

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

REGULAR TOWN COUNCIL MEETING

Thursday, May 26, 2011

3:30 p.m.

PRESENT: Thomas W. Cadden, Mayor
Gerard A. Weick, Vice Mayor
Frances F. Atchison, Councilmember
Richard M. Haverland, Councilman (Telephonically)
Michael B. Ochsner, Councilman

STAFF PRESENT: Richard Jefferson, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney
Judith Lewis, Town Treasurer (during items 7-10)
Bill Schauman, PSD Director
Robert Stabe, PSD Captain

OTHERS PRESENT: Bill Beardslee, PZV Chairman
Bill Ahrens, Bill MacDonald, Rubin Skyler, Pension Board Applicants
2 Indian River Shores Residents
IRC Utility Director Erik Olson & County Attorney Polackwich
Reporters from Vero Beach 32963 and the Press Journal

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation (Councilman Ochsner)
- c. Roll Call

Mayor Cadden called the meeting to order at 3:30 p.m., with the Pledge and Invocation given. The Town Clerk called the roll for the Council as reflected above.

2. **Approval to Attend Meeting by Telephone** (Councilman Haverland)

Mayor Cadden asked the Town Manager to explain why they are asking for this approval, who replied that Resolution 10-08 requires prior approval from the Council for attendance by telephone. Sending approval by e-mail did not meet the requirements of the resolution, as it should be voted on by the Council (prior to the business portion of the meeting). Mr. Clem added that these things come up on an emergency basis, and a medical emergency is case sensitive and is treated as an unusual event. A **motion** by Councilmember Atchison **to allow Councilman Haverland to be counted in attendance by telephone** was supported by Vice Mayor Weick. Councilman Ochsner and Mr. Clem discussed whether the resolution allowed him to vote, which it did as the criteria (medical emergency) was met. Mr. Clem expanded that any meeting may be attended by phone; the difference in this per the resolution is a medical emergency condition that would allow participation in voting. The **motion passed 3-1** with Mayor Cadden, Vice Mayor Weick, and Councilmember Atchison supporting it and Councilman Ochsner dissenting. Mayor Cadden welcomed Councilman Haverland to the meeting.

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.

3. **Consent Agenda**

- a. Acceptance of Planning, Zoning & Variance Board Minutes dated April 11, 2011
- b. Approval of Regular Town Council Meeting Minutes dated April 28, 2011

A **motion** by Councilmember Atchison, seconded by Councilman Ochsner, **to approve the consent agenda** was made. There being no comment or questions, the **motion passed 4-0**.

4. **Mayor's Items**

- a. Indian River County Water/Wastewater/Reuse Proposal

Mayor Cadden introduced Erik Olson, who addressed the proposal that was received by the Town on May 23rd. Mr. Olson said that the Indian River County Commissioners have unanimously extended an offer to Indian River Shores to become County water utility customers, with terms just like any other customer. As discussed before, he recapped that there is no surcharge other than the 6% for all county customers, with the exact same rates. Example bills were provided, and a new software system was briefly discussed. Merging the County and the City of Vero Beach (COVB) water utility systems was the topic of a meeting on April 29 between those two entities, with the City now considering the County's offer to purchase the City water utility for \$25 million. If the County were to acquire the City's system, any requirement to install additional infrastructure would become moot, because all of the lines would become interconnected. If the City and County do not merge, he proposed that the City and County would both continue serving the Town with reuse water supplemented in the southern and northern end of Town by the County. The County would absorb this cost if the merger does not occur. If the County does acquire the City utility, there will be no cost to the Town. He reminded the Council that the Town would have representation and access to the utility through the County Commission.

Vice Mayor Weick clarified that the equalization rate is 6%, which is also called the franchise rate for County customers. There is not a 12% charge, Mr. Olson clarified, it is called a franchise fee and is 6% of the bill only. In the City of Sebastian there is also a 6% franchise fee. However, the City of Sebastian has elected to add an additional 10% surcharge on their bills, which the Town could also elect to do. Councilmember Ochsner added that the equalization fee is also called the franchise fee, which Mr. Olson confirmed.

Vice Mayor Weick suggested that in Section 5 where it refers to a rate equalization charge, it should be changed to franchise fee or charge to match the bill. Continuing, he asked about the fees charges to condominiums that have multifamily water meter system, and Mr. Olson replied that they enjoy a reduced (85%) rate. Vice Mayor Weick continued that the Town has individual agreements for reuse rates rather than a franchise agreement, and has heard that the City is not renewing these agreements. Mr. Olson agreed. Continuing, the Town had eliminated Sections 6 and 7 before, and does not want it in the contract, as it is redundant.

