



MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North State Road A1A, Indian River Shores, FL 32963
REGULAR TOWN COUNCIL MEETING

Thursday, April 26, 2018

9:00 a.m.

Thomas F. Slater, Mayor (Appointed)

PRESENT: **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
Rick Villars, Public Safety Officer

Laura Aldrich, Town Clerk
Michelle Fentress, Town Mgr. Executive Assistant
Mark Shaw, Capt. Public Safety Department

OTHERS PRESENT: RESIDENTS: **Brian Barefoot, JD Rusher, John Hessian, Anna Bain Slater, John's Island; Jerry Weick, Bermuda Bay; Joanne Sardella, Pebble Lane; Brian Foley, Patty Gundy, Pebble Bay Circle; Ian Ferguson-Brown, Sea Forest; Sue & Tom Ether, Anne Dunn, Marianna Greer (The Shores); Leslie Hunt (Ocean Pearl); Nancy Auwaerter, Ocean Colony; Ralph McCrae, PB Villas; Joe Baird, Sea Watch; GUESTS: John Culbertson, MSW Consultants; Curt Jones, DataPath Tower; Sam Nelson & Mike Korpar, JIPOA & JI Security; Jason Brown, Kate Cotner, Vincent Burke, Himanshu Mehta, Indian River County; Joanne Stanley, Scott Floyd + 1, Republic Services; Tom Lee, Attorney; REPORTERS Janet Begley, Press Journal, and Lisa Zahner & Gordon Radford (Photographer), 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 Vice Mayor Ochsner at 9:06 a.m. The invocation and Pledge of Allegiance were followed by the roll call as reflected above.

2. Council Vacancy. (9:06-9:20)

- a. Receive Nominations for Council Vacancy Created by Brian Barefoot's Resignation
Vice Mayor Ochsner asked for nominations, and with three candidates present (Linda Bolton, Brian Foley and Tom Slater). Only one name was offered, Tom Slater. It was mentioned that the other applicants and their qualifications were impressive, but with labor negotiations approaching, institutional knowledge that Mr. Slater brings is valuable. The other candidates were encouraged to run for elections in November.
- b. Close Floor for Nominations. With no other nominations, the **vote was unanimous to appoint Tom Slater to fill the Council vacancy.** Councilman Slater was sworn into office by the Town Clerk.
- c. Receive Nominations for Mayor

Councilman Haverland nominated Tom Slater to fill the mayor vacancy. Councilman Auwaerter nominated himself, reciting official duties and presenting that the unofficial duties require one to act as the "face of Indian River Shores." As a full time resident, he has represented the Town in multiple venues, and gave examples of being the Chairman of the Vero Beach Utilities Commission; diffusing hostility towards Vero Beach at the FMPA board meetings; staying current on items of interest to the Town at Indian River County; successfully networking to receive night vision goggles from TCRPC; providing photos used by the Chairman of the All Aboard Florida group, Congressman Posey; representing the Town at the Treasure Coast Regional League of Cities; and attending the Florida League of Cities conference. His relationships with legislative representatives are active.

There being no other nominations, the **vote was unanimous to appoint Tom Slater as Mayor of the Town of Indian River Shores.** Mayor Slater expressed that he was honored, with thanks and appreciation for the Council's consideration.

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.

- d. Meeting Turned over to Mayor to Receive Nominations for Vice Mayor
Nominations for Vice Mayor resulted in only one for **Mike Ochsner to continue as Vice Mayor, which was unanimously approved.**
- e. Committee Appointments Determined
With a brief discussion, the following appointments were made:

Committee Assignments. These are the current committees on which the Town Council participates:

Name	Primary	Alternate	Meets (day, frequency)
MPO (Metropolitan Planning Organization)	Dick Haverland, Councilman	Bob Auwaerter, Councilman	2 nd . Wed. monthly, 10 a.m., IRC B1-501
AHAC (Affordable Housing Advisory Committee)	Tom Slater, Mayor	(None)	Irregularly, 1 to 6 times/yr. IRC B1-501
EDC (Economic Development Council)	Bob Auwaerter, Councilman	Tom Slater, Mayor	3 rd . Tues. monthly, 3 p.m., IRC B1-501
Beach & Shore Preservation	Mike Ochsner, Vice Mayor	Debbi Peniston, Councilmember	3 rd . Mon. monthly, 3 p.m., IRC B1-501
Elected Official Oversight Committee (EEOC)	Debbi Peniston, Councilmember	(None)	Irregularly; IRC B1-501
TCCLG (Treasure Coast Council Local Gov't.)	Dick Haverland, Councilman	Mike Ochsner, Vice Mayor	1 st . Wed. monthly, 10 a.m., Ft. Pierce
TCRLC (Treasure Coast Regional League of Cities)	Tom Slater, Mayor	Bob Auwaerter, Councilman	3 rd . Wed. bimonthly, 10 a.m., location rotates in 4 counties
TCRPC (Treasure Coast Regional Planning Council)	Bob Auwaerter, Councilman	N/A	3 rd . Friday monthly, 9:30 a.m., Stuart
FLC - Intergovernmental Relations	Tom Slater, Mayor	Mike Ochsner, Vice Mayor	Irregularly
CoVB Utilities Commission	Bob Auwaerter, Councilman	(None)	3 rd . Wed. Quarterly, City of VB Chambers

