balance of \$4.4 million, the General Fund is \$2.3 million unassigned, and the Town has a \$1.9 million set-back for Emergency balance. The overall change to the fund balance is by \$487,000 overall. The General Fund increased by \$226,000 overall. The Fiduciary Net Position for all pension plans is \$12.7 million, which increased by \$125,666 as shown on pages 20 & 21.

The Notes to the Financial Statements start on page 22, and she pointed out the policy related to inflows and outflows in Note A.9 on pages 27, page 29 has the implementation of GASB 68, and page 37-52 has the footnotes on the pension plan. Page 59 has the last of the footnotes, followed by OPEB information and additional schedules following.

The Independent Auditor's Report was provided separately describing control testing, and the one material weakness that was found. There was an implementation issue with the actuary regarding GASB requirement for pension reporting, and the management letter had a repeat finding on Building Department permits. New software will totally alleviate this finding next year. The Town remains financially sound. With no further questions, a **motion to approve the audit findings for FYE 2015** was made by Councilman Ochsner with second by Councilman Slater, which **passed 5-0**. The Mayor thanked Ms. Hinds for the presentation.

3. Consent Agenda

- a. Acceptance of February 8, 2016 Planning, Zoning & Variance Meeting Minutes
- b. Approval of January 25, 2016 Regular Town Council Meeting Minutes
- c. Approval of Invoice from Town Attorney dated February 29, 2016
- d. Approval of Invoice from Holland & Knight dated March 18, 2016
- e. Approval of Request to Purchase Tasers as Budgeted dated February 29, 2016
- f. Acceptance of December 3, 2015 Finance Committee Minutes

Councilman Ochsner requested to withdraw item 3.e. for discussion, which was followed by a **motion to approve other 5 items on the consent agenda** made by Vice Mayor Weick with support from Councilman Haverland, which **passed 5-0**.

Councilman Ochsner asked Chief Rosell why they were buying four tasers and 20 holsters, which the Chief and Town Manager explained would be used by the officers on shift and passed on from shift to shift, with each officer maintaining his personal holster. Councilman Ochsner said he had discussed this with the Chief as how often the officers have to draw their weapon, and one point he had not considered was the mentally unstable. This is an important aspect, Mr. Stabe said, as a mid-range tool between striking with the baton and pulling out a firearm. Pepper spray was the other alternative they had available. A **motion to approve item 3e requesting to purchase tasers as budgeted** was made by Councilman Ochsner and seconded by Councilman Haverland, **passing 5-0**.

4. Town Attorney

- a. Resolution 16-01-A, Florida Inland Navigation District (FIND) Waterways Assistance Grant

Mr. Clem explained that this is an amended resolution in support of the FIND grant, and briefly recapped that the current boat offered limited capability in fire suppression and operating in rough seas, and read the title and recapped the highlights of the resolution. There was no discussion. A **motion** from Vice Mayor Weick with a second by Councilman Ochsner **to approve Resolution 16-01 passed 5-0**.

- b. Ordinance 525, Sea Turtle Signs – Final Reading

The second reading by title of the Ordinance was read regarding sea turtle signage, which Mr. Clem explained eliminates extraneous and outdated information. It required the Town to place permanent sea turtle information signs at all beach public access points. A **motion to approve Ordinance 525, Sea Turtle Signs, passed 5-0** upon being made by Councilman Slater with support from Councilman Ochsner. The extra signs

that were ordered will be used by some of the neighborhoods which have private beach access and possibly offered to the County.

c. Possible Closed Executive Session Re: Pending Litigation Town vs. CoVB Electric Utility

Because of the changes that have been made in the Public Service Commission (PSC) filing and the Circuit Court case that is pending, Mr. Clem presented an opportunity to the Council to schedule an executive closed session meeting as the request has to be made publicly. Mayor Barefoot said the Council members are welcome to communicate with Bruce May individually for an update. He continued that the FPL filed a petition to the PSC to serve the part of the Town that they do not already serve. The timeframe is the question, but we are expecting that it will be late summer before the Town's petition comes before the PSC. This would be the most productive and least expensive path.

Mr. Clem said one of the reasons for a shade meeting is to discuss the cost of litigation, and one of the disadvantages is there is a requirement to have a court reporter, for which the record must be made and kept for release after the case is closed. It would be useful for the Council to review the PSC filing and also what the City of Vero Beach has filed. Both are very recent and lengthy. Individual conversations with Mr. May, Mr. Clem and the Town Manager are certainly allowable if there are specific questions on this complex litigation. If there enough questions, the Mayor added, they could schedule a shade meeting at a later time.

