

shells and eventually replacing pepper trees with live oak trees, and repair the fence where needed. The Town's Public Works Department would continue to maintain the property, but with a little more frequency. Volunteers can do cleanup from time to time when necessary. He mentioned there is a possibility for project grants, and they would work hard to try to get them.

Matt Sitkowski, 936 Surf Lane, has lived there since 2001. He believes this property is a special place in a unique location surrounded by single family homes to north and west and condos to the south. The Tracking Station Park had some interesting history, established in the 1800's when President Ulysses S. Grant set aside the land for a future Coast Guard Station. In the 1960's the Air Force built a sophisticated Missile Tracking Station there monitored from Cape Kennedy. When the Air Force relocated the station, the community leaders saw value in preserving most of the Tracking Station Park and the 5-acre property. Former County Commissioner Alma Lee Loy worked closely with US Senator Lawton Chiles for more than 10 years to acquire the Tracking Station Park from the US government, and also helped to acquire the 5-acre property from Edward Schlitt, developer of the Pebble Beach communities at substantially below market value with the understanding that it would be used for beach access and open space. Mr. Sitkowski concluded that the property is thriving with native wildlife, including the gopher tortoise which is protected by the state, approximately 200 mature palm trees and 25 live oaks. He mentioned some of the benefits previously noted.

On the other hand, he continued, allowing a development would worsen the traffic on A1A, which north of Beachland Boulevard is operating at overcapacity and would rate an "F" in FDOT's scale. Residents who live on cross-streets who want to turn south have to go north during season. A structure up to 50' high would be out of character with the shoreline, as there is nothing like it nearby, the closest being Ocean Gate to the south and Sea Forest to the north.

He summarized by mentioning other treasured properties that have been preserved: Riverside Park, Veteran's Island, Sebastian Inlet, Pelican Island, and others that make our community so special and different from others. Concerned Town residents want to see the property preserved, and honor the former leaders who wanted to set aside as the only public land in Indian River Shores that is suitable for passive green space. Mr. Sitkowski respectfully asked that the Council preserve the property.

Sophia Blanchard, 925 Surf Lane, lives adjacent to the park. She recounted so many letters received in the mail to save the bear, save the butterflies, save the national parks, and related it to our 5-acre little park. She said the Council wants to unwisely sell it to developers. Across from the Village Market the new buildings totaling 11 units look like 1,000 to her. The money you get from this will disappear, she cautioned, and pleaded with them not to sell it.

Patricia Gundy asked if the walkway would be discussed now, and was told it is later on the agenda.

3. Consent Agenda

- a. Acceptance of June 13, 2016 Planning, Zoning & Variance Meeting Minutes
- b. Approval of June 16, 2016 Closed Executive Session re: CoVB Litigation Minutes
- c. Approval of June 16, 2016 Budget Workshop Minutes
- d. Approval of June 16, 2016 Regular Town Council Meeting Minutes
- e. Approval of Invoice from Town Attorney dated June 30, 2016
- f. Approval of Invoice from Holland & Knight dated July 13, 2016

Councilman Ochsner made a **motion to approve the consent agenda**, which was seconded by Councilman Haverland and **passed 4-0**.

4. Town Attorney – Nothing to discuss.

5. Mayor's Items

- a. Electric Utility Litigation Update *(discussed after Call to Order)*

Mayor Barefoot set the stage by recounting that he and Mayor Kramer had agreed to try and get representatives from the City, the Shores and FPL together to discuss a possible sale. This took place on Tuesday afternoon, July 26, and representatives from FPL made a cash offer of \$30 million, up from their offer over a year ago that was \$13 million. This is a substantial increase, and it is contingent upon the Town contributing, among other things. It was proposed that the Town residents who currently receive CoVB electric, not FPL-served residents, will pay back \$3 million of FPL's \$30 million cash offer over a

3-year period at a rate of \$1 million per year. An analysis was done by our (the Town's) consultant, Terry Deason, that has been reviewed by Attorney Bruce May and himself. This amount paid by the current City electric utility customers would be paid as a surcharge to FPL, and would still result in less payment than our residents are currently paying the CoVB for electricity. Additional benefits of having FPL as our service provider, as stated in the past, includes the availability of SMART meters, incentive plans for purchasing energy-efficient appliances with rebates, and a consumer advocate service, none of which types of services are available from the City of Vero Beach. If the Town Council passes a motion that the Vero-electric customers in the Shores contribute \$3 million, then FPL will deliver a formal written offer to the City next week. The City will have approximately 2½ weeks to review the offer internally, and presumably will discuss it at their meeting on August 16.

