

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

**REGULAR TOWN COUNCIL MEETING**  
**Thursday, August 27, 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**  
                                  **William Schauman, Director of Public Safety**  
                                  **Judith L. Lewis, Town Treasurer**

**OTHERS PRESENT:**   **3 Residents**

1. **Call to Order**

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

The first two items were foregone as they were performed at the prior meeting.

*Note: The agenda was modified to allow Mr. Richeson to address the Council first*

6. **Town Manager**

- a. Coastal Florida PBA Labor Contract 09/12 (David Richeson)

Mr. Richeson, who represented the Town in the negotiations with the Coastal Florida Police Benevolent Association, said that the current three-year contract expires September 30, 2009. A tentative agreement has been reached and is brought before the Council with no substantive changes from the current agreement. A three-year continuing contract with a 3% annual increase for all Public Safety Officers through 2012 is recommended. The two prior three-year contracts resulted in fairly detailed negotiations, which both parties believed were not necessary this year. Of eighteen PBA members in Public Safety, eleven showed up to vote in favor of the contract.

**A motion by Councilman Weick to approve the three-year contract commencing on October 1, 2009 and continuing through September 30, 2012 as presented was supported by Councilmember Atchison, and received unanimous approval.**

2. **Consent Agenda**

- a. Acceptance of Planning, Zoning & Variance Board Minutes July 13, 2009
- b. Approval of July 23, 2009 Budget Workshop Minutes
- c. Approval of July 23, 2009 Regular Town Council Meeting Minutes

**A motion to approve the consent agenda as presented was made by Councilmember Atchison and supported by Councilman Weick, which passed unanimously.**

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This is a Public Meeting. The Town of Indian River Shores does not transcribe verbatim minutes. Should any interested party seek to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Anyone who needs any type of special accommodation for this meeting may contact the Town Clerk at 231-1771.

3. Mayor's Items

a. Treasure Coast Council of Local Government (TCCLG) Articles of Incorporation Resolution

A resolution from the TCCLG which amends the Articles of Incorporation to include the school boards of the member counties was presented for approval by each member's governing body. The Vice Mayor asked why the Town of Orchid was not included, and Mayor Kenyon said he thought they are members, and would call it to the Chairman's attention. Councilmember Atchison made a **motion to approve the St. Lucie County-initiated TCCLG Resolution 09-230 as presented**, seconded by Councilman Weick, which **passed unanimously**.

b. Utility Update

Mayor Kenyon began by stating that the initial thought was to have a workshop prior to this meeting, but with it being such an important issue, Mr. Cadden needs more time to gather facts and all five Council members should be present. They may schedule a workshop with Tom Cadden telling the whole story in October before the regular council meeting.

He gave a financial illustration to convey that the Town's customers have roughly \$20 million per year impact on the City of Vero Beach utility. The Mayor continued that about three weeks ago he, Mr. Cadden and the Town Manager met with Mayor Abell, Rob Bolton and Mr. Gabbard at their request to discuss primarily the water/sewer situation in general. They wanted to let us know that we are important to them. The Town believes in franchise agreements, and the current one has served us well. He addressed that the Town Council may be frustrated that Mr. Cadden has not come to update them yet, but assured them that he and the Town Manager are in frequent contact with him. However, there is nothing the Town can do with the agreements for a couple of years.

c) Outside legal counsel.

Mayor Kenyon continued that for utility matters, Mr. Cadden feels that the Town should look for someone who could look over agreements with knowledge about what the town's needs are. The budget for this counsel will not be established at this point, but as charges are incurred, they would come before the Council for approval.

Councilman Ochsner and the mayor discussed why we should have this counsel at this point, with negotiations so far in the future. Due diligence takes time, effort and some expense, the Mayor said, and did not foresee a huge expense.

Councilmember Atchison asked if Mr. Cadden is requesting permission to find legal counsel to address the utility issue, and the Mayor said yes, just for this issue, and he would bring back his recommendation. Councilmember Atchison stated that the Council should have the opportunity to meet and hire any additional legal counsel. Mayor Kenyon said that Mr. Cadden hoped to receive authorization to seek the person, and the Council would then have to approve his/her service.

Councilman Weick asked if we have a line item for legal fees in budget, and Mr. Bradshaw said we do, and it covers our Town Attorney as well as the labor attorney. If the budgeted amount is exceeded, it would require a line item amendment.

Councilman Weick asked Mr. Clem if we have to tell the City of Vero Beach of our intent to renegotiate by 2011, and he confirmed.