5. Mayor's Items (Possible or Probable Action)

Mayor Barefoot said the only announcement he had was that the first Town Hall meeting would be following this Council meeting, and depending on how it goes, we may have it as an annual affair.

6. Discussion with Possible or Probable Action

a. Accept Resignation of PZV Board Alternate Marcia Henderson (Award Certificate)

Vice Mayor Weick, supported by Councilman Slater, **made a motion to accept the resignation of Marcia Henderson from the Planning, Zoning & Variance Board, which passed 5-0.** She requested that her plaque be given to her during the break, which the Mayor did at 2:40.

b. Application for Alternate to PZV Board – Ron Davis

The Mayor noted that Ron Davis had applied for the alternate position opening and was at the meeting. Mayor Barefoot thanked him for his willingness to serve, and received a **motion to accept Ron Davis as alternate to the PZV Board** from Vice Mayor Weick, seconded by Councilman Slater, which **passed 5-0.**

c. Retiree Buyout of Current Employees (Finance Chairman Bob Auwaerter / Councilman Haverland)

Councilman Haverland recapped that he had proposed to offer a lump sum payout to employees to opt out of Town-funded medical insurance coverage when they officially retire. He and the Town Treasurer worked to determine the amount to be offered to individual employees based on their length of service with the Town. The Finance Committee had reviewed the original proposal, and no one took issue with the amounts to be offered. There was a very strong, clearly worded letter that the employees and their spouse would be asked to sign stating that they understood exactly what they were giving up and what was being offered, which passed this Committee by a 4-1 vote with the Chairman, Bob Auwaerter, casting the dissenting vote.

The Finance Committee Chairman said this was the second time they had a meeting to look at the proposal, and it was presented as applicable to employees with a minimum of 5 years with the Town. Councilman Ochsner noted the whole idea is to get rid of the \$1.1 million of liability, and almost 80% of it is the implicit cost, \$970,000 of \$1.1 million. If we're required by the State to offer this benefit, as long as anyone remains that does not accept the buyout will cause the insurance company to keep building the cost into current cost, so he didn't see how this would ever go away. There will always be some liability, Councilman Haverland agreed, adding that we are providing insurance for a 58-year old at a 42-year old's rate, this would be what goes away. Maybe it will be fully funded one day rather than ten or twenty percent funded.

Mayor Barefoot said he understands the potential benefit to the Town, and that it is entirely voluntary aspect to accept this offer. His concern was with the liability 10-15 years from now, the uncertainty with Obamacare, and other political factors. It may or may not benefit the employee down the road.

Councilman Slater said he believes the Town has a legal and moral obligation to supply benefits as called for. By the same token it may be fit in very well for some, who could use the funds to invest in a business opportunity or investments, and not for others who do not have spousal insurance available. It's a nice benefit for the Town but would only be fair if it is also a really good benefit for the employee. He agrees with presenting the option.

Councilman Ochsner did not see it as any benefit to the Town, the implicit liability sits there year after year on the books and we pay the explicit costs annually, the money goes out in lump sum and doesn't come back. Councilman Haverland said computation is computed on individual basis for both explicit and implicit costs. Councilman Slater agreed, if the number of people receiving OPEB goes down, the liability also drops.

Mayor Barefoot recalled the conversations with labor attorney who said this has to be offered to all employees, and would become part of collective bargaining. Councilman Haverland said it would not have to be as it is only an option.

Mr. Clem emphasized that the labor attorney strongly felt that it would have to go through the Union or it would be an unfair labor practice if we tried to negotiate directly with the employees without involving them. Mr. Clem said we must rely on the labor attorney with this advice, and he added that we are plowing on new ground as none of the attorneys were aware of any municipality in Florida where this has ever been undertaken. FS 112-0801 does not give any guidance on this, and the plan is for retirees and their eligible dependents. A current employee waiving the rights of his now-spouse and dependents is risky.

Councilman Haverland said they offered this before to retired employees so there was no union issue, which was accepted by 7 out of 10 with no repercussions. That was also never done anywhere else in the United States, as far as he knows. We could make this offer time-specific, with a two month window and then it ends unless reopened again in the future.

Mayor Barefoot vote to pursue it and be very specific about what to offer. The specific dollars and liabilities are outlined in the package presented to the Finance Committee, Councilman Haverland said. The Mayor said he would need to see the numbers, and if the majority of people are in favor of it they should proceed and spend the time in laying it all out, and if the majority is not in favor, they will table it.

Councilman Haverland said when the Town Manager went to the Attorney General for an opinion, the response was it has to come from the Council not the Manager. Mayor Barefoot said that would be the next step.