The Mayor said he personally views it as a very generous offer, as from a per-customer price it is far higher at almost \$10,000 than the normal of what has ever taken place at \$5,000. He hopes the City will approve this offer and end the litigation and disagreement that has gone on between two neighboring municipalities that are supportive of one another in every other way. This has gone on for far too many years, and hopefully this will end the haggling.

Vice Mayor Weick announced that Attorney Bruce May was on the phone for any questions or comments, and Councilman Ochsner expressed hope that the FPL offer has a limited window for acceptance. Mr. Clem noted the offer could be withdrawn at any time. Mr. May said he understands that FPL will ask that the matter be considered at their meeting on August 16th, but he has not seen the offer letter. Mayor Barefoot added that the Town's representatives at that meeting were Bruce May and Robbie Stabe, and from the City of Vero Beach were City Manager Jim O'Connor and electric counsel Schef Wright, and from FPL were Attorney Pat Bryan, Sam Forrest, head of business operations, and Amy Brunjes, our liaison. Councilman Haverland asked if the Council has to vote to agree to the surcharge, and the Vice Mayor affirmed. There were no audience comments.

Vice Mayor Weick clarified that the typical buyout of customers from one utility company to another is usually \$4,500, and this is for \$10,000 per customer. It's a very good win-win scenario for both parties. He proceeded to make a **motion** as follows: **"In an effort to obtain the long-overdue rate relief for those Town residents who are served by the City of Vero Beach electric, and to bring this protracted litigation to an end, and to restore a mutually cooperative and beneficial relationship with our neighboring city, I move that the Town Council agree to participate in FPL's offer to purchase in the amount of \$3 million and no more. Such amount should be recouped over a three (3) year period by way of a temporary surcharge on customers in the Town that had been served by Vero."** That motion was seconded by Councilman Ochsner.

Resident Patricia Gundy of Pebble Bay Circle asked if this is based on consumption or per customer, and was told it is based on consumption per kilowatt hour. The **motion passed 4-0**, since Mayor Barefoot was not authorized to vote.

(Reporter Colleen Wixon left at 9:21)

6. Discussion with Possible or Probable Action

a. PZV Board Action July 11, 2016 (Chairman Chris Hendricks)

Chairman Hendricks said they addressed four variance requests and one code violation, with one request requiring Town Council approval. Removal of a tree of special concern at 7101 A1A, the South John's Island entrance, was approved with mitigation due to its proximity to a new curb. A request for a screened enclosure at 1310 Lake Bend Court in River Club resulted in a request to work out a compromise solution. The third request was a setback variance at 925 Sunrise Terrace, which was granted to build a 6' fence rather than 4', closer to the street and between the owner's property and proposed commercial property to be constructed adjacent to his yard.

The fourth request was for a 3.4' front and 6' rear setback variance at 101 Peppertree Drive following precedent. The encroachments have existed since the 1990's and are by no fault of the owner, thus was recommended by the PZV Board for approval by the Council.

A **motion to approve the 3.4' front and 6' rear setback variances as requested** was made by Councilman Ochsner and supported by Councilman Haverland, **passing 4-0**.

Their final item discussed was a non-vegetative decorative object in a front yard of 905 Reef Lane, which is a code violation. This could be forwarded to the Code Enforcement Board if the owner remains non-compliant after a 10-day notification timeline passes, Mr. Stabe said.

b. Walkway/Path over 5+ Acre Parcel (Councilman Ochsner)

Councilman Ochsner asked that the Council consider setting aside a path on the south side of the 5-acre property now so that it will be there in perpetuity. He **made a motion that the Town dedicate a 5' wide path on the south side of the 5-acre property to connect to the existing access to the County Park.**

Councilman Haverland said he walked the property today with Mrs. Gundy to be more familiar with the issue. Everyone east of Reef Lane all have private access to the beach. The people who want access are Harbor Club, Vera Cruz, and Pebble Bay, which is roughly 120 residences. The average walk is 400 yards, some as low as 200 yards. He asked if this is a real cost benefit, and if reducing the size of the land might impact its potential use to a purchaser. He opined that the Council could be giving up a \$200,000 benefit to those who already have access to the beach in a car.

