

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

**REGULAR TOWN COUNCIL MEETING
Thursday, July 24, 2008
3:30 p.m.**

PRESENT: Thomas W. Cadden, Mayor
E. William Kenyon, Vice Mayor
William H. Ahrens, Councilman
Frances F. Atchison, Councilmember
David J. Becker, Councilman

STAFF PRESENT: Robert J. Bradshaw, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney
Richard Jefferson, Building Official
William Schauman, Director of Public Safety

OTHERS PRESENT: 2 Residents, 2 Guests

1. **Call to Order.** Mayor Cadden called the meeting to order at 3:30 p.m.
 - a. (Pledge of Allegiance and Invocation foregone as they were done at the 2:30 meeting)
 - b. Roll Call. Town Clerk called the roll as indicated above.

2. **Consent Agenda.**
 - a. Acceptance of February 20, 2008 Finance Committee Minutes
 - b. Acceptance of June 23, 2008 Special Planning, Zoning & Variance Board Minutes
 - c. Approval of June 19, 2008 Town Council Workshop Meeting Minutes
 - d. Approval of June 26, 2008 Regular Town Council Meeting Minutes
 - e. Approval of June 17, 2008 Request for Payment of BSJ Electric Invoice - PSD Remodel
 - f. Approval of July 10, 2008 Schumann Printing Invoice - Annual Reports
 - g. Approval of \$60,000 Contribution to Indian River County for Piper Aircraft Retention
 - h. Approval of PSD Request to Use Forfeiture Funds for Computer Hardware and SoftwareMayor Cadden asked if there were any questions or discussion on the consent agenda. Hearing none, Vice Mayor Kenyon made a motion, which was seconded by Councilmember Atchison, to approve the items on the consent agenda. Mayor Cadden called attention to the \$8,000 invoice for the Capital Fund. The Council **voted unanimously to approve the consent agenda as presented.**

3. **Mayor's Items.**
 - a. Proclamation: Robert & Eleonora McCabe as 2008 Dan K. Richardson Award Recipients
Mayor Cadden said that the McCabe's are Town residents who received this award, which was given by the Gifford Center. Vice Mayor Kenyon was asked to speak about this, who said he had attended a dinner party on the 18th in their honor when they received this award, and the Town's Proclamation was read in its entirety on that occasion. The McCabe's were very much moved that the Town honored them. This Foundation has given literally millions of dollars to

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.

our community in almost every major cultural venue. Recently Mrs. McCabe came up with \$2 million for a Chair for the Psychiatry Department for the University of Florida. Dr. Gold from the Department at the University was at the dinner to address what this meant to the people who have benefited from this generosity. It was a very moving event, Vice Mayor Kenyon concluded, and the Proclamation was very much appreciated.

Councilman Becker added that this gift impacts our community because the money is to be spent for a training program for mental health workers to be used to treat people in Indian River County. Mayor Cadden said that is outstanding, and added that the whole Gifford Youth Activity Center was one-third capital-funded by the County, and the other two-thirds was from private sources, of which a large portion came from our Town. He then read the Proclamation, which was unanimously approved by the Town Council.

b. Electric Utility Update – Dr. Stephen Faherty

Dr. Faherty, a resident of the Southern portion of the barrier island, thanked the Council for the opportunity to bring an update to them. Since he last spoke with them on February 28 regarding the City of Vero Beach's electric utilities, the following have occurred:

- The City entered into a new contract in May with the Orlando Utility Commission, which may provide rates as low as 6% less than FPL after December 2009. However, service rate and efficiency studies to support the suggested rate reductions need to be completed and should be done with customer participation.
- On June 10, the City Utility Advisory Commission (UAC) determined to now allow public comments before voting on issues and a public speaking period prior to adjournment.
- On June 5th, they met with the Supervisor of Elections, Kay Clem, and discussed the pending energy legislation and its unique implications to the Referendum voting process, such as: multiple jurisdictions involved; customers, not just registered voters, participate; referendum voters may be snowbirds or foreign nationals. She confirmed that she, and not the City, has the responsibility for the November 4th Referendum.
- On June 25th, Governor Crist signed the energy legislation which applies to the City of Vero Beach electric utility and requires a fall Referendum of all City electric customers who would be asked the question: "Should a separate electric utility authority be created to operate the business of the electric utility in the affected municipal electric utility?" If a majority vote in favor of creating this separate authority, the City of Vero Beach would have to present a proposed charter to the four State Legislators by January 15, 2009 to transfer the municipal electric, and **also** water and sewer utilities.

Dr. Faherty asked the Town Council to consider passing a resolution which states their support and encourages the Vero Beach Electric utility customers to vote "yes" to the November utility referendum question. He continued that a similar resolution was presented to the Vero Beach City Council and to the Indian River County Commission on July 15th. The County is scheduled to vote on this resolution, which was drafted by the County attorney, at the August 12th meeting.

