

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

**REGULAR TOWN COUNCIL MEETING**  
**Thursday, June 25, 2009**  
**3:30 p.m.**

**PRESENT:** E. William Kenyon, Mayor  
William H. Ahrens, Vice Mayor  
Frances F. Atchison, Councilmember  
Michael B. Ochsner, Councilman  
Gerard A. Weick, Councilman

**STAFF PRESENT:** Robert J. Bradshaw, Town Manager  
Laura Aldrich, Town Clerk  
Richard Jefferson, Building Official  
Chester Clem, Town Attorney

**OTHERS PRESENT:** 2 Business Associates  
2 Residents

1. **Call to Order.** Mayor Kenyon called the meeting to order at 3:30 p.m. The Pledge of Allegiance was recited and the invocation given, followed by the roll call as reflected above.
  - a. Pledge of Allegiance
  - b. Invocation – Councilman Ochsner
  - c. Roll Call – Town Clerk Aldrich
  
2. **Consent Agenda.**
  - a. Approval of May 28, 2009 Regular Town Council Meeting Minutes  
Mayor Kenyon asked for a motion on the consent agenda, which was made by Councilmember Atchison and seconded by Councilman Ochsner, with the **motion to approve the May 28 minutes as amended.** With further discussion, the Council **voted unanimously to approve the item as presented on the consent agenda.**
  
3. **Mayor's Items.**

Mayor Kenyon said that he had a something to discuss that was not to be voted on at this time. He and former Mayor Cadden have been waiting for pertinent information on the water, sewer and electrical service currently provided by the City of Vero Beach to bring to the Council up to date on the issue. Although the standardization of rates has been discussed at the Vero City Council meetings, it was not mentioned at the most recent Utilities Commission meeting. He said that his goal before leaving office in 2011 is that the Town knows everything there is to know regarding the various options for electric, sewer and water service. The Mayor told the Council that he might be coming to them to ask for funding if professional input is needed on this complicated issue. In the interim, he will make sure that the information is shared as it becomes available, as presently there is nothing to offer to clarify the situation. When we have enough accurate information, he continued, he would like to do a letter to the residents telling them how we got to where we are. A letter to Vero Beach customers was included in the most recent electric bill that explained a person with an average electric bill of \$500 a month will be paying close to \$1000 above that divided over the next seven months. The City also is talking about rate increases to capture the needed millions of dollars to cover

*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.*

operating expenses. This is probably the most critical issue facing this Town, Mayor Kenyon added. The utility contracts expire in 2016, and the sitting council at that time will have big decisions to make. He restated that his goal is to make sure the information is available so that the contracts that will be entered into are the best for the residents.

When Councilman Weick asked about the impact to rates when the City of Vero Beach switches to Orlando Utilities, Mayor Kenyon replied nothing has been disclosed on that yet. Mr. Clark Daugherty, 321 Indian Harbor, asked if the Town could communicate this increase and disassociate Indian River Shores from that increase. Mayor Kenyon said that he wanted to send a letter to this affect. Of course, the Council has to agree to the letter, which he said he would like to send within the next couple of weeks.

Mr. Clem noted that any additional expertise on this issue would have to be included in the upcoming budget, and urged the Council to give this serious consideration. The complexity of the water, sewer and electric issues is almost overwhelming. This morning's paper had an article that they all should be familiar with, and said he felt that the City of Vero Beach was caught off-guard even with a panel of 15 experts, as these services are all interlinked. Mr. Clem concluded that Robert is a wonderful Town Manager, although admittedly is not an expert in water, sewer & electric. Mayor Kenyon said that he has a meeting tomorrow with Mr. Cadden, and perhaps at the next Council meeting they could decide if there is a need to include this item in our budget.