Vice Mayor Weick agreed, thinking residents who live adjacent to the property may not appreciate people walking through or right next to their yards in order to access the beach. He said it is seldom used as a pathway, and there is a County park right next to it. We could be giving up an asset as we have not decided what we are doing with the property. We have no idea what the value of that strip of land could be 10 or 15 years from now if we decide to sell it.

Councilman Ochsner said you can't have it both ways, you are talking about nobody using it and also about people walking next to the yard. Walking and driving to the beach are also two different things, people who want to walk don't get in their car to do so. The notion of the value of that strip is inconsequential, whether it is by one or 20 people, the path is used. Councilman Haverland discussed this with him, and the fact that there is a path shows it is used. Vice Mayor believed they would be bringing chairs, umbrellas, and other items with them to the beach, thus driving a car would be easier.

Mr. Clem noted that there has not been a second to the motion, and **the motion died for lack of a second.** Vice Mayor Weick said it can be brought up at a later date if the Council decides to sell it.

Patricia Gundy, 4571 Pebble Bay Circle, asked when the Council would recognize that on September 23, 1993, Town Council did a referendum for the entire south end of Indian River Shores, approved it, and funded an 8' wide concrete walkway, which is shown in the official Town minutes. She suspects they didn't put in concrete because it would be too hot on the feet, but the access has always been available through the center of the property. She insisted it was a referendum, but maybe not a Town-wide referendum. The Vice Mayor said we would research that, which the Town Clerk agreed to do. He reiterated it is too early to make this type of decision.

c. Council Meetings & Holiday Schedule 2017 (Town Clerk)

Following Indian River County's schedule, Mrs. Aldrich said she has prepared the holiday and meeting schedule for 2017. A **motion to approve the 2017 Council meetings and holiday schedule** was made by Councilman Ochsner with support from Councilman Haverland, which **passed 4-0.**

d. Discussion re: 7-26-16 Meeting with CoVB & FPL & Possible Resulting Action (Town Manager)

This item was covered with the Mayor's update in 5.a.

7. **Town Manager**

a. Cell Tower Status

Mr. Stabe said he spoke with Datapath earlier this week, and the tower has cleared FAA approval, and there is an environmental expert on site now. It does not appear that there are any environmental issues, but since it is in a flood plain they have to do a full environmental assessment review. The engineer has walked the site and is completing the plans at this time. There was no firm completion timeline given, but Datapath has received a formal request for an application package from one of the carriers.

Councilman Haverland asked when they might start to build, and the Town Manager said he has pressed hard for an answer to this. It is not able to be determined yet because of the Indian burial grounds and the full environmental assessment reviews that must be done; we are at the mercy of the agencies schedules.

b. Absentee (Sick Leave) Rate Comparison (Chief Rosell)

Chief Rosell provided the information to Councilman Haverland. Councilman Haverland reminded them that this came about as a result of discussion at the budget workshop, and budgeting overtime, which looks pretty straight forward. He asked if the overtime used in the budget assumes an average of 6% absenteeism, which Chief Rosell concurred. Councilman Haverland asked if this ties in with our history and how it compares with other areas. Information was provided on our history, which suggests that the County fire (overtime) would be lower by about 1.5%. Councilman Haverland got information from Palm Beach, and the County is 3.9% and 2.95% in Palm Beach, and we are closer to 6%. We just seem to have an issue that appears to affect our budget. He said that Chief says we do everything to contain absenteeism, which Councilman Haverland said is significant and in need of attention.

Chief Rosell said the question was to bump up the budget to accommodate for sick leave with overtime. Our absentee rate in 2015-16 jumped up to 6.44% days, and he agreed with the Councilman that it was very high, as the year before was just over 4%. There was a reason that was highly unusual. Over-budgeting gets a smile to give it back, under-budgeting and asking for more gets a frown. If the Council wants it to be budgeted at 4%, that is fine with him. There were three significant injury situations, one was for an individual who had 416 hours of sick leave for surgery, which does not come up every year. What is not in the report is that one individual was caught for sick leave abuse and has been terminated. There was another person who was in a motor vehicle accident, who abided completely by the contract for sick leave use. Another had a medical situation who needed more sick leave that was donated by others, which bumped up the use figure for those who donated.

Councilman Haverland said for budgeting, he understands that stuff happens. His concern was that if you go back 3 or 4 years, he still thought the numbers were high compared to the County and Palm Beach. He thought it should be budgeted for expectation, and Chief said he will work with whatever number he is given.