Mr. Clem said as legal counsel for the Town, he is not shy about recommending a technical attorney, especially for negotiating a contract when it is needed. Since the Town is not in litigation, engineering, rate structure and supply background advice is more appropriate at this point. Vice Mayor Ahrens agreed with Mr. Clem, that the Town should be looking for technical advice. Councilman Weick said that the consultant could be a lawyer, and asked if the contract is automatically renewed if we do nothing in 2011.

Following more discussion, Mr. Clem read: “This franchise is subject to renewal upon the agreement of both parties. In the event the Grantee (the City) desires to renew this franchise, then a five-year notice of that intention to the Grantor (the Town) is required. Should the Grantor wish to renew the franchise, the same five-year notice to the Grantee shall be required. In no event will this franchise be terminated prior to the initial 30-year period. In the event this franchise is terminated, the entire wastewater system (the agreements read the same) lying within the Town limits will return to the Grantor with the exception of the facilities required by the Grantee to serve customers south of Fred Tuerk Drive and outside of the South Town limits on the barrier island.” He then reiterated that we have to give a five-year notice, and everyone understood that by the end of 2011, the Town has to provide their intentions to the City. Mayor asked Mr. Clem to provide a paragraph on what we are responsible to do and when it has to be done, and he agreed.

Councilmember Atchison said that last month, she had voted against sending a letter to the residents. Now, given the fact that several residents have contacted the Council on this issue, she asked to revisit sending the letter. There is now some information that we didn't have a month ago. She continued that the letter should describe the water/sewer increase, and tell the residents that there was a meeting between the City and the Town officials as well as two public hearings have been held and that we are doing our due diligence. Councilmember Atchison said that she does not think we can give the answers because we don't have the questions yet, but can fill in some blanks.

The Mayor asked if anyone in the audience had comments, and Mr. Clark Daugherty, 321 Indian Harbor Road, said that the Town should send a letter with as many facts as possible now. John's Island residents received an e-mail from Peter Young, which was received exceptionally well, and it was so noted that Indian River Shores was working on the issue. Mr. Daugherty added that if Mr. Cadden needs advice, whether it is legal or technical, the Council should support that need.

A **motion** was made by Councilmember Atchison **that the Town of Indian River Shores send a letter to the resident homeowners explaining the recent utility events** by October 1<sup>st</sup>. Councilman Weick noted that anyone who receives a utility bill received a letter in their bill stating that the rates are being increased, but we can tell them that we can't do anything until the contract expires and are considering renegotiating the contract. He agrees that the Town should seek some type of consultant to advise us on our options. The **motion was seconded** by Vice Mayor Ahrens **and passed unanimously**.

There was a brief discussion about the consultant, which resulted in a **motion to allow Tom Cadden to present a consultant, legal or otherwise, for consideration as an advisor in utility matters** made by Councilman Ochsner, seconded by Councilmember Atchison, which **passed unanimously**.

(This discussion took place after Mr. Mitchell's report below)

Mr. Mitchell also spoke briefly about the utility options and his opinion that the workshop is beneficial for this town.

Mrs. Linda Soresi agreed that at last month's meeting, the suggestion was made that the letter be sent to 32963 in addition to being mailed to the residents, which is a great idea. Councilmember Atchison agreed, as did Councilman Weick, as it reaches outside the town limits to other barrier island residents. Councilman Ochsner said that there have been a couple of letters sent to the Council, and thought they should be responded to collectively by someone. Mayor Kenyon said that he does plan to respond. Mr. Bradshaw asked who was drafting the utility letter, and the Mayor said he would with input from everyone.

#### 4. **Planning, Zoning and Variance Board** (Jack Mitchell, Vice-Chairman)

Mr. Mitchell said that the mitigation tree has been planted in the front lawn close to A1A.

5. **Town Attorney**

Nothing to report.

6. **Town Manager**

- a. Coastal Florida PBA Labor Contract 09/12 (David Richeson)

*(Covered earlier during the meeting)*

- b. Surplus Cash Transfer

Mr. Bradshaw said that there is a memo in the packet from the Treasurer regarding the transfer of surplus funds in the amount of \$3,345,866.29. This is based on the Council's discussion on finding a safe haven for funds, and the Banc of America is a Qualified Depository under the Florida Statutes and will insure all of our money. This amount would be moved from the Banc of America Securities Government Reserves Money Market account to our current Bank of America Business Interest Maximizer bank account. Councilman Ochsner pointed out that in the memo, it states that the loss is guaranteed by the State of Florida through the "Public Deposits Program." Vice Mayor Ahrens made a **motion to transfer \$3,345,866.29 from the Banc of America Securities Government Reserves Money Market account to the Bank of America Business Interest Maximizer account**, which was seconded by Councilman Weick. **The motion passed unanimously.**