Councilman Slater explained to the audience that this may seem like a lot of chatter, but there is a potentially large number of dollars at stake. People who retire from the Town can be kept on the Town's medical insurance plan, and a blended rate results for all current plan members. Vice Mayor Weick said approximately 40% of employees actually retire from the Town, and Councilman Haverland said they have to be here at least 7 years to receive this offer.

A motion to not offer this benefit to Town employees with at least seven years of service was made by Vice Mayor Weick with support from Councilman Ochsner, which resulted in a vote of **3-2**, with the Mayor, Vice Mayor and Councilman Ochsner affirming and Councilman Slater and Councilman Haverland voting against. Clarification that the Attorney General said she would not respond unless a majority of the elected officials requested the opinion, which the Town Attorney reminded them that it was just an opinion of another lawyer, not a court precedent.

d. Software for the Building Department for On-Line Permitting System (Building Official)

Councilman Ochsner said he gathered from the audit presentation that this software would help resolve the issue we had experienced the past two years, and the Town Manager said it would. Councilman Ochsner said it sounds like a really good choice, and **made a motion to approve the purchase of the on-line permitting software**, which was seconded by Vice Mayor Weick and **passed 5-0**.

e. Minor Revision to Building Permit Fee Schedule, **Resolution 16-02** (Building Official)

Councilman Haverland asked Mr. Guanch if this increase is needed to cover expenses or if we are simply following the lead of other departments. Mr. Guanch said that the construction trend, especially John's Island, is slowing down in the future, and we are in talks to hire a person to assist with Code Enforcement and part-time Building Inspection, both areas for which our workload demands it. In addition, there are expenses for new e-permit system. Councilman Haverland asked what this department's net budget was this year (income versus expense), and was told it is \$300,000 this year, and this would enable purchasing the software and hire the Code Enforcement person. **A motion to approve the increase in the Building Permit Fee** was made by Councilman Slater with a second from Councilman Ochsner, which **passed 5-0**. **A second motion to approve Resolution 16-02 as read by title** by the Town Manager was made by Councilman Ochsner with support from Councilman Slater that **passed 5-0**.

f. Appraisal of Town 5-Acre Property Update

The Town Manager said he was looking to the Council for direction regarding how they desired the property to be zoned, and we had been waiting for an appraisal to determine the best zoning. Councilman Ochsner asked if there would need to be an easement granted prior to rezoning, which Mr. Clem deferred to the County Manager and County Attorney for response.

Dylan Reingold, County Attorney, said one of the issues the Board is looking at is *the triangle piece between the ocean and the subject property* that is part of the Tracking Station. His research has found that it is designated for public park and access purposes. The Board of County Commissioners has asked how to incorporate that parcel within the utilization of the property. Other properties in the County that abut a designated park space have been left as access. It may be necessary to remove some of the trees. The County

Manager said the property lies in the Coastal Construction line, so anyone can use it for access, but he is not sure if a dune walkover is permissible. The Board of County Commission will cooperate in any way, he said, noting the Pebble Beach Villas use the access. The County used federal funds to buy the land, which is one of the problems they are not allowed to sell it or put a cell tower on it. It won't be able to have any structure because it is in the Coastal Construction line.

Mr. Clem said they need cooperation from the County to have a fence or a walkway from Town property across this property to the beach. Mr. Baird said they could come back with a license agreement or an agreement with the BCC. Mr. Baird said he will go to the Board and ask for an interlocal agreement. The County has the right of first refusal, Councilman Slater offered, and the appraisal was mentioned as \$7.7 million. The County is not as interested in developing the property as it is in protecting and nurturing the dune, referring to having access to the beach if there is a storm. Councilman Ochsner asked if a crossover is required, and Mr. Baird thought if there is a multifamily complex a ramp is required for ADA. Working with the Federal government is also potentially required.

Mr. Clem suggested action to rezone it to medium density should be accomplished before it goes too far down the planning path. The Mayor asked if the Council would authorize the Town Manager to begin to rezone the property, and then have Mr. Clem work with the Town Manager through the process, involving the PZV Board if needed. Mr. Clem said the property is surrounded by medium and low density property, but at the time the Comprehensive Plan was developed this property was owned by the County. Now it could be zoned by the Town as medium or low density, and recommended that the PZV Board go through a finding process first, Mr. Clem said, using the findings of the appraisal. Vice Mayor Weick asked which zoning the \$7.7 million price reflects, and Mr. Clem thought it related to multiple family or medium density. If a developer wanted low density, it could be rezoned the Mayor added, and if they want something different it would go back to the PZV Board. Mr. Baird said anyone would have the right to walk across the property to the ocean, and a dune crossover would probably require DEP approval. He will work with the Town Manager.