The Town Manager offered that of all of the agencies have a monetary value that goes along with the sick leave time, which encourages them not to use it. Councilman Haverland interpreted this to mean that our guys are abusing the sick leave. Mr. Stabe disagreed, saying if there is a value, employees will have more of a tendency to "tough it out" if they aren't feeling good because they don't want to lose the value of the sick leave. He agreed with the Chief, they will work with what they are given. Vice Mayor Weick added the statistics in a small department like ours don't truly compare with large departments. There is family sick leave also that comes into play this year, Chief Rosell added.

c. License Plate Reader Results (Chief Rosell)

Lt. Shaw said the cameras are up and running as of one month ago today at the south end and at the north end 10 days later. There was one network security issue the IT guys are working on with FDLE, but they are working great. They have been extremely happy with them and they will be a good tool. Councilman Haverland asked if there are any interesting "catches." Lt. Shaw said there is a BOLO with a person of interest with a person who is frequenting areas with large groups of children. Councilman Haverland asked for a *line on the Public Safety Stats that shows the impact of the camera*, and Lt. Shaw agreed to look into this. They will quantify the camera activity with either a paragraph or numbers. The FDLE connection is critical to having valid information, the Town Manager added.

Councilman Haverland asked if there is value in adding signage up that motorists are being monitored, which the Chief agreed should somehow be posted after review by the Attorney. It has been publicized by the press, Town Manager added.

d. Pension Buy-out Update (Town Manager)

Mr. Stabe said he provided a memo on July 21 regarding what took place, and did not receive further direction afterwards.

Councilman Haverland said he again called Keith Brinkman at the Florida Retirement system office, who had misunderstood that (Councilman Haverland) was not a pension trustee when he said there was no problem with the Council taking action. The issue of the Council having authority is answered in that they do not have this authority, only the Pension (Board) committee does. He did ask Mr. Brinkman if there is any discrimination involved or whether you can offer a different rate other than the assumed rate of return, Mr. Brinkman said he believes it is okay, but has not gotten back with him as he is running it by the legal department. In the meantime, there is nothing to do about it.

e. Emergency Purchase of Radios for Ambulances (Chief Rosell)

Mr. Stabe said he had provided an email regarding the radios in the vehicles (ambulances) to communicate with the local hospitals, which was shut down way ahead of schedule because of a system upgrade. This emergency purchase was needed and made, and it was in the proposed budget for next year. It has been removed from the next year's proposed budget as we had available funds in this year's budget. Councilman Haverland asked what they look like, and Mr. Stabe said they are a large cylinder, and are hard mounted to the vehicle. For 20 years they have been moved from vehicle to vehicle. A **motion to approve the emergency purchase of radios for ambulances** was made by Councilman Haverland with support from Councilman Ochsner, which **passed 4-0**. Vice Mayor asked if all of the radios in the police cars are up to date, and Chief Rosell said at least four (4) still need to be replaced.

f. Departmental Reports (Building, Finance, Town Clerk, Public Safety)

Councilman Haverland addressed a copy of the budget the Council had recently received **for the Police-Fire Pension** fund, which he thought reflected that the expenses of running this pension fund are out of control. The total expenses not including management is 1 percentage point, and management he thought is half a percentage point. We are budgeting 1.5 percentage points and in order to meet our net return, have to have a gross return 1.5% above 6.25%. There is a new requirement that we have to get some type of audit, about which he called Paul Shamoun at the FLC who manages the General Employee Defined Benefit Pension fund, and asked where our cost shows and when it was done. He was told that the FLC does not do this. The Councilman called Keith Brinkman and asked about it, and was told that this is not monitored (by the state) unless the fund is in trouble. He questioned why the Police-Fire Pension Board funds this expense that is technically not required and is totally useless, in his opinion. If we have a representative group of trustees, this is what they do, is to hire the investment manager and oversee the allocation of funds. This seems to be another layer to say what we are doing is okay.

Mr. Stabe seemed to recall that this is a future requirement that the other Board is getting ahead of in complying with it now. Councilman Haverland said it has been required since 2000 or so, and is listed as Performance Monitoring. Mr. Auwaerter said he understands this is a consultant requirement (costs \$25,000 over \$12 million fund, or .1%, Councilman Haverland added). The actuary fee is \$35,000, the administrator, \$16,000, the attorney, \$37,500 in next year's budget. The Plan Administrator put the budget together to have the Pension Board approve. Mr. Auwaerter, Chairman of Finance Committee, said he agreed with Councilman Haverland, these are very high costs and a complete waste of money.