Councilmember Atchison asked what the tenor of letter would be, and the Mayor said it would be why and how we are in this contractual situation and that we have no authority in the matter. There is also confusion on the transfer to Orlando Utilities. Councilmember Atchison said that she received three e-mails this past week on the electric issue, and explained to the residents as the Mayor had said. She agreed it would be helpful. Mayor Kenyon relayed Mr. Cadden's surprise at the amount of misinformation being discussed among the residents.

#### 4. Planning, Zoning and Variance Board

(No meeting in June)

#### 5. Town Attorney

##### a. Ordinance 498, Adopt State Fire Code – 2<sup>nd</sup> Reading

Mr. Clem read the ordinance by title as follows:

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA RELATING TO FIRE SAFETY; REPEALING IN ITS ENTIRETY CHAPTER 92.01 – 92.99 “FIRE SAFETY PROTECTION CODE” OF THE CODE OF ORDINANCES; ENACTING AND ADOPTING AN NEW CHAPTER 92, “FIRE PREVENTION CODE” BY ADOPTING THE STATE OF FLORIDA FIRE PREVENTION CODE AND LIFE SAFETY CODE; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

He added that this has been published and is ready for final passage. Mr. Jefferson and the Public Safety Department have requested this ordinance, and the Florida Statutes state that the Uniform Fire Prevention and Life Safety Code are part of our and any other municipality's code by reference, so we have put this ordinance in that format. We have three levels of penalties to give more flexibility. With no discussion, a **motion to approve the second and final reading of Ordinance 498, Adopt Florida State Fire Code**, was made by Councilman Weick and supported by Councilmember Atchison. The motion **passed unanimously**.

#### 6. Town Manager

##### a. Resolution 09-02, Reintroduction of Amtrak Service on the FEC Corridor

A RESOLUTION OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA REQUESTING THE ASSISTANCE OF GOVERNOR CRIST AND FLORIDA DEPARTMENT OF TRANSPORTATION SECRETARY KOPELOUSOS TO PRIORITIZE THE INTERCITY RAIL COMPONENT OF THE FEC CORRIDOR PROJECT (FROM JACKSONVILLE TO MIAMI) AS PART OF THE FEDERAL ECONOMIC STIMULUS PACKAGE FOR THE STATE OF FLORIDA.

This issue is being led by the Treasure Coast Regional Planning Council (TCRPC), Mr. Bradshaw began, and referred the Council to the backup information in their packet. Vice Mayor Ahrens, representative to the TCRPC, summarized that this addresses the issue of the reestablishment of the FEC (Florida East Coast) line. It will be an AMTRAK-style operation. They efficiently gained support from municipalities and local government agencies in Florida, with the majority of resolutions already approved. With nearly unanimous support, the projected stations planned for this rebuild are St. Augustine, Daytona Beach, Titusville, Melbourne, Cocoa, Vero Beach, Ft. Pierce, Stuart and Palm Beach Gardens. This is not to be confused with the high-speed train, he continued, adding that stimulus funds are anticipated for this project. This could help to cut down energy usage, road and truck traffic. The Vice Mayor concluded that he had sent a letter to the TCRPC stating that the Town Council would be considering passing this resolution at a forthcoming meeting. Mr. Clem then read the resolution by title as printed above. A **motion** made by Vice Mayor Ahrens, supported by Councilman Weick, **to approve 09-02 regarding the intercity rail component of the FEC Corridor passed unanimously.**

b. Cemetery Discussion

This is for general discussion, Mr. Bradshaw continued, as there has been some concern with the status of the cemetery. A copy of the ordinance regulating the cemetery was provided to the Council in their packet.

Councilmember Atchison said that on Tuesday morning at 7:30 Eddie Morris, Robert and she met at the cemetery specifically to address complaints the Town has received over past four years. Some activity has transpired on the part of John's Island Property Owners Association (JIPOA) and the two JI Garden Clubs, who have pointed out that some parts of our ordinances are not being followed. The Town is responsible for inside the fence and JIPOA for outside of the fence. They noticed that some trees need to be pruned, and there are "visually disruptive" areas with overgrown bushes, unkempt floral arrangements, and, as of late, iconic accessories. Mayor Kenyon asked about the extent of our responsibility, and Mr. Bradshaw said that the Town owns it and is tasked to keep it weeded and nice looking.