- c. September Regular Town Council and Second Budget Public Hearing Date Change

Mr. Bradshaw said that it has been requested to change the regular Town Council and Second Budget Public Hearing Dates from September 24<sup>th</sup> to September 23<sup>rd</sup>. Mayor Kenyon and Councilmember Atchison both will be out of town on the 24<sup>th</sup>. A **motion** by Councilman Weick supported by Vice Mayor Ahrens **to move the Regular Town Council and Final Budget Public Hearing date from September 24<sup>th</sup> to September 23, 2009 passed unanimously.**

7. **Call to Council**

- a. Committee Reports

Parks and Recreation. This group meets next week.

Beach and Shores. Councilman Ochsner reported that this group met on August 17 to discuss beach replenishment on Sector III, which includes the Town beaches as far south as Marbrisa. The quotes included both upland and offshore sand, and were significantly less than originally anticipated. The \$21 million is now \$17 million, and Great Lakes Dredging was bid at \$8.9 million and now the low bidder for upland sand is \$7 million. The upland sand provider did not provide adequate information to analyze the quality of the sand, and expects additional information by the end of the month. It has been stated that the product has to be consistent and the bids equalized. The Committee was asked to vote without all of the information, to which Councilman Ochsner objected, resulting in a Special Call meeting on September 3 to review all of the data to see if it is equalized. The Sebastian Inlet Taxing district is still willing to spend \$4.6 million, which counts as local funding and the state will match it without the County spending any money and the right sand will be installed. IF they want to go with upland sand, the permit has to be modified, and the replenishment would have to wait until next fall.

Metropolitan Planning Organization (MPO). Councilmember Atchison reported that they did not meet.

Councilmember Atchison asked that it be on record that she will not be in Town next month for the public hearings on the budget. She is comfortable with the millage rate remaining at 1.3923 and the \$126,288 transfer. She appreciates the savings that the Public Safety has made, and thanked Councilman Ochsner for all of his work in the budget review process.

Sustainability. Nothing to report.

Treasure Coast Regional League of Cities (TCRLC). The TCRLC did not meet in August.

Treasure Coast Regional Planning Council. Vice Mayor Ahrens said they did not meet in August.

The Vice Mayor, the Mayor, Councilman Ochsner and the Town Manager reported that they attended the Florida League of Cities Annual Meeting, and did not gain much from it. Mayor Kenyon said that the Town does appreciate the Florida League of Cities, and they are there for us with any assistance we need. He and Mr. Ahrens were unimpressed with the facility where the Annual Meeting, which was too large and caused a great deal of walking.

Affordable Housing. No meeting.

Land Acquisition Advisory Committee (LAAC). Councilman Weick reported that the August meeting was cancelled.

Elected Officials Oversight Committee. Councilman Weick reported that at the August meeting, the 5-year plan was approved. The new middle school at Storm Grove opened, and with no large increase in enrollment projected in the near future, no new schools are anticipated to open anytime soon. The portable classrooms have been removed, some schools may receive renovations, and a new warehouse will be constructed near Storm Grove School. The enrollment is at 90% of school capacity.

Economic Development Council. Mayor Kenyon reported that this Council did not meet.

Treasure Coast Council of Local Governments (TCCLG). Mayor Kenyon reported earlier about the resolution to expand their membership. Also discussed at this meeting was calling the area the Research Coast, but there was some concern that such a moniker might hinder tourism. Encouraging research, education and business opportunities is a goal. The University of Central Florida is one of the largest universities in the nation now, and is creating a large pool of talent for businesses.

## 8. Call to Audience

Mr. Jack Mitchell said that he failed to recognize Richard Jefferson when he gave the Planning/Zoning and Variance report. Mr. Jefferson is a very capable man who is doing an outstanding job in the community in making sure that contractors are complying, and moves quietly and gets the job done. There are never complaints about him. Mayor Kenyon said he thinks that Richard is one of the great treasures of the Town. He took over an organization that had had a lot of criticism. Richard goes out of his way to keep everyone informed. Mr. Mitchell said that it is impressive that he won't bend the rules, and enforces them.

## 9. Adjournment

There being no further business, the meeting was adjourned at 4:38 p.m.

Respectfully submitted,  
Laura Aldrich, CMC, Town Clerk

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

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