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3. Agenda Reordering, Deletions, or Emergency Additions (9:21)

An emergency addition was made as item 8.h. for two air conditioning units that have to be replaced immediately.

4. Proclamations / Presentations. (9:21-9:22)

Mr. Stabe asked former Mayor Brian Barefoot to come forward to receive a fire helmet signed by the Public Safety Officers, staff and Council honoring his service to the Town. Mayor Slater noted that Brian Barefoot had done an extraordinary job with the Vero Beach electric sale in guiding the process, commending him and the Council for the progress thus far that is soon to be completed.

5. Consent Agenda (9:23)

- Acceptance of March 12, 2018 Planning, Zoning & Variance (PZV) Board Minutes
- Approval of March 22, 2018 Regular Town Council Meeting Minutes
- Approval of April 13, 2018 Special Called Town Council Meeting Minutes
- Approval of Old Winter Beach Road Invoices

With no discussion, a **motion** by Councilman Auwaerter supported by Vice Mayor Ochsner **to approve the consent agenda as presented passed 5-0.**

6. Town Attorney (9:25)

- Ordinance 537, Mandatory Residential Recycling (Chester Clem / John Culbertson, MSW Consultants)

Mr. Clem said there is mandatory waste pick-up ordinance, but not a requirement for recycling. In order to have the lowest rates possible in the final franchise agreement, this is recommended to make certain that we have a known amount of recycling available. Mr. Clem read of Ordinance 537 by title as follows:

AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, FLORIDA, A MUNICIPAL CORPORATION, PURSUANT TO CHAPTER 403, FLORIDA STATUTES, ESTABLISHING MANDATORY RESIDENTIAL RECYCLING WITHIN THE TOWN; PROVIDING FOR CHARGES FOR RECYCLING SERVICES; PROVIDING FOR BENEFITS FROM ADOPTION;

PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This was the first reading of the Ordinance. Discussion about the County's cooperation with billing for recycling service followed briefly, with the purpose of this ordinance being restated and the State mandate for the County to get to a 75% level by 2020. A **motion to approve the first reading of Ordinance 537** was made by Vice Mayor Ochsner and seconded by Councilman Auwaerter, **passed 5-0**. This will be published in the paper and on the agenda for full discussion at the next meeting on May 17.

b. Ordinance 538, Term Limits for Finance Committee & Police-Fire Pension Board (9:31-9:38)

This follows our discussion at a previous meeting about term limits for the police-firefighter Pension Board to two from four years. The drafted ordinance does this, and Mr. Clem asked if it meets with Council's approval it should be directed to the pension board attorney for review prior to the Council having first reading.

The reasoning behind the change to a shorter term was discussed by the Council, with the main concern being this pension plan is the biggest financial risk to the Town. If people do a good job, they can be reappointed. That it would apply to all members. Having no term limit for number of consecutive terms was also mentioned, along with the composition of the Board as one plan member each from police and fire, two appointed by Council, and those four choose a fifth member from residents. This will be brought back for first reading next month, along with the terms of the current members.

It was also asked that Council consider limiting the Finance Committee members to 2-year terms to the agenda in May.

c. Discussion on John's Island Reuse Water Pipeline Construction Noise (9:38-9:47)

Mr. Clem said he had prepared a memo for the packet discussing this, recounting the historical transaction that the County and John's Island Water Management District (JIWMD) had entered into a contract about bringing reuse water for the John's Island area (up to 1 million gallons per day for other developments, e.g. The Shores and A1A) across the river. One issue that came up had to do with the noise generated by the line from west of the Lagoon to the old bridgehead area on the south prong of Old Winter Beach Road, which could go on for a period of months. A public hearing scheduled by Debbie Mayfield was held last Friday, whereby Mr. Clem was joined by Councilman Auwaerter and Mr. Stabe. The construction will probably start mainland and come across the river towards us. It's the Town's responsibility to maintain traffic control, safety, and drainage control at the construction site. A considerable amount of noise is expected. An application from JIWMD is being processed through several agencies with provisions setting a decibel (dB) level of 55 dB. We could adopt that application as ours to enforce, whatever level it states. He believes from testimony from Knight-McGuire and JIWMD that they will be very receptive to limiting the noise. We will also adopt our own noise ordinance standards to be enforced with their application. The PSD will control the site that is in our jurisdiction, as it's a big concern to the residents and the County.