Councilman Ochsner asked Mr. Olson how they would supplement COVB reuse water. Mr. Olson said that they would use their pipes on 49th Street to connect to the existing City plant, and thus far the COVB has not addressed this. If the offer does not go through to merge, the County still offers an additional million gallons a day reuse water.

Councilmember Atchison asked Mr. Olson if he knew why the City has decided not to continue with gated communities for reuse water, and he replied that he did not know, but had heard that since they have year-to-year contracts, this is the City's option.

Councilman Haverland's only question was about the dramatically accelerated rate charged to condominiums when consumption reaches 7,000 gallons, asking if they get a commercial rate at this point. Mr. Olson said that the City charges based on meter size, while the County charges on Equivalent Residential Units (ERUs) or ERCs (Connections), dividing by the number of ERUs or ERCs for that unit. Vice Mayor Weick added that at an 85% rate, it's even less.

Mayor Cadden discussed billing and his concern about the potable water for lawn required by some home owner associations (HOAs), asking if an HOA can become a commercial organization. Mr. Olson said he thought they would be flexible with this, as it is not a common situation on the mainland but is here on the barrier island.

Vice Mayor Weick asked about the red and yellow fire hydrants near Seagrape Trail, which are very close to one another. Mr. Olson said they are deliberately placed closely and are actually connected, one being the City's and the other the County's in case the merger occurs.

Councilmember Atchison asked if there was any penalty if a community does not wish to use reuse water, and he said absolutely not, there is no requirement to receive reuse water.

(at the conclusion of this topic, Erik Olson and Alan Polackwich departed at 3:57 p.m.)

5. Planning, Zoning and Variance Board Report

Chairman Bill Beardslee said they met on May 9, and granted approval to remove a tree of special concern that had suffered frost damage at 220 Shores Drive, which would be mitigated by replanting two 12' oak trees. Also granted was an approval for a variance on the rear setback for a home in John's Island that sits on a lake that has eroded, with a corner of the guest house infringing 8" into the current setback. This was no fault of the current owner.

6. Town Attorney

a. Committees and Boards Discussion

Mr. Clem said that one item to clarify relevant to this topic was whether one can serve on two boards. A memo has been prepared and filed explaining that there are three boards that are decision making boards, and dual service is not allowable concerning these boards. They are the Planning, Zoning and Variance (PZV) Board; the Code Enforcement Board (CEB); and the 175/185 Pension Board. The Finance Committee is strictly advisory, and one could serve on this and be a member of one of the other Boards. Town Council members cannot simultaneously serve on PZV, CEB or Pension.

Terms are two consecutive 4-year terms for PZV and CEB, he continued, adding that he believed and was unsure if formal policies for Pension and Finance have been stated. These have been clarified over last two or three months. Councilman Haverland asked if someone could serve on Pension and Finance Committees. Mr. Clem said they could, noting that the Florida Constitution is unclear, but case law is such that there is not a conflict. The Finance Committee is more informal and serves in an advisory capacity, and case law points to it being allowable.

Councilmember Atchison commented that it is fabulous that the people are encouraged to participate on these committees, and she is not only grateful for those who have served, but is delighted to see new names come up as they will be knowledgeable about what goes on in our Town. She congratulated everyone who has served and those who are new volunteers.

Mayor Cadden said he would like to see the Council act on these changes. **A motion to have the Town Attorney formalize the recommended changes limiting terms on committees** was made by Vice Mayor Weick and seconded by Councilmember Atchison. The Town Clerk asked if it would be by ordinance or resolution to effect these changes, and Mr. Clem said the PZV and CEB would be by ordinance, and the Pension Board and Finance Committee it could be possibly by resolution. Vice Mayor Weick **amended his motion to direct the Town Attorney to have an ordinance or resolution prepared for the next Council meeting to specify term limits for Town Committees and Boards, which passed 4-0.**

b. Town Policy on Council Attendance

Mr. Clem said that this has been a recent item of focus in case something comes up, which has not in the past, whereby a council person misses three or more meetings. The Town Clerk has done some research that showed some municipalities in Florida have attendance requirements in their Charter

where repercussions may be realized for missing three meetings, and some have none. It is a policy decision for the Council, and a charter change to enact grounds for automatic removal. The Governor can remove a council person for malfeasance, misfeasance or neglect of duties (such as drunkenness or a serious offense). Otherwise, the Council takes an oath to do their job in a reasonable and proper way. This ties into attendance by telephone, which we have addressed in an effort to make it easier for Council to attend under certain circumstances.

