



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

**REGULAR TOWN COUNCIL MEETING**

**Wednesday, May 25, 2016**

**9:00 a.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  
**Mark Shaw**, PSD Lt. **Shawn Hoyt**, PSD Sergeant

**OTHERS PRESENT:** *Residents:* **Bob Auwaerter**, Finance Committee Chairman; Residents **Denis Conlon**, **Linda Lemmon** (Estuary), **Penny King** (Bermuda Bay); **Joanne Sardella** (Pebble Lane), **Judy Orcutt**, **Patricia and Bill Gundy & Emily McDonough** (Pebble Bay S.); **Debbie Mackay & Steven Schlitt** (Pebble Bay Circle); **Matt Sitkowski & Bill Kluckas** (Surf Lane); **Ralph McCrea** (Pebble Beach Villas); *Guests* **Jim Moller**, JIPOA; **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 9:07 a.m. The Pledge of Allegiance was recited, followed by the invocation and the roll call as reflected above.

2. **Proclamations or Presentations**

- a. Completion of Ethics 101 for 2016 – Councilman Slater and Councilman Ochsner (Mayor Barefoot)  
Mayor Barefoot explained that the annual requirement mandated by the State to successfully complete a 4-hour ethics training course has been met by Councilman Slater and Councilman Ochsner, who were presented certificates.

3. **Consent Agenda**

- a. Acceptance of March 24, 2016 Finance Committee Meeting Minutes
- b. Acceptance of April 26, 2016 Finance Committee Meeting Minutes
- c. Acceptance of April 11, 2016 Planning, Zoning & Variance Board Meeting Minutes
- d. Approval of April 22, 2016 Regular Town Council Meeting Minutes
- e. Approval of Invoice from Town Attorney dated April 30, 2016
- f. Approval of Invoice from Holland & Knight dated May 16, 2016

With no discussion or changes, a **motion to approve the consent agenda as presented** was made by Councilman Slater with a second by Councilman Ochsner, which **passed 5-0**.

4. **Town Attorney**

- a. Resolution 16-03, Indian River Lagoon Regional Compact  
Mr. Clem read the majority of the Resolution 16-03 for the Indian River Lagoon Regional Compact, stating that this is an agreement between the Space Coast League of Cities, the Treasure Coast League of Cities, and the Volusia League of Cities. A copy of the Compact, which signifies support of the Lagoon, with the Resolution was provided to each Councilman.  
Councilman Slater added this is a request from the TCRLC, and he is supportive of this action. A motion by Councilman Slater with support from Councilman Haverland **to approve Resolution 6-03 passed 5-0**.
- b. Ordinance 522, Land Development Code Revision – 1<sup>st</sup> Reading

**AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, REVISING AND UPDATING THE LAND DEVELOPMENT CODE (LDC) CHAPTERS AS FOLLOWS: 160 - ZONING, 161 - SUPPLEMENTAL REGULATIONS, 162 - OFF-STREET PARKING AND LOADING, 163 - LANDSCAPING AND WALLS, 164 - SIGNS, 165 - FLOODPLAIN MANAGEMENT AND DAMAGE PREVENTION, 166 - SUBDIVISIONS, 167 - ENVIRONMENTAL REGULATIONS, 168 - DEVELOPMENT REVIEW PROCEDURES, AND**

*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.*

**169- DEFINITIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Clem read the Ordinance by title as printed above, explaining that this has been a process that has taken about a year, with numerous hearings. We hired an attorney to closely review it, and this is the final result and the first reading of this Ordinance. It will be published prior to being brought up for final adoption. There was a **motion to approve the first reading of Ordinance 522, Land Development Code Revision** made by Councilman Haverland with support from Councilman Slater. Mayor Barefoot asked if there were any questions, and Vice Mayor Weick asked for a copy of the final product. The list recapping each change was provided on the back of the Ordinance, and a full copy was promised for each interested Councilman. Councilman Ochsner mentioned it was mind-numbing just reading the recap, and asked for assurance that the Building Official and Town Manager were in agreement with the final product. Mr. Stabe said they were, and thanked the PZV Board for their due diligence and a lot of hard work, the entire staff, and Executive Assistant Stefanie Osborn who carefully went through it to ensure it is well put together. **The motion passed 5-0.**

c. Ordinance 526, Annexation of ½ East Portion of 5 Acre Vacant Land – 2<sup>nd</sup> & Final Reading