The decrease in decibel levels from 85 dB to 55 dB was fine with Council, and was agreed to by the engineer for the JIWMD, David Knight. One councilman said that normal conversation is 55 dB. Mr. Clem said we will do our best to tailor our ordinance to be enforceable.

7. Mayor's Items (None)

8. Discussion with Possible or Probable Action (9:47)

a. Change Order for PSD Hurricane Repairs

Mr. Stabe reminded them this was discussed at the last meeting as a necessary part of the building repairs, and provided the invoice for redoing the stucco. There is no recourse to be taken. A **motion to approve the additional \$6,313.50 for repairs to the Public Safety Department building** was made by Councilman Haverland and supported by Councilmember Peniston, which **passed 5-0**.

b. Collective Bargaining Start Date & Articles to Open (Town Manager)

Mr. Stabe received confirmation from Association President Bart Crosby, that IRS PSD is agreeable to begin negotiations on May 1st, and will open the entire contract. Council agreed to set a shade meeting on Wednesday, May 2nd at 8 a.m. in the Conference Room.

c. Signatory Update for Bank and Credit Card (Town Treasurer) (9:53)

The Treasurer asked Council for **authority to remove Brian Barefoot from the Town's signatory and add Thomas Slater**, which was **made as a motion** by Vice Mayor Ochsner with a second from Councilman Haverland that **passed 5-0**.

d. 5th Amendment to Waste Hauling Agreement (Town Manager/Town Attorney) (9:54-10:34)

John Culbertson from MSW Consultants, a Florida-based management consultant specializing in the municipal waste, gave a slide presentation with background explaining the longstanding interlocal agreement and cooperation with Indian River County. However, there is an issue with the provision for recycling collection and payment for that service in the Town.

He explained the challenging service requirements unique to Indian River Shores, which requires manual collection with an individual dumping 18-gallon bins into a truck. We also are unique in that residential collection bin placement is neighborhood specific: curbside, side/back door, garage door, and in-ground containers behind the house. The length of walk can take a few seconds or minutes, so this contract includes premium service levels. Currently in the franchise agreement, some residents are paying a premium price for backdoor service of \$1.58/month for a single-family home.

For the county-wide residential recycling program, automated trucks pick up wheeled carts that are placed along the curb, with one operator who stays in the cab of the truck and a lift-arm that dumps the material into the truck and returns the cart. This is the most common scenario nationally and in Florida. The problem is that the County program doesn't accommodate the premium service levels needed in the Town – we aren't part of the "one size fits all." The interlocal agreement does leave framework for cooperation between the County and the Town. The County level has an assessment charged per dwelling, **including** Town residents, who all are paying for this service. Some of this assessment covers processing recyclables, which benefits the Town as well. The Vice Mayor asked for a breakout of how much the County's cost to process is versus how much is associated with collection, and Mr. Culbertson agreed it was appropriate to do this.

Some of the financials show that all residents pay \$31.08 for recycling per year for a single-family home, and \$25/year for a multi-family unit. Taking the current residential lists with 3,300 dwelling units, the Town residents have paid \$93,183/year to the County Solid Waste Disposal District (SWDD) for this program.

In the recycling franchise, there is definitely a need for different service levels. The Town has 1,611 single family homes, which collectively are charged \$63,695 for both curbside and back door (\$2.59 curbside or \$4.08 for side/back door) service. There are 1,276 multi-family dwellings that each pay \$4.74/unit per month and collectively pay \$72,600/year. There is usually more of a discount for multi-family. If you add the single and multi-family charges together it is \$136,300 annually that the residents are paying Republic Services for recycling. The recyclables are being hauled to the County facility by Republic, so this is truly inequitable that the residents are also paying \$93,000 per year to the County. Discussions with the County management and SWDD staff have not resolved this double billing.