Councilman Haverland asked for the *General Employee pension declaration rate of return, administrator fee and others be put on the agenda for August*, and if Heather is not back, it will go on September or October's agenda.

Mr. Auwaerter said the Police-Fire Pension Board received three (3) proposals for auditor, of which they used the highest one in the budget. But this is only \$25,000 of the \$137,000 budget. He has volunteered as a private citizen to help this Board.

Councilman Haverland asked who the attorney is for the General Employee Pension Board, and Mr. Stabe reminded him it is provided through the administration of the Florida League of Cities. They provide everything in their management fee that the Police-Fire Pension Board has contracted for separately. Councilman Haverland said he wants **to communicate to the Police-Fire Pension Board that this budget is perplexing and they have found it to be too high.**

Councilman Ochsner asked for public access at the 5-acre property to be added to the August agenda.

8. Council / Committee Reports or Non-Action Items

a. Council or Committee Reports (MPO, EDC, TCCLG, TCRPC, IRC, PSC Citizens Oversight Committee)

Beach & Shores. Councilman Ochsner said he went to the meeting this month, and there is a record number of loggerhead turtle nests already. They talked briefly about the blue-green algae problem in the southern area that has not come to Indian River County. They are looking for volunteers for the International Coastal Cleanup scheduled for the Wabasso Causeway on September 17.

EDC. Vice Mayor Weick said this was cancelled.
Neither Councilman Slater nor the Mayor had reports to provide.

9. **Call to Audience**

Ralph McCrea, President of Pebble Beach Villas, spoke in favor of Councilman Ochsner's motion to have a path. They have a continual problem with people from the west side of A1A using their property to access the beach. If they ask why someone is doing this, the response is that the current access is inconvenient, they don't want to walk through brush and undercover. In suggesting that it is an easy drive, they don't want to do that, either. Noting that during the season, parking is more of a problem at Tracking Station Park as Vero becomes more popular. He believes it is a very good idea or the Town to build a path for easy access to the beach. The Pebble Beach Villas has installed security cameras and want to enforce that this is private property.

Vice Mayor Weick asked if a path on the south side against the property lines would be objectionable, and Mr. McCrea replied that it would not. The Vice Mayor said that is very good to know, he didn't want one group to object to something another wanted, and he appreciated that comment.

Patricia Gundy, Pebble Bay, said she walked with Mr. Haverland this morning. One of her neighbors said he made a deal with a resident of Pebble Beach Villas to cut through because of the underbrush on the property. A safer, nicer and more landscaped path would be ideal. Her question to the Council is, the people from Pebble Beach put together a wonderful brochure and presented it, and there was no response from the Council. Vice Mayor Weick met with them individually, and Councilman Haverland said they had the presentation ahead of time and read through it. She asked for recommendation on how a typical town resident communicates with the Council, and how does the Council want to receive input on major decisions. Vice Mayor Weick said personal meetings with the Council work well for him. He thought that was a very good procedure. Mrs. Gundy asked if sending things to them in email comes to them, and was told that they do get everything addressed to them. Councilman Haverland said he received two letters at his home that said don't do anything or sell the property, it's worth a lot of money. There are verbal comments and informal one-on-one discussions also. Mrs. Gundy affirmed that the gate is open now, and Vice Mayor Weick said that it is, nothing has changed. The Town Manager publicly, strongly urged everyone to please be cautious when crossing A1A and walking through the property.

Emily McDonough, President of Pebble Bay HOA, said she is representing dog lovers who cannot go to the County Beach. She goes through the 5-acre property, and accesses the public beach and goes north towards John's Island. Many dog owners have leashed dogs, and will not go in a car to walk their dogs on the beach. The Vice Mayor said we allow dogs on the beach with a leash and they have to be picked up after. She said there are many dogs on the beach without a leash.

Paul Parparian, said this is a special piece of land, because of its history, its location, its proximity that the residents of the Town own for passive green space. Councilman Haverland asked him if he knew about Bee Gum Point, 110 acres, set to conservation. We have public access at Beachcomber also, the Vice Mayor added. Mr. Parparian said once it's gone, it is gone.

10. **Adjournment**

Hearing no further comments, the meeting was adjourned at 10:39 a.m.

Respectfully submitted,

/s _____
Laura Aldrich, Town Clerk

(Approved by the Town Council at the August 25, 2016 meeting)