Mr. Clem said this related to the annexation of the East half of the vacant property in the southern end of the Town, which was published in the newspaper with a map depicting the applicable parcel that was not brought in by annexation in the 1990's with the Western half of the property. He read it by title as follows:

**AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, FLORIDA, A MUNICIPAL CORPORATION, PURSUANT TO SECTION 171.044, FLORIDA STATUTES, FOR ANNEXING A PARCEL OF REAL PROPERTY OF APPROXIMATELY 2.25 ACRES IN THE SOUTHEAST SECTION, BEING A PART OF LAND PURCHASED FROM INDIAN RIVER COUNTY, FLORIDA; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

With no discussion, a **motion to approve the second reading of Ordinance 526 to annex the Eastern portion of the vacant property** was made by Councilman Ochsner, seconded by Vice Mayor Weick, and **passed 5-0.**

d. Ordinance 527, P-F DB Pension Plan Restated & Revised Plan Document – 1<sup>st</sup> Reading

The next ordinance was read by title by Mr. Clem as follows:

**AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE TOWN OF INDIAN RIVER SHORES' POLICE-FIREFIGHTER'S DEFINED BENEFIT PLAN TO ADOPT THE RESTATED AND REVISED PLAN DOCUMENT; PROVIDING FOR CONTINUITY; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Stabe said as Council is aware, they have reached a tentative Collective Bargaining agreement with the Public Safety union, which included provisions for changes in the Defined Benefit Pension Plan. It required changes to the Plan Document that were made by the Pension Board Attorney, Bonni Jensen, who prepared the Ordinance as well. He and the Town Attorney have both reviewed the documents, and recommend that it be approved as presented. **A motion to approve the first reading of Ordinance 527 restating and revising the plan document** was made by Vice Mayor Weick and seconded by Councilman Slater.

Councilman Haverland said one element on page 66 for In-Service Distribution was requested by the Town Manager and has a significant cost associated, and he wants the Council to understand that cost and how it will be reimbursed. At no time were we told it had a cost until just before the meeting this morning, but it enables the Town Manager at age 53 to take his pension that he is entitled to at age 55. It appears that this is something in the order of \$100,000 difference. Mr. Stabe said he is willing to reimburse this in some manner.

Mayor Barefoot said he discussed this yesterday with Mr. Stabe, who was also under the impression it would be cost neutral until just this morning. The Mayor suggested that they approve the first reading with the specifics to be discussed at the next meeting with the details, including the actual increased costs the Town will incur. Mr. Stabe had indicated a willingness to reduce his salary by the amount the Town would be obligated. Councilman Haverland said that is well and good if he continues to be employed for a period of time. He added if there is a short term need for cash, it is not good government to do it this way, but rather the individual should secure a loan. Councilman Haverland opined that this part of the agreement should not be included at this time.

Councilman Slater was also under the impression that it was neutral or actually better for the Town because we would be reducing liability, and asked if the Council could approve the other amendments up to Article 22?

Mr. Clem said it certainly can go forward while staff continues to work on this if passed on first reading, then published and have items subtracted from it but not added to the Ordinance. Council could consider it at the next meeting. Councilman Haverland was agreeable to this. Mayor Barefoot asked for the cost associated

with this article to be verified, and for the Finance Committee Chairman and Council to review it ahead of the next Council meeting, which Mr. Stabe said was already in process. The **motion passed 4-1**, with Councilman Haverland opposing it based on the 4% reduction in the contribution to the pension plan of PSD officers hired after 10/1/12.