Mr. Culbertson recapped that the current recycling franchise is just an extension of the previous contract. A true new franchise agreement for recycling will be necessary in November with an Invitation to Bid. The Town needs to talk with the County to address the recycling collection fee that is being gathered in the property tax assessment with no service provided. Some options: 1) reducing the assessment to cover just the processing is an option; 2) integrate the Town into the County-wide recycling program; 3) the residents could cease collection; 4) the Town could share revenue the County collects to offset the Town rates from the franchise hauler; or as a last recommendation, 5) engage specialized legal counsel to investigate the assessments and advise on alternatives.

Mr. Clem suggests proceeding with conversations with the County rather than proceeding with a lawsuit, while consulting with an attorney to affirm our course and our rights to be on the same level with the County staff. We all benefit by a negotiated agreement in trying to bring equity and fairness for our residents. The County is mandated to have standards, and to a lesser scale the Town is also.

A question about the discussions with the County to transfer the recycling revenue to the Town to be applied towards Town-contracted recycling collection solicited a response from Mr. Clem that we have had that discussion more than once. Another question is the assumption was that all residents participate in recycling, and was told that this ordinance formalizes it with the mandatory recycling. It was noted that some of the fees are for processing and not collection, and some fees should be the County's. Mr. Stabe clarified that these numbers only reflect collection and transportation of recycling. The landfill assessment fee is paid by all, and includes solid waste, recycling, hauler dumping fees and convenience centers.

County Administrator Jason Brown explained that each family pays \$104 year in total assessment. Recycling pickup is a small portion, under \$30 of this. The cost of collection is more than \$93,000, as they sell recyclable materials to lessen this number from what would be about \$110 if recyclables were not resold. He recapped the history from prior to 2015, when half of the recyclables were brought in by Republic and

half were from Waste Management. All five municipalities were offered the opportunity to participate in the waste hauling and recycling franchise agreement in 2015, and only Fellsmere was able to because of franchise commitments. Mr. Brown said they do want to work out something with the Town, as they are under the 75% mandate. With rolling carts at curbs for recycling, tonnage went up over 50%, but no one in the state is meeting the 75% level. The County Administrator said that using the 64-gallon recycling cart causes a massive increase over using the 18-gallon bins because it holds nearly double the volume.

Mr. Brown reiterated that he is willing to work with the Town to get some of the money back. One council person asked for a commitment on a time limit. Mr. Clem said one of the time problems is the interlocal agreement, which can be cancelled by either party with three (3) months' notice. Mr. Brown said the interlocal agreement may need to be updated as it has been in place since 1993.

The Council directed Mr. Stabe and Vice Mayor Ochsner to meet with Mr. Brown and get an understanding of the numbers on both sides of the picture, and then see if Mr. Clem is agreeable to the suggestion and report the findings at the next Council meeting. The County staff departed.

Mr. Stabe said that the 5th Amendment to the Waste Hauling Agreement to extend the current recycling portion for six (6) months was included in the packet. **A motion to approve the 6-month extension of the recycling portion of the Republic Services Waste Hauling Agreement** was made by Vice Mayor Ochsner and seconded by Councilmember Peniston, which **passed 5-0**.

e. PZV Board Recommendation for 10' Encroachment Variance at 621 Indian Harbor Road (10:35)

Attorney Tom Lee representing the buyer and Mr. Clem reported for the PZV Board that the original house at 621 Indian Harbor Road was built in 1990 with a pool and awning encroachment, and the owner had recently passed away. When the survey was completed for a property sale, the encroachment was discovered. **A motion to approve the recommendation made by the PZV Board of the swimming pool deck in the rear yard 10' pool setback by 5.5' and the awning in the rear 30' setback by approximately 12' as written in the JI approved variance passed 5-0** upon being made by Vice Mayor Ochsner with support from Councilman Auwaerter.

f. Community Center Rebuild Recommendation (Jerry Weick, Committee Chair) (10:40)

Committee Chairman Jerry Weick reported that he had met with the bidders as tasked to accomplish a value engineering study for a lower price. Both contractor's bids were significantly lowered, with Bill Bryant's bid now at \$825,830 and Summit Construction's at \$806,700. Confusion as to whether two or three air conditioning units were required left Summit with a lower bid for reducing to two units, whereas Mr. Bryant stayed firm on three units. Other builders did not bid because of time constraints, the bid clause, and other factors. Fire Code requirements incur additional cost, and the range for price per square foot (sf) for this type of building is \$210-\$220 for just the building, not including site prep or driveway. This building is 3,000 sf under air, 4,000 sf under roof, so the estimate is \$730,000 - \$770,000 excluding site prep and driveway. The original estimate was calculated using the state median prices at that time. Both bidders included \$40,000 for site prep and \$40,000 for the driveway. The proposals expire in mid-May. Councilman Haverland asked about the penalty clause, and Mr. Weick said he recommends waiving it, which keep the price down. The permit fee is \$4,300, which Council discussed briefly.