Councilmember Atchison said that our Ordinance, Sec. 93.05 (e) states that "no trees, plants or shrubs shall be planted, pruned or removed unless the superintendent of the cemetery who shall have the authority to do so upon any lot where he may consider such a course necessary." What has been happening is that families have been sending out personal gardeners to plant shrubs and little gardens. The serene, country feeling is being disturbed. She asked the Town Attorney if it was possible to have a full Council meeting with the ordinance in hand at the cemetery. Mr. Clem said it absolutely is proper, and concurred with her that there are trees that have grown and changed the available space.

Councilman Ochsner asked if the superintendent was Eddie Morris or Mr. Bradshaw, and whoever is in charge needs to make the calls. (Inaudible response) Councilmember Atchison continued by stating that there were problems after the hurricanes with Fred Tuerk's plot, which had a beautiful old bench that has been broken, the headstone was placed backwards, and there is a stump that should be ground down. She asked if the Council wanted to set a date to do this.

Councilman Ochsner and Mr. Bradshaw said it was already in the ordinance, and the Mayor said to let (Robert) do it. Mr. Bradshaw said this is essentially a maintenance issue.

Contacting the out-of-state Tuerk family members was briefly discussed. Mr. Mitchell said that the cemetery has been a concern to him for many years, and distributed an old photo of the original setting of the Fred Tuerk plot. The JI Garden Club wants to upgrade the quality of cemetery to include leveling the gravesites and bringing in fill dirt. Mr. Mitchell visited the cemetery for Memorial Day, and it looked unappealing with multi-color papers around dying flowers. When he visited it this morning, it looked nice. Enlarging it is not possible, as the State now requires 19 contiguous acres.

It was determined that the Town Manager would manage the maintenance, and Council

Member Atchison would stay involved. The Vice Mayor was in full agreement that it be maintained as a country cemetery. Councilmember Atchison said that no one has any complaints that flowers are placed on the sites, and she and the Town Manager had talked about having uniform plant holders with a spike to keep the pots from blowing.

Mr. Clark Daugherty asked if there was any way to make it cremation only, and was told that there are only cremation spaces left.

c. Re-appointment John Godfrey to 2-Year Term 175/185 Pension Board

Mr. Bradshaw said they were asking for reappointment for Mr. Godfrey, who has been serving on the board since it began a few years ago. A **motion** by Councilmember Atchison was seconded by Councilman Ochsner **to approve the reappointment of John Godfrey to the 175/185 Pension Board for a two-year term.** When opened for discussion, Councilmember Atchison asked if it was recommended that he be reappointed, and Mr. Bradshaw said yes, adding that he also serves on the Finance Committee and is familiar with the Town's finances. With no further discussion, the **motion passed unanimously.**

d. Budget and Public Hearing Dates

A copy of the calendar in the packet was called to the Council's attention by Mr. Bradshaw, who stated that the Budget Workshop is scheduled for 2:30 on July 23 as is customary, just before the July Council meeting. The Public Hearings are recommended to be scheduled on September 15 and September 24 as determined by Statute and the dates that have already been chosen by the School Board and the County Board of Commissioners. Mayor Kenyon asked if anyone had any conflicts, and Councilmember Atchison said that she would not be in Town in September. As no one else mentioned a schedule conflict, Vice Mayor Ahrens **made a motion to set the Budget Workshop and Public Hearing dates for July 23, September 15 and September 24 as recommended, which passed unanimously.**

e. FLC Voting Delegate and Annual Meeting Attendance

The Annual Florida League of Cities Conference requires a voting delegate from our Town, which historically has been the Mayor. Councilman Ochsner made a **motion for Mayor Kenyon to be the voting delegate for the Town at the Florida League of Cities Annual Conference in August 2009,** which was supported by Councilman Weick. The **motion passed unanimously.** Mayor Kenyon asked who from the Town would be attending, and Councilman Ochsner and Vice Mayor Ahrens said they would, in addition to the Mayor and Town Manager.