- e. Ordinance 528, Small Scale Comp Plan Development Amendment to Rezoning 5 Acres, 1<sup>st</sup> Reading

Mr. Clem read the ordinance by title as printed below:

**AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, FLORIDA, A MUNICIPAL CORPORATION, PURSUANT TO FLORIDA STATUTES CHAPTER 163.3187, PROVIDING FOR A SMALL SCALE AMENDMENT TO THE TOWN'S COMPREHENSIVE PLAN WITH AMENDED ZONING OF A PARCEL OF LAND OWNED BY THE TOWN AND FULLY DESCRIBED IN THIS ORDINANCE; PROVIDING FOR LAND USE OF MODERATE DENSITY RESIDENTIAL DEVELOPMENT (MD) WITH ZONING OF R2A MULTIPLE-FAMILY AS DEFINED IN SECTION 160.04 OF THE TOWN'S LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

He explained that within the Ordinance is Section 1, the legal description, Section 2 is amending the parcel in the Comprehensive Plan to MD or medium density, and once that is accomplished, the parcel would be rezoned in accordance with the Comprehensive (Comp) Plan to R2A, which is multi-family. If that was approved the official zoning map would be reflective of the change.

Mr. Clem continued that this property was purchased from Indian River County, and at that time we had a deannexation and reannexation, and we brought this back in with only the West half of property annexed at the time for contiguity. The zoning was not addressed at that time and the east half was left out of the annexation at that time, which was just addressed to bring the Eastern portion into Town limits. To the best of his knowledge we have never addressed the zoning or use of the property. The land purchased from the County is unrestricted, although at one time there was discussion about the property having a designation when it was County-owned for park purposes, but that was removed when the Town purchased the property. The Town has obtained a very thorough appraisal from Mr. Boyle, and the PZ&V Board has thoroughly reviewed the appraisal and ideas expressed for rezoning as LD 1 or MD 1 (low or medium density). They saw in the Comp Plan that the land immediately around the parcel is either LD 1 or MD 1, and has recommended MD 1 that allows up to 6 units per acre followed by R2A zoning under the Land Development Code. If this is adopted, it would go forward for publication and second reading in the standard manner.

Councilman Ochsner asked why the East portion wasn't addressed, and Mr. Clem said we didn't own that property at that time. The County acquiesced to us for annexing the West portion at that time, Mr. Clem said. When we later bought the property it didn't matter much one way or the other, as we owned the property. Historically, the Town was in disagreement with the County; the County wanted a park and the Town did not. The Tracking station wasn't a park at the time, and then we traded the 40-acre Gifford property and paid \$150,000 in addition to make the appraised value equal when the Tracking Station Park was developed and the County got their park. We haven't had any discussion about the use of the property until just recently.

Councilman Ochsner asked about a rumor he had heard that Publix was trying to build in the Town, and Mr. Clem had not heard that. He did recount that in the Roland Miller days there was talk of a bar and grill and a go-go place where Park Shores is now. The deal was virtually done, but thankfully did not go through. Vice Mayor Weick said the Publix inquiry was down near the Moorings.

Mayor Barefoot said he read with interest the PZV Board minutes, and understands that there are residents who are interested in voicing their concerns. A **motion** by Councilman Ochsner seconded by Vice Mayor Weick was received **to approve the first reading of Ordinance 528**. Before the vote, Mayor Barefoot invited the residents for comment.

#### AUDIENCE

Judy Orcutt, 4665 Pebble Bay South, was asked to read a statement on behalf of Indian River Neighborhood Association (IRNA) and John Higgs. (A copy is in the record.) It said that research indicated only a small handful of residents are aware of the proposed rezoning of the 5 acres, and encouraged that we slow down the process until adequate publicity has been given, when more residents are here. They also expressed concern about the traffic on A1A, as the appraisal was being based on multi-family rather than single family zoning. The letter also encouraged that the Council wait until the County officially declined to exercise its first right of refusal to purchase the property. Beach access for new residents also needs to be resolved.

She then continued reading her own letter about living in Pebble Bay since her youngest child was 2, and recounted times gone by when children would go across the street to the property and ride their bikes before the traffic got so crazy. She read in older documents where it mentioned that the land could be used for future stormwater retention, and recalled that it was used during storms as staging area for debris. She asked that

they consider that it may be long term asset the Council would regret selling without considering impact to having it upzoned to the maximum allowable six (6) units per acre. A 14- day notice and individual letters to all the effected residents announcing a public meeting is appropriate for good government even if it is not technically required. She opined there should be consideration to the original dedication of this property by the Schlitt family as open space-recreation for the use by the neighbors (a copy is in the record). She also asked that consideration be given to the surrounding residents who have relied on this parcel for beach access for more than 40 years.