Dr. Faherty asked the Town Council to request that the City of Vero Beach pass the resolution, and that both they and the County communicate this information to its City electric customers. He further asked that when the referendum passes, that an immediate appointment be made of a representative jurisdiction and customer representatives to draft the new utility Charter that must be presented by mid-January 2009. The Town Council, he concluded, should authorize the Town staff to fund and arrange with County and City of Vero Beach for the communications with customers via the City's mailing lists and stuffer preparation.

Mayor Cadden asked Mr. Clem if this will be on the November ballot, and he said that the

direction states that to the extent possible or practicable, it will be held concurrent with the November 4th, 2008 election. The problem is when one realizes that this is the biggest election we've ever had. From the Supervisor of Election's standpoint, it is geared up toward voters. Since this applies to retail customers for the utility, not necessarily voters, there are real problems to address before then. Of course, her office wants to be cooperative, but the Bill says that each municipal utility shall conduct an election.

Dr. Faherty agreed that there are a lot of problems with this. If there is a vote by the simple majority of customers, it creates this utility authority, which requires a charter. Mayor Cadden asked how many utilities in the State operate with this type of utility authority, and Dr. Faherty said that there are seven or eight in the State now, and the one that has the greatest number of customers outside the City limits is the City of Vero Beach, with 61%. The spirit and intent of the legislation is representation, so he recommended that a 7-person committee to draft the charter would consist of one person from Indian River Shores, three people from the City of Vero Beach, and three people from the County so that it is equal representation based on customer population.

Vice Mayor Kenyon asked if this would take Vero out of the picture completely, and Dr. Faherty replied that the legislation states that this new group would "operate," which has not yet been defined. It does not mean that the City of Vero Beach would not be reimbursed for costs incurred, but the issue is rather if it would be the 5.8% or a lesser amount. The Vice Mayor then asked how they would get the message out to the people. Dr. Faherty said they are working towards getting contributions based on size, and using the mailing list of 35,000 customers.

Mr. Clem said it is his understanding that if it passes, the City of Vero Beach would transfer water, sewer, and electric, and asked for clarification as to why all utilities are involved. Dr. Faherty could not offer an explanation. He did say that there are three issues: the cost, taxes (0-16%), and representation of customers, with the opportunity for each of the three customer-sets to appoint their own representative.

Councilman Ahrens asked who would be in charge of the operations, and Dr. Faherty said this body or committee of seven. He asked what would happen to the people who work at the utilities now, and the answer was that they would stay.

There being no further questions, Mayor Cadden said that they appreciate all of the work and effort that Dr. Faherty is putting into this effort. The Town is not yet ready to take action on his recommendation. Councilmember Atchison said that the word "charter" is extremely confusing to voters this year, and asked him to find a different word. Dr. Faherty said that it is an electric utility referendum, and they were pleased with that. Mr. Clem said that this is much broader than just the referendum, as the Town has a contract with the City of Vero Beach for water, sewer, and wastewater, and we do not know how this will be affected. If the referendum has to do with electric, but has ramifications on other utilities, the Town has to cautiously proceed with this. Each utility contract is different, and one comes up for reconsideration in 2011. Dr. Faherty said that if the electric utility transfers, the Orlando Utility Commission (OUC) contract would be with its successor. Councilman Becker asked if the referendum language is etched in concrete, and he was told that it was. Councilmember Atchison received clarification from Dr. Faherty as having roughly a November 2008 deadline, with a proposed charter due by January 15, 2009. He added it may make more sense to do a mail ballot for this particular issue. Councilman Ahrens asked who set the date of January 15, and the reply was the Florida Statute. Mr. Clem read a portion of the Statute: "Each affected municipal electric utility shall conduct a referendum election of all of its retail electric customers."

Mayor Cadden said that obviously this will be an issue for the Town, and asked Mr. Clem

to get the entire document for discussion at the next meeting. Each of the Council thanked Dr. Faherty for his efforts, adding that many of the residents truly appreciated it. Dr. Faherty said that he had no concerns with the utility, just with the problems of leadership and lack of representation.

Mr. Bradshaw interjected that Mr. R.B Sloan, Director of Vero Beach Utilities, was here with Dr. Faherty, and asked him if he wanted to say anything. Mr. Sloan said he has been here a year. He believes OUC will help them to get a handle with the costs, which are too high. A sufficient study of the plant and the operations of the system both need to be done. Mayor Cadden asked about his background, and Mr. Sloan said that he started out as an engineer at the third largest electric utility in North Carolina, and stayed with them for 34 years. He was the Chief Executive Officer when he retired. He is from North Carolina, where he was county commissioner and a state senator at one time.

Mayor Cadden asked if he had been to Ft. Pierce (electric), and asked why they do so much better than we do. Mr. Sloan said that one of the things we have been concentrating on is operating costs, and he has not observed that they are particularly more efficient than Vero is. Ft. Pierce is not doing well with the co-op right now, either. Councilman Ahrens asked why we have 10% surtax in the County. Mr. Sloan asked him to consider what Vero Beach collects from all of its customers, and take out the 6% that the County charges. The cost of what Vero Beach collects is within pennies of what those inside and outside the city limits pay. The difference is the County tax.