A utility easement in the northwest corner of the property was discussed as a lift station owned by the City of Vero Beach. This was not addressed in the appraisal, which would be researched by the Town Manager.

g. Budget Calendar for FY 16-17 (Town Treasurer / Town Manager)

Mrs. Christmas requested to move the usual July budget workshop to June, as she may be on maternity leave at that time and wanted it to be as prepared as possible. The Council recommended having it as part of the June Council meeting. Finance Committee will be finished reviewing the budget in May.

h. Hiring of New Medical Director (Chief Rosell / Town Manager)

Mr. Stabe said that Dr. Mattice has done a very good job for the Town as the Medical Director for over 25 years. Chief Rosell and staff have had several discussions with the Town Manager, and have made a recommendation to allow Dr. Mattice to retire from duty with the Town. They have recommended Dr. Robert Charles Ford, DO, ER Trauma doctor in Brevard County at Holmes Medical Center. Mr. Stabe met with him by telephone only. Chief Rosell and Lt. Shaw have met and fully vetted him.

Councilman Haverland asked if this will be by annual contract, and Mr. Stabe said that is how it has been done in the past. Initially there will be a reduction in cost, and is requested to have an effective start April 1.

Councilman Ochsner asked if this was their sole applicant, and Chief Rosell said they approached certain physicians there were two finalists from several who were interviewed. An overlap of 60 days during the transition is requested. **A motion to have the agreement with Dr. Robert Charles Ford as the Medical Director for the Town at a monthly cost of \$1,800/month effective April 1** was made by Councilman Ochsner with support from Councilman Haverland which **passed 5-0**.

i. Request to Consider Moving April, May & June Council Meeting Dates (Weick, Barefoot & Haverland)

Vice Mayor Weick requested that the April 28th Council meeting be moved to April 21, and they all agreed to move it to **Friday April 22nd at 9 a.m.**

Mayor Barefoot asked if the May meeting could be moved to Wednesday the 25th still at 9 a.m. from the 26th, which was agreeable to all.

Councilman Haverland requested that the June 23rd meeting be moved a week earlier to Thursday the 16th, which was also acceptable to the others. It would be preceded by the Budget Workshop at 9 a.m.

Mayor Barefoot turned the gavel to the Vice Mayor at 4:05 so that he could begin the Town Hall meeting in the Community Center.

7. **Town Manager**

a. Election Outcome – Charter Amendment & November Election Schedule (Town Clerk)

Mrs. Aldrich reported that there was a recap in their packets provided as information.

b. Departmental Reports (Building, Financial Balance, Public Safety, Town Clerk). No comments.

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

a. Planning, Zoning & Variance Board Meeting March 14 (Chairman Chris Hendricks)

Chairman Hendricks reported that they considered two requests. The first involved an addition that would encroach on the 15' side yard setback by 4' on the East side which requires Council approval as it is one foot more than the Board's authority. This has been approved by the neighbors and recommended for approval by the PZV Board. A **motion to approve the 4' East side variance at 201 Indian Harbor Road** was made by Councilman Slater with support from Councilman Haverland, **which passed 4-0.**

The Board also reviewed and approved two temporary signs, 24" x 36" and 22" x 20" for the developer at Palm Island Plantation promoting their model units during the daylight hours. A 15' setback from road is required, like other neighborhoods. The Land Development Code (LDC) revision will address this, Mr. Clem added, as a permanent change. The River Club is using this type and another developer also will be using similar signs soon.

The final item was a request to remove a tree of special concern, which was approved without mitigation due to its health and impact on the driveway.

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

EDC. Vice Mayor Weick said they approved the budget for the next fiscal year.

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

TCCLG. There was nothing of significance to the Town, Councilman Haverland reported.

Beach & Shores. Councilman Ochsner said turtle nests are already appearing on the beach. A lionfish fishing tournament scheduled for May at Captain Hiram's in Sebastian. This is a big deal for the County, as it is an extremely invasive fish. Dune planting is underway at the Tracking Station and Treasure Shores, and they are getting estimates for beach renourishment at Sector 5, the City of Vero Beach's portion.

TCRLC. Nothing exciting this month, Councilman Slater reported.

9. **Call to Audience**

None.

10. **Adjournment.** With no further comments, the Vice Mayor adjourned the meeting at 4:19 p.m.

Respectfully submitted,

/s _____

(Approved by the Town Council at the April 22, 2016 meeting)