Steven Schlitt, representing his mother (Margarite Schlitt) and the group that developed Pebble Bay Villas and Pebble Beach Estates, spoke next. When they sold the 5-acres to the County for \$200,000, the lots in Pebble Beach development were selling for \$110,000 each. They sold it with the idea that there was public access partially for those developments. It is the closest access to 150 residents that is walkable. Pebble Bay Estates residents do use the access, and that was the intention when they sold it to the County. He asked that the Council maintain this access for the residents.

Debbie Mackay, Pebble Bay resident, objected to calling it vacant land in the minutes as inappropriate. Mr. Clem described it as a park and an access. She named the Council as stewards of a non-renewable resource. Their decision could change something used by all to something used by just a few. Public officials have viewed it as an asset for the public and not private, and she asked for consideration that the original intent was not to make money but a heartfelt desire to do some good rather than to be financially motivated. She opined that it needs to be a dire reason, and so stated why the money is needed so badly now.

Ralph McCrea, president of Pebble Beach Villas Condominium Association, was concerned that the survey that was completed established the integrity of their property line, which he has discussed with Town Manager. Also if the property north of them becomes residential, they anticipate a potential increase in activity of people coming through their property to access the beach. They currently have access to the beach granted by the County, but it is private property. They want to maintain control, and are installing cameras.

Patricia Gundy, Pebble Bay South, Pebble Bay Estates, and formerly of Surf Lane in the late '90's, also read a statement. In the early 70's, this land sold at a significantly reduced price to the County with a clear written understanding that it would become a park. The original intent was for beach access to the County as well as Indian River Shores residents. In the 90's the Town purchased the land from the County, and she has reviewed a lot of paperwork and minutes of the meetings at the time where everyone wanted it to be a park until at the last minute the Town removed that language. Each Town Council since then has kept it as a pedestrian pathway to the ocean. Just one year ago Indian River Shores was named the most affluent and the safest town in Florida. As tempting and financially lucrative it seems, she asked that they please think long and hard about their legacy to the Town, and not move rashly.

Mayor Barefoot went through a scenario of sale of the property, and received confirmation that it would have to come back to the PZV Board for approval. Mr. Clem added that the Town Council can put restrictions on the property at the time of sale, so even though the Comp Plan says there can be 6 units per acre, he and the Building Official and Town Manager went through the restrictions in the LDC. As owner of this property you have leverage on the development. Just rezoning it does not mean it is instantly going to be sold. He pointed out that the PZV Board recommended that by going to R2A as contrasted to R1A, there could be a mix of single family with multi family. He assured them that a great deal of input and restrictions can be received.

Mayor Barefoot noted that the new development to the south left an access to the beach, which Mr. Clem said since the property has been used informally by residents on the west side of A1A for access, a 3' easement on the south side could be a future discussion. From a Public Safety standpoint, there is a tremendous issue with people running across A1A to get to the easement when just 365 yards south there is an entrance to the County Park at the Tracking Station. Mayor Barefoot just wanted residents to understand that this Ordinance allows the control over what ends up being done with this property, and Mr. Clem assured him that there is more control as they own this. Mayor Barefoot added that the Town Manager has been trying for years to get the flashing light turned to a signal, and the Florida Department of Transportation (FDOT) will not do this. We worry about people crossing A1A, and if the Town owned the property and someone got hit by a car, there could be liability.

Vice Mayor Weick said a traffic study would be required by the purchaser of the property, so that would have some consideration. The use is determined by the Town, Mr. Clem said. He said to consider the amount of traffic on the road now, and the Council could limit it to 10 units on the property, or whatever. This is still the first inning of the game, it's not over. The Council has not yet determined to sell it.

Councilman Ochsner questioned Mr. Clem if we didn't already have a liability issue if we leave an easement for an access. Mr. Clem said that to the best of his knowledge, people have been using the property without permission, and he was unaware until very recently that this was being done with the gate being left

open and unlocked. The more things that are done to make the property available to use increase the liability. Legally, you could lock the gates and say “please don’t use the property.” Councilman Ochsner asked if there was implied use, and Mr. Clem said that doesn’t apply here, there is no easement created.