## 7. Call to Council – Committee Reports

Parks and Recreation. This meeting was cancelled for June, and Councilman Ochsner added that the upcoming July meeting was also cancelled.

Beach and Shores. Councilman Ochsner reported that he attended the June 15 meeting, with Sector 3 restoration continuing to be the primary subject. There was a request for additional information for the permit. The County Commissioners approved the request to prepare bid packages for both upland and offshore sand suppliers, which are now scheduled to go out by the end of July. The funding resource is expanded by including upland sand, since if it is chosen, a portion of restoration rather than the entirety of the area is possible. The upland sand source would have to pay to qualify (vet) the sand rather than the County. Mayor Kenyon asked when this project might be started, and Councilman Ochsner explained that it could be November or early spring. There was other speculative discussion on this subject.

One other topic at the meeting was offshore drilling, with the State considering allowing it on State land, which is zero – three miles from the shoreline on the East Coast of Florida. The Beach and Shores Committee is considering a letter to the Board of County Commissioners with a recommendation, and asked the Council for their input. Mayor Kenyon said that zero to three miles is close, and recommended the Federal limit, which is farther out. Councilman Ochsner said that if the State were to allow the drilling to take place, the funds received would barely

cover the cost of one beach restoration (e.g., Sector III) and would be restricted for beach and shores use. None of the Town Council supported the drilling.

Councilman Ochsner asked to go on record about the budget. Since we have an estimated assessed valuation of about 4% lower than last year, his opinion is that we have three possible responses to it: raise taxes, cut spending, or dip into the reserves. Councilman Ochsner said that he is philosophically opposed to raising taxes, and that the best option in his mind is using the reserve, which is in essence for an unforeseen emergency. The current economic situation is one of those, as it is not expected to last. There is \$2.4 million in the reserve fund. Taking \$100,000 from the reserve and a little bit of reduced spending should lead to a balanced budget. Mr. Bradshaw asked Mr. Clem, as it is supposed to be for disaster relief, if it had to be for hurricanes. Mr. Clem said that was up to the Council. Mr. Bradshaw said that in the audit, the Undesignated Reserve Account has close to \$500,000. Councilman Ochsner said that if we're only going to be somewhere in the neighborhood of \$120,000 short . . . Mayor Kenyon interjected that he has discovered in conversations with other elected officials in the County that none are expecting to raise taxes, and all are cutting services. Commissioner Peter O'Bryan said the people do not want taxes raised, and Councilman Ochsner agreed. Mayor Kenyon said that the options would be discussed at the workshop.

Councilman Weick asked Councilman Ochsner what percentage of budget the Town should have in the emergency reserve, and the reply was that now we have about six or eight months in reserve.

Councilmember Atchison said when the fund was set up after Hurricanes Frances and Jeanne, the goal was no less than \$2 million and as high as \$2.5. Mr. Bradshaw said that we have \$2.4 million now, and the former Finance Committee Chairman Joe Duncan wanted it as high as we can get it. Councilman Weick said we should maintain that target number.

Metropolitan Planning Organization (MPO). Councilman Weick reported on behalf of Councilmember Atchison that they met and passed a resolution to approve the County's 5-year plan. One item of interest was that funding from the State and Federal government was reduced, and the I-95 and Oslo Road interchange has been eliminated by the State, but the County has not given up on it.

Treasure Coast Regional League of Cities (TCRLC). No meeting this month.

Affordable Housing. No meeting.