Councilmember and Committee Member Peniston mentioned the price reduction gained by reducing air conditioning units, and the increases in construction caused by tariffs on aluminum and steel that go up on May 1 by 10%, the cost of cement, and the cost of subcontractors to do the work. She **made a motion recommending using Summit Construction to rebuild the Community Center using two air conditioning units**, which was seconded by Councilman Auwaerter. Someone commented that building it now helps hedge against the cost of inflation around the world.

Councilman Haverland argued against the need for the extra space as before. Discussion ensued with points being made that they voted to get a quote on a larger building. Users were polled about what is important, which included more storage, a larger facility, a sealed off commercial kitchen and sound absorption features. **The motion passed 4-1** with Councilman Haverland dissenting.

A second **motion to waive the penalty clause, permit fee and time limits** was made by Councilman Auwaerter and supported by Councilmember Peniston, which **passed 5-0**.

g. Approval for Contracted PT Building Inspector/Plans Examiner (Town Manager) (11:02)

A memorandum dated April 25 reports that staff continues to advertise for a full or part time one or two-family building inspector, and Mr. Stabe asked to hire a private provider, suggesting Safe-Built who has someone readily available now. It will cost a little more per hour for one to two months while we continue

to search, and will provide the same level for 4 hours a day, 4 days per week for non-structural inspections after the other position is filled. Kerner Fuller is a structural inspector working 3 days a week and doing a great job. This person will do mechanical, electrical and plumbing (MEP) inspections and other structural inspections. A **motion to approve engaging private provider Safe Built for a building inspector** was made by Councilman Haverland and seconded by Vice Mayor Ochsner, which **passed 5-0**. Mr. Stabe noted that he has hired Rob Perry for the Building Official position, which took a total of 3-4 hours from interview to agreeing to start May 1. Mr. Perry will meet with Jose tomorrow.

h. Replacement of 2 Air Conditioning Units (11:06)

Mr. Stabe addressed this emergency addition to the agenda by informing the Council that the Finance office unit was not functional and not repairable, and the Administrative office has been limping with a freon leak that requires more and more frequent repair visits. He got four bids, and recommended Barker Air Conditioning because they already have a maintenance agreement with the Town, offering 10-year parts and labor warranty. A **motion to approve the purchase of two air conditioning units** was made by Councilman Haverland and seconded by Councilmember Peniston, which **passed 5-0**.

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

a. Cell Tower Update (with Curt Jones)

Mr. Jones reported that there are two carriers committed now. Verizon had to raise the equipment platform up 3' to account for federal government requirements for up to a 7' storm surge. That will take three weeks after the purchase order is issued. His guess is that it will be at least 8 weeks before Verizon will be operational. ATT has committed to the site by submitting their permit application before signing a lease. Running the electric from where it was brought in at the street in front of the PSD building has been challenging, which led to asking Bermuda Bay to grant an easement for the fiber optic cable. Trenching is underway and almost complete. Town Manager Stabe said the City has to place the transformer, and then the Town can finish up with landscaping.

Mayor Slater asked for a date when they could get service. Mr. Jones said they are their own boss; he can facilitate but can't control their timelines.

b. Public Safety Salary Benefit Study Update

Mr. Evertsen from Municipal Solutions will be presenting at the workshop meeting that follows.

c. Traffic Camera Statistics (Chief Rosell) (11:04)

Councilman Auwaerter reported that he was told by Major Flowers of the IRC Sheriff's Department that the new software failed to port our reports into the system, and they are working with Officer Iovino to get them functional again. An outside vendor has to write the reports. The Council appreciated his effort on this.

d. Departmental Reports (Building, Finance, Town Clerk, Public Safety) *No comments*

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

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

Beach & Shores was cancelled, and no other reports were given.

Councilman Auwaerter pointed out that FDOT has scheduled a meeting about A1A milling/resurfacing improvements and new 6' sidewalk on the East side from just south of the 7-11 to Wabasso that will be held in July. This makes the crosswalk at Fred Tuerk even more vital.

The Town Manager mentioned the Public Safety Department's open house this Saturday.

10. **Call to Audience** (11:17)

Mr. Weick asked about the **brick apron on the Community Center**, and was directed by **to remove it from the Community Center plans**.

11. **Adjournment**. The Mayor adjourned the meeting at 11:18 a.m.

Respectfully submitted,

/s
Laura Aldrich, Town Clerk

(Approved by the Town Council at the May 17, 2018 meeting)