Councilman Haverland mentioned that the property is fenced and it should be, and if it were not fenced it would be an attractive nuisance in the insurance business and you would absolutely have a liability. Mr. Stabe said there are two gates, and one of them includes a sign that a previous Council decided to post that it is for use by residents dawn to dusk. Councilman Haverland said this is definitely an attractive nuisance.

Vice Mayor Weick said he always considered this property as a liability, as illegal immigrants can use it for access (*laughter*), and kids partying at night there. It is a big problem as it invites activity that could be a problem. He’d rather see it developed.

Mayor Barefoot said this is to have a first reading, and a second reading is just to determine what it could be used for and there could be restrictions placed on it down the road. He called the question, and the **motion passed 5-0 to approve the first reading of Ordinance 528.**

#### 5. Mayor’s Items

He mentioned that regarding the electric issue, the City’s request to dismiss our motion is being reviewed by the PSC staff, who will make a recommendation to the Commission. If staff recommends that they dismiss the motion, we will have the opportunity to go before them with our case.

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

##### a. PZV Board Action May 9, 2016 (Chairman Chris Hendricks)

##### (1) 8050 A1A Site Plan Approval Extension

Mr. Stabe said that the Chairman was unexpectedly delayed out of town, and the Vice Chairman was not present. Mr. Clem presented the two items for approval, the site plan extension for one year, which is the first request for an extension. The PZV Board recommended approval. **A motion by Vice Mayor Weick with support from Councilman Ochsner to approve the request for a one-year extension of the site plan approval for 8050 A1A passed 5-0.**

##### (2) River Club South Condominiums Site Plan

Mr. Guanch explained that the PZV Board also recommended approval on this extension, which was approved years ago but there had been no action as this is a new developer. It remains unchanged. **A motion by Councilman Ochsner with support from Vice Mayor Weick to approve the site plan as it is for River Club South Condominiums, passed 5-0.**

##### b. Collective Bargaining Agreement Approval

Mr. Stabe said this is the Collective Bargaining Agreement, which is separate from the Ordinance for the Plan Document that was discussed earlier. **A motion to approve the Collective Bargaining Agreement for October 1, 2015 through September 30, 2018** was made by Vice Mayor Weick and seconded by Councilman Slater.

Councilman Haverland read a document relaying his feelings of disappointment with the results of the negotiations. He suggested that they schedule a workshop to discuss how the process can be improved while it is fresh in their minds. He added from the beginning, they all agreed that their intent is to attract and retain the best and brightest employees with compensation levels at or near the top of the mark. He did not feel that the data provided was relevant, instead calling it misleading and incorrect as compared to the data he had personally collected and analyzed, and called for the Town Manager's employment to be terminated.

Councilman Ochsner asked about the in-service distribution being in this agreement, Section 7 Page 68. It was determined that it is subject to the final reading of the Ordinance, and will read as that document does. **The motion passed 4-1 with Councilman Haverland dissenting.**

##### c. DB Pension Police-Firefighters Optional Buyout (Current Retirees) (Councilman Haverland)

Councilman Haverland said he had proposed that the Council consider offering a pension buyout to the eleven (11) currently retired Public Safety and three (3) retired General employees for amounts ranging from \$66,000 - \$650,000. The Council had received proposed amounts to offer on April 28. He suggested that these be offered to employees with a letter similar to that included with the medical insurance buyout which makes it very clear what they are agreeing to, and that they get spousal buy-in if applicable.

Councilman Ochsner asked if he understood that in Councilman Haverland’s proposal letter, it was stated if the employees all agreed to this, the Town’s liability would be reduced by \$1 million, but it looks like this proposal is to spend \$5 million to save \$1 million. Councilman Haverland said that is correct. The Vice Mayor asked if this wouldn’t impact the pension, and the reply was that the pension fund has \$12 million in cash. Presuming the new mortality table is used, and the Pension Committee agrees to 5.75 investment return as requested, the Plan as of October 1 last year was \$3 million underfunded, and now the new Collective

Bargaining Agreement will add another \$500,000 in unfunded liability. So the Pension Plan for Public Safety Officers is \$3.5 million underfunded. If everyone accepted it there would be \$2.5 million underfunded, with assets lowered by \$5 million.