Councilman Ochsner said in our Town we have a lot of seasonal residents, and he personally believes that the Council wants someone who will be here all the time. Mayor Cadden said we have (had seasonal residents serve like this) in the past, and cannot recall any missed meetings. If it becomes a problem we could address it. Mr. Clem echoed that he could not remember a situation where there were a series of missed meetings, as our Council may leave but they fly back for meetings, as do some of the County Commissioners and the COVB Council. Vice Mayor Weick said that sometimes they change the meeting date to accommodate as needed, and Chester reminded them that they have cancelled the August meeting altogether at times.

(a resident departed after this discussion)

7. **Town Manager**

- a. DB 175/185 Pension Committee Appointees (Skyler, Cairns, Ahrens, McConnell, MacDonald, Slater, Barrett) – Two to be appointed by Council

Mr. Jefferson said that there are two Pension Board appointments to be made today, and asked the applicants who were present in the audience to stand up and identify themselves. Bill Ahrens, former Vice Mayor and Council member for the past eight years, stood first, stating that he previously had his own company of 40 employees, and felt he was qualified as he was very familiar with pensions and personnel. Bill MacDonald stood next, a resident since retiring from a 38-year career in the banking industry in Ohio in 2006. He said he has always enjoyed giving back to the community in which he lived, and he and his wife are extremely fond of this community. With a substantial financial background, and he has chaired two audit committees: one with American Greetings and the other for Cleveland Clinic Health System, which gave him a background in pension accounting. He was also on the Finance Committee of Lincoln Electric Company where they oversaw the pension investment funds. He thanked them for their consideration. Rubin Skyler said he has been on Finance Committee for last five or six years, and is interested in getting involved with the Pension Board. He retired from his own company after 20 years, having successfully resolved many financial challenges with that company. He is always available for meetings.

The floor was opened for nominations. Councilmember Atchison nominated Bill MacDonald; Vice Mayor Weick nominated Bill Ahrens. Councilmember Atchison also nominated Tom Slater, speaking on his behalf as the former President of John's Island Club. Vice Mayor Weick nominated Skip McConnell, stating that he came with excellent references as a retired doctor and a full-time resident. Mayor Cadden nominated Rubin Skyler. With five nominees, Mr. Clem suggested that they turn in two names of their choice for the Pension Board member on a separate sheet of paper. The Town Clerk received the voting sheets from the Council who were present, and then received Councilman Haverland's votes for Mr. MacDonald and Mr. Slater. The Town Clerk announced that there were three votes for Mr. Ahrens and three votes for Mr. MacDonald, which places these two gentlemen on the Pension Committee.

- b. Finance Committee Appointees (Parks and Blaicher)

Mr. Jefferson asked for nominations for the Finance Committee, with Councilmember Atchison nominating Fritz Blaicher and Vice Mayor Weick nominating Mr. Parks. Voting sheets were again completed by the Council, with Mr. Haverland providing his vote over the phone for

Mr. Blaicher, who was selected unanimously 5-0. Mrs. Aldrich announced the results.

c. Code Enforcement Openings

There is one more opening for the Code Enforcement Board (CEB), Mr. Jefferson announced. Mr. Skyler had tendered his resignation previously, and even with Mr. Clem's determination that there was not a conflict with him remaining on the CEB, he declined to remain. Mr. Beardslee also said he had tendered his resignation as there is a conflict with him being on both this and the PZV Board. With that, it was determined that there are three openings to join Chairman John Klein, Bill McCormack and Hal Glassman (alternate). Councilmember Atchison asked about the Code Enforcement staff in Public Safety, and it was explained that this Board meets only when a Planning, Zoning and Variance issue is unresolved and needs formal determination. The Public Safety Code Enforcement Officer presents the case to the CEB. The Council decided to postpone appointments to this Board and advertise the openings.