Dr. Faherty said that there is a 10% tax on city residents, and they can only charge the 10% on county bills if the rates are exactly equal, and the bills are not showing them to be equal. There being no other questions, everyone thanked Mr. Sloan for coming with Dr. Faherty.

c. **Adopt Revised Exhibit A, Interlocal Urban Service Area “Stand Down” Agreement**

Mayor Cadden turned the discussion over to Mr. Bradshaw, who asked the Council to recall that the original Interlocal Agreement had the F.S. Chapter 164 provisions in it, and after discussions, everyone decided to take it out. That was the second version that was adopted. Now the 164 provision is back in, with the County having already approved it and other municipalities are expected to follow. He asked the Town Council to also consider approving it as presented. Vice Mayor Kenyon, supported by Councilmember Atchison, **moved to approve adoption of the Interlocal Urban Service Area Stand Down Agreement as presented. The Council unanimously approved the motion.**

4. Planning, Zoning and Variance Board

Mr. Jefferson said that there was nothing to report.

5. Town Attorney

Mr. Clem discussed the electric issue briefly, and said it was obvious that the legislation was just a part of the Governor’s energy bill that was tagged in. There are gaps that normally would not be present if the bill had gone through the normal legislative process.

6. Town Manager

a. **One Year Extension of Auditor Contract**

This is a recommendation from the Finance Committee, Mr. Bradshaw explained, to extend the current contract with our auditor for an additional year. A **motion to extend the contract with the firm of Berman, Hopkins, Wright & LaHam, CPA’s and Associates LLP’s for one year** was made by Vice Mayor Kenyon and seconded by Councilmember Atchison. Mayor Cadden asked how many years they have been our auditor, and Mr. Bradshaw said that the original contract was for four years, and we added one year already. This would be the

sixth year, adding that the Finance Committee thinks this would probably be their last year. The Mayor said that was almost enough, as the previous auditor was retained for 15 years. The **motion passed unanimously.**

- b. Set Tentative Millage Rate for FY 08/09

A **motion to set the tentative millage rate at 1.3923** was made by Councilman Becker, and supported by Vice Mayor Kenyon. It **passed unanimously.**

- c. Approve Tentative Budget for FY 08/09

A motion by Vice Mayor Kenyon to **approve the tentative budget as amended of \$4,085,181** was seconded by Councilmember Atchison, which **passed unanimously.**

7. Call to Council – Committee Reports

Metropolitan Planning Organization (MPO). Councilman Becker said that the MPO met and there was nothing of significance to discuss.

Parks and Recreation. Nothing to report.

Land Acquisition Advisory Committee (LAAC). Councilmember Atchison said this was cancelled.

Sustainability. Nothing to report.

Beach and Shores Preservation. Nothing to report.

Affordable Housing Committee. Councilman Ahrens said he had attended the second meeting of the Affordable Housing Committee, which consists of 16 members, 9 of whom were present. The only particular interesting item for the Town of Indian River Shores is that if a municipality does not have the land or ability to create affordable housing, it can transfer its obligation in terms of cash to the County, or something in-kind (e.g., land). This has never been discussed with us by the County, and they did not achieve this objective. Vice Mayor Kenyon asked if there was a certain number of affordable housing units they recommended, and Councilman Ahrens said there is a county-wide objective, but not for the municipalities. The Town does not have land, but they can transfer their obligation to county or state by writing a check. The Town has not been asked yet for that. Councilman Ahrens said that what he considers a real problem is affordable rental properties. A couple of years ago, 41% of families in this county were paying 30% of their income on housing.

Treasure Coast Regional League of Cities (TCRLC). Vice Mayor Kenyon said the TCRLC met. The big issue was an election to fill the Board seat for the Florida League of Cities (FLC), which is now held by Mayor Cadden. There are eight members of the TCRLC, and only six were at the meeting. There was tie between Pat Christensen and Tom White. Mayor White was to ask the FLC what to do in this situation, and he found out yesterday that there is another meeting next Monday to vote again.

Treasure Coast Council of Local Governments (TCCLG). Mayor Cadden said there was a spectacular barbeque at their meeting this month. The program was about hurricane protection, and the Town of Jupiter Island presented some what the Mayor termed as “significant” improvements over what we do. He asked Chief Schauman and Mr. Bradshaw to go to Jupiter Island and see what they are doing. They tie into a website and can satellite-track storms from Africa. He asked Chief Schauman to check on it.

Economic Development Council. The Mayor printed a report and handed it to the Council, and showed the document the County uses. The group is working on goals, and he agrees that we as a County need to bring in the right kind of industry and good paying jobs.

ISBA Meeting. Mayor Cadden continued that several of the Council attended a meeting on the Interlocal Agreement yesterday, which is the first time the elected officials have been together to review what the ISBA Committee of staff members has been working on