Councilman Ochsner questioned if this large reduction of \$5 million cash would not impact the interest earning potential, and Councilman Haverland replied it is potentially win-win, as someone who receives a payout could be one who wanted to start a business or build a new house. Councilman Ochsner asked if the mortality table is the one that assumes living until age 81, and was told that it was prepared using the 2011 Social Security Mortality Table, which assumes a 61-year old will die at 82, and a 68-year old will die at age 83. Councilman Ochsner said he heard a United Nations mortality study that the U.S. mortality rate is now 78.

Mayor Barefoot asked for clarification on expected actions, and Councilman Haverland said it was conceptually discussed at the last meeting and he was asked to bring specific numbers and the method used to reach those. He now proposes that these offers are brought forward for action.

Vice Mayor Weick said he has extensive experience with buyouts, and it works well when it is a huge pension system (50-100,000 employees). With our plans it is a big hit to take to offer this, and there are disadvantages and advantages to both the employee and Town. We lose money if they die early, and they may not have enough funds to live on if their lifespan is longer. Councilman Haverland disagreed, saying it would not be a loss to the Town as it would not impact the lifespan of the others in the plan. There was more discussion, with Vice Mayor Weick not in favor of the concept, believing we are too small.

Councilman Slater did like the concept as it gives someone freedom of choice to start a business or something else. Mayor Barefoot thought it was a good idea conceptually, and asked if this memo used a 10% discount rate, which Councilman Haverland affirmed. There was no differentiation for age or anything, and he believed it was fair. If they want it, they will accept it, and if they don't, they won't. If they take it, we will have a long term advantage. One correction Councilman Haverland made was on the bottom of the second sheet, where it should say "All calculations assume 10/1/16 lump sum payout. Ages adjusted forward one year to reflect October 2016 payout." He made a **motion to offer General and Public Safety retirees in the Defined Benefit plan as listed effective October 1, 2016, and that it be made June 1st with a cutoff date of June 30 to accept.** Councilman Slater said he would allow more than 30 days as it would be a new concept and they need time to seek legal advice. Two months was agreed, until July 31. Mayor Barefoot said distribution will be taxed, and suggested the payout should be offered half in one year and half in the following year to divide the tax liability. The **motion to offer general and Public Safety retirees pension buyout effective October 1, 2016 and that the offer be made June 1st with a cutoff date of July 31<sup>st</sup>, with funds to be divided in two payments to lessen the tax impact** was restated. Councilman Slater asked if this has to be approved by the Pension Board, and Councilman Haverland said they have nothing to do with this. Vice Mayor Weick asked where this buyout money comes from, and Councilman Haverland said it would be withdrawn from the investment funds in the pension plan.

The Vice Mayor questioned this, and was told if they can take the money from the trust fund to buy out OPEB medical payments, they could do this. "Trust me," Councilman Haverland said. Mayor Barefoot added trust but verify. Mayor Barefoot asked Mr. Stabe and Mr. Clem and Mrs. Christmas to verify that the pension funds can be used. After more discussion, the entire **motion to offer General and Public Safety retirees a pension buyout effective October 1, 2016 and that the offer be made June 1st with a cutoff date of July 31<sup>st</sup>, with funds able to be divided in two payments to lessen the tax impact, and subject to the ability to use Pension funds being verified** was restated by Councilman Haverland and seconded by Councilman Ochsner, which **passed 4-1** with Vice Mayor Weick voting nay. The Mayor asked Councilman Haverland to work with the Town Manager and Treasurer to make sure that all of the questions raised will continue to support the motion that was approved.

Mayor Barefoot backed up to item 6 b. and the criticizing statement that was read about the Town Manager and the individuals who participated in providing information for the collective bargaining process. Everyone is entitled to their opinion, but the 4-1 vote reflects that the terms were satisfactory when offered and accepted. He does not share the same feelings about the manner in which the information was provided. While things can always be done better, perhaps the process in the future could include hiring an attorney to represent the Council. The Mayor asked that it be included on the record that the integrity and credibility of people providing information was not questionable. Vice Mayor Weick echoed as a former chief negotiator involved in many contracts, these negotiations were done in a fair and equitable manner. There is frequently controversy on whose figures are correct, depending on how they are interpreted. He discussed the contract briefly, noting that we are unique in that we are triple certified. It is a big benefit to our Town, where a typical firefighter/fire medic or policeman has a different job description. Ours have all three jobs to do. He was very

happy with the negotiations, which ended with a compromise in the middle. He agreed that the assessment of the Town Manager was incorrect. Councilman Ochsner added that we have an amazing group of Public Safety officers who do a great job, and the same applies to our Town Manager.