d. Budget Workshop Date

Mr. Jefferson asked the Council to consider what date in June would be best for a budget workshop to review Public Safety Department. Councilmember Atchison asked if it could be held on June 23rd prior to the Town Council meeting, with Vice Mayor Weick echoing that it would be good for him, as he will be out of town June 16 – 22. Mr. Jefferson asked the Treasurer how long they needed, and she said about 45 minutes. Councilmember Atchison asked if they could schedule it to begin at 1:30 to give them plenty of time, as it makes up the majority of our budget. All were agreeable. Vice Mayor Weick requested to have the information prior to the 16th if it would be possible. All agreed to have the budget workshop at 1:30 on June 23, prior to the next meeting.

e. Voting Delegate for Florida League of Cities Annual Conference

The Florida League of Cities has requested the name of our voting delegate for the Annual Conference in August. Councilmember Atchison said she would be going, and Vice Mayor nominated her to be the voting delegate, seconded by Councilman Ochsner. Since she sits on one of their boards (Intergovernmental Relations) for the Town, she goes for that committee meeting. Everyone was in favor, as no one else had planned to go.

8. **Call to Council**

a. Committee Reports

Beach & Shores. Councilman Ochsner said he attended this advisory committee on May 16, which was a post-Phase 2 discussion of the sand replenishment. The project was only about 46% complete and short about 120,000 cubic yards from what they were supposed to have accomplished. There is an expectation that there will be a Phase 3 once a notice to proceed (NTP) is received from the FDEP (Florida Department of Environmental Protection) and the Army Corps of Engineers. The Beach and Shores Advisory Committee made a recommendation to the County Commissioners that they finish the project, which Councilman Ochsner disagreed with as there will still be some costs incurred by the County. The Sebastian Inlet Taxing District helped pay \$8.4 million for their share of the cost.

They also had a presentation of alternatives to placing sand on beach, including PEP reef, wave walls and wave attenuation devices. The Vero Beach PEP reef was also discussed at this meeting, and Councilman Ochsner concluded with the announcement that Treasure Shores and Golden Sands beaches are open.

TCRLC. Councilmember Atchison reported that the meeting centered around working on website and how to "brand" the Treasure Coast. An announcement for branding is forthcoming.

Affordable Housing Advisory Committee. Vice Mayor Weick attended this meeting, which did not have a quorum. A presentation on different programs was provided, notably how the SHIP program is running out as the State is out of funding for it. In the past nineteen (19) years, they have helped 992 homeowners pay for closing costs and other associated costs of purchasing a home. Their next

meeting is November 18.

EDC. A grant for local jobs was approved for a telecommunications company, but they will have to prove that they have hired an extra 12 people. This company will either move or expand their current building. Another development is a new Fellsmere Water Management Area, just west of the City. The headwaters of the St. John's River are being developed as an ecotourism site in our county, with the ability to take a boat from Indian River County to Jacksonville. They have acquired 200,000 acres so far, and a lake in the path may be named for Mr. Egan, who has generously donated to this venture.

TCCLG. Councilman Haverland said he attended the meeting this month, and Martin County put on a presentation on how they have established their own broadband communications network.

MPO. This was the second consecutive month without a meeting, Councilman Haverland reported.

Indian River County Mayors. No meeting this month until June in Orchid.

b) Other Matters

a. Financial Issues (Councilman Haverland)

Councilman Haverland thanked Judy Lewis for providing corrective language to the concept he described regarding compensated absences. His main point is that the Town can't just look at cash flow to determine what taxes we will charge, as we may have taxes charged improperly. Future taxpayers get charged, he continued, and believes it should be aligned with when the costs are incurred. He opined that there are severe head winds in the future with other post-employment benefits (OPEB) and the pension in particular, and looking forward in the budget, the Council will have to determine where we will get extra revenue or reduce costs. Mayor Cadden said it well written and well defined, and he is looking forward to the budget meeting next month.

Councilman Ochsner said that the cash flow is not the only consideration in setting the cash rate. We also looked at Reserves during the last budget cycle, which is from taxes collected in previous periods. The Council decided that the Reserves were somewhat higher than they needed to be. Councilman Haverland said it is a point well taken. However, for last two years, our net assets have reduced, and guessed that they are reduced this year as well. He concluded that the Town can only reduce so much, and though we are not in a bad position, we are headed in a bad direction.

9. **Call to Audience**

There were no comments from the audience. Mayor Cadden said he appreciated the new board members, and wished Councilman Haverland a good recovery.

10. **Adjournment**

There being no further business, Mayor Cadden adjourned the meeting at 4:40 p.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the June 23, 2011 meeting)