Treasure Coast Regional Planning Council. Vice Mayor Ahrens said they met for almost four hours on June 19. A lady from the Census Bureau was a guest, and she had a power point presentation and her five assistants with her. The major item was the inland port and the possible sites because of the widening of the Panama Canal, which will be completed in 2014. Many in the public spoke against it, and many in the TCRPC spoke in favor of it. The Florida Crystals property south of Lake Okeechobee was the recommended location for distribution. The question was raised that if the containers come in full and their contents are distributed, what can be done with the empty containers, as there is no industry in Florida that exports. The Census was briefly discussed, as they are mapping locations of occupied houses with GPS.

Treasure Coast Council of Local Governments (TCCLG). Mayor Kenyon reported that he attended, and they had a presentation by the Torrey Pines Institute. It was very interesting, especially when it was mentioned that \$80 million in funds were given to establish the facility in St. Lucie. They expect 1,000 jobs to come from this, and expect other businesses of a similar nature to choose to locate nearby. Taxes and budgeting were informally discussed at this meeting.

Economic Development Council (EDC). Mayor Kenyon said that this large board had two presentations. Dr. Fran Adams from the Indian River School District reported on what they were doing to enhance the Treasure Coast to encourage businesses to relocate here, focusing on science. He spoke about the permission granted to local school boards to impart a quarter mil tax increase, which Indian River County did not approve. The second presentation was on the

Research Triangle Park in North Carolina, which was established in the 50's. Our society at that time was moving to the industrial parks from downtown. Today it is not the same.  
Land Acquisition Advisory Committee (LAAC). Meeting cancelled.

8. **Call to Audience.**

Mr. Clark Daugherty said that no one is more against taxes increase than he is, and believes it will cost a lot of money over a long period of time to clear up the water, sewer and electric issues, as well as continuing to fight against charter-county government. He advised to not take raising taxes off the table, but to leave the options open. Mayor Kenyon promised him that they would not. Mr. Daugherty said that the Council had a reputation of fiscal conservation, and it will not be preserved by not raising taxes.

Mr. Jack Mitchell, 220 Sandpiper Point, said the utilities have been a concern of his for a long time. He asked the Council to keep this in mind: no (Town) land was left for a sewage or water treatment plant or an electrical substation. He did not know if it could be done, but mentioned the 108 acres that is privately owned (Bee Gum Point wetlands) as a possibility for light-package plants that future technology might allow. The five acres on the beach and five acres on Fred Tuerk Road are not enough. Mr. Bradshaw said that "wetlands" is a (prohibitive) key word. Mr. Mitchell asked what the alternatives might be, and that he only wanted to mention this for consideration.

Mr. Peter Young, John's Island Property Owners Association, said that he applauds the Council's involvement and initiative in the utilities area. John's Island Water Management Company (JIWMC) has hired expertise to assist their community in exploring various ideas to supply (non-potable) water. Mayor Kenyon asked him if he thought the City of Vero Beach rates were fair. Mr. Young replied that the rates are what they are, and their contract with the City expires soon. JIWMC is supplying non-potable water at about 40 - 50 cents on the dollar less than it would be to purchase the water from the City of Vero Beach. He agreed that it is a very tough issue.

Mr. Young also said that he recalled hearing at a Beach and Shores meeting it would take 31,000 truckloads of upland sand across the bridge to do the beach restoration. Mayor Kenyon asked to be kept informed on what is going on with the John's Island water.

Councilman Weick said that at our last meeting that Rob Bolton attended in Indian River Shores, he had mentioned that the State has to approve the rate formula, leaving the Councilman to wonder who the approving agency was and how the calculation is performed. Mr. Moller said that perhaps it is the AWWA.

There was discussion with Mr. Moller about the non-potable water, that to make it drinking water would require processing through something like an RO plant.

Councilman Weick said that the County is putting in a third water treatment plant on 58th street, which will increase the supply of water in a year or two.

9. **Adjournment**

There being no further discussion, Mayor Kenyon adjourned the meeting at 4:47 p.m.

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

Laura Aldrich, CMC, Town Clerk

(Approved by the Town Council at the July 23, 2009 Meeting)