d. Auditor Services RFP Recommendation (Town Manager/Finance Committee Chairman)

Finance Committee Chairman Bob Auwaerter said that an extensive Request for Proposal was distributed and we received three responses. The Finance Committee met yesterday and used a scoring sheet to compare the close prices on four characteristics: 1) ability of personnel, 2) experience, 3) ability to furnish services, and 4) total compensation proposed. The prices submitted were between \$20,500 and \$26,000. There was one clear winner based solely on scoring, and that was Carr, Riggs and Ingram (CRI), so the Committee recommended that CRI meet with them and the Treasurer before making a formal recommendation to the Council. A meeting has been set for 9 a.m. on May 31. He will come back to the Council on June 16.

Mayor Barefoot asked if we are required to get a new auditor, and Mr. Auwaerter said we are not. Our current auditor, Berman Hopkins, ranked lowest in this scoring, but not lowest in price. Councilman Slater asked if we have been unsatisfied with them, and the Finance Committee felt that other proposals were superior. Councilman Ochsner, the Chairman and Councilman Slater agreed it is a good idea to have a different perspective from a new auditor, with the Chairman adding it is with nothing against the Town administration or anything, but just having different eyes would be good. The Mayor said to bring the new auditors up to speed is difficult for staff, but from time to time change does make sense. Mayor Barefoot then thanked the Finance Committee for their review and input on this task.

e. Set Date for 1<sup>st</sup> Budget Public Hearing in September (Town Clerk)

Mrs. Aldrich said that this date is what goes on the TRIM notices that are mailed to each household, so this is a date that cannot be changed. The County and School Board dates have been chosen, and left the optimal dates for the Town as September 6, 7, 9 or 12, and the hearing must be held at 5:01 or later. The one date agreeable to all Council was Friday, September 9 at 5:01 for the First Budget Public Hearing.

7. **Town Manager**

a. Cell Tower Status

Mr. Stabe said he met with the two principals of DataPath Towers and two residents of Bermuda Bay along with their engineer. They walked the 50' x 50' area immediately Northeast of the Town Maintenance Building/Garage, and agreed to locate the tower on the Southern and most Eastern quarter of that property. Next Tuesday the surveyors will be here to conduct a survey, and the environmental and other studies are underway.

Mayor Barefoot asked how this area was after the 8" of rain we recently had, since this is in the flood plain. That was a high volume of rain in a short period of time, Mr. Stabe began, stating it was called a 100-year storm event. It did dissipate fairly rapidly. It was about 1' deep at the worst, and the Mayor noted that even Fred Tuerk Drive did dissipate proving that the engineering correction was finally successful.

b. Conflict Resolution Update with City of Vero Beach for Electric Utility Litigation (Town Attorney)

Mr. Clem said on May 12 he and the Town Manager went to a meeting, as required by Florida Statutes, which was called by the City in opposition to Ordinance 520, as we are scheduled to begin the implementation process soon. The City outlined their position, and then the Town briefly outlined theirs. The outcome was that the Town recommended that they bring back to Council a suggestion that this procedure be delayed. The Public Service Commission hearing is in process, and there is a delay in the lawsuit due to the Circuit Court proceedings. Mr. Clem was asked to **bring back a formal agreement to delay the implementation of the very complex Ordinance 520**, and ask that the City of Vero Beach delay taking further action on the pending lawsuit until we see how the PSC action turns out. Mr. Clem was also asked to bring back exact details on the delay in implementing Ordinance 520.

Mayor Barefoot and Mr. Clem discussed this further, with Mr. Clem also recommending that he bring back the request that the City abate the lawsuit, which they did not accept at this level. He said it is definitely in the Town's interest and the City's as well that they abate Ordinance 520. The circuit court issue regarding the transmission lines and the City's right to be there will have to be determined in the Circuit Court. Mayor Barefoot *asked Mr. Clem to draft a resolution* to this effect.

A shade meeting was requested by the Town Attorney for June 16<sup>th</sup> at 8 a.m. to discuss the pending lawsuit and PSC outcome, subject to Mr. May being available. The Council agreed. Vero Beach Utilities Commission member Bob Auwaerter said the reason the PSC hearing was being moved to July was that the staff report was not available.

c. Pension Plan/OPEB Use of Index Funds (Bob Auwaerter/Councilman Haverland)

Mr. Auwaerter put together a spreadsheet using Vanguard Index Funds for comparative purposes to Florida Municipal Investment Trust (FMIT) since he is familiar with them and their website. Blackrock,

Fidelity, Schwab, etc. are similar type of funds are very competitive when it comes to expense ratios. He went into detail on the funds chosen and their performance, and the FMIT charges a lot more than other index funds. The Mayor noted the Core Fixed Income has 87 basis points, and the highest he had ever seen was 40 basis points. Councilman Haverland said that manager charges more in total than FMIT does. There are less expensive, very good index funds available. His question was could the Town take the General Employee Pension Plan and recommend that the Police-Fire plan get into these, and thought the charge to staff was are we able to use these in a plan, and what is involved if we want to switch today. Mr. Auwaerter said we would have to have an attorney, and a consultant to get all of the services together that are currently offered by FMIT, including an administrative person, fund manager, and lawyer while FMIT provides all services for another specified fee. These services are mandated. Do we have authority to move funds, the Mayor asked, and Councilman Haverland asked if the economics on the administrative issues are manageable? The Mayor said they are looking for direction from staff on this for outside administrative services for a better return for dollars spent. The Town Manager is to follow up with Mrs. Christmas to see if we have the ability and what it costs for outside services. There is no requirement to use the FMIT, Councilman Slater said. The Police-Fire plan changed fund managers two years ago to Manning & Napier, who managed to turn the portfolio over 45% a year. Mayor Barefoot said any passively managed pool of assets will cost considerably less.

Vice Mayor Weick asked if we allowed to manage our pension fund, and are we allowed to invest in securities? We would still have a fund manager with Vanguard or whomever, the Mayor added. As fiduciaries, we will select some other agency to manage the funds. Councilman Haverland said they can only make recommendations to the Police-Fire Pension Board.

Mr. Clem cautioned them to go slow, and to check Florida Statutes as to what type of investments you can make. What needs to be researched that is more important is what we cannot do, Mayor Barefoot added.

d. License Plate Camera System Update (Chief Rosell)

Lieutenant Shaw said that the plan is to go live on June 30 with the license plate scanners. The Florida Department of Transportation (FDOT) would not allow cameras on their right of way, so we had to find private property owners who were willing to let the Town use their resources. The FDOT reminded the Town repeatedly that it is their policy that we cannot have the cameras on their right of way, and they will not budge on it at all. Councilman Ochsner asked what that means, and Lt. Shaw said the cameras will be behind the FPL power pole on Baytree Property, and on Pebble Bay on the south. Two sided cameras (a total of four cameras) will capture traffic in both directions.

e. Departmental Reports (Building, Financial Balance, Public Safety, Town Clerk).

Vice Mayor Weick noted in the Finance report, a typographical error said there was one amendment of \$190,000 for Public Safety **pension** (words “**based on**” were missing) **the actuarial study**. It will be corrected for the record.

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

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

**Beach & Shores** – Councilman Ochsner said their meeting was cancelled this month.

**TCRLC** – The Lagoon Compact discussed in 4.a. was all they had of importance, Councilman Slater advised.

**EDC** – Vice Mayor Weick said this meeting was postponed because of rain, and they met yesterday and approved a job grant for \$175,000 for 25 employees.

**MPO** - Councilman Haverland said he attended, and there was nothing of significance to report.

**TCCLG.** Councilman Haverland reported there was nothing to relay to the Council.

9. **Call to Audience**

Patty Gundy, Pebble Bay Estates, clarified that one of the Council had said that the residents were not authorized to use the 5-acre access to the beach, and there are clear signs that it is a public access as well as on the website.

10. **Adjournment.** With no further comments, the Vice Mayor adjourned the meeting at 11:25 a.m.

Respectfully submitted,

/s \_\_\_\_\_

(Approved by the Town Council at the June 16, 2016 meeting)