

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

**REGULAR TOWN COUNCIL MEETING
Thursday, August 28, 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: 3 Residents

1. **Call to Order.** Mayor Cadden called the meeting to order at 3:30 p.m. The Pledge of Allegiance and the Invocation were followed by the roll call as noted above.
 - a. Pledge of Allegiance
 - b. Invocation – Councilman Becker
 - c. Roll Call

2. **Consent Agenda.**
 - a. Review of July 10, 2008 Finance Committee Minutes
 - b. Approval of July 18, 2008 Special Town Council Meeting Minutes
 - c. Approval of July 24, 2008 Budget Workshop Meeting Minutes
 - d. Approval of July 24, 2008 Regular Town Council Meeting MinutesMayor Cadden asked if there were any questions or discussion on the consent agenda. Hearing none, Councilmember Atchison made a motion, which was seconded by Vice Mayor Kenyon, to approve the items on the consent agenda. The Council **voted unanimously to approve the consent agenda as presented.**

3. **Mayor's Items.**

Nothing to report.

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

There was no meeting, Mr. Jefferson reported.

5. **Town Attorney**

Mr. Clem said that he has drafted a letter at the Council's request to the Town Manager concerning the transfer of funds for infrastructure. He then read the content of the letter as follows:

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.

“At your request, I have reviewed the Town’s use of infrastructure surtax. The Town receives sales tax revenues and is required to use the funds for infrastructure as defined in the Statute, and not for operating revenues. The term “infrastructure” can be land and buildings, as well as capital assets such as fire department and emergency vehicles. The issue here is that with our construction at Town Hall and other expenditures, there would be a deficit in the infrastructure funds for the current year.

The Town Council has made it clear that no ad valorem tax revenue was to be used for construction. The Town could borrow funds that could be repaid from infrastructure funds received in future years. Alternatively, the Town could allocate funds from General Revenue as infrastructure revenues received.

It is my opinion, and that of the Town Auditor, I believe, that it is the nature of the expenditure that is important and not the year of the receipt of the funds. Therefore, I am of the opinion that the Town could utilize future infrastructure tax receipts to reimburse General Revenue, even though the revenue is received in a year or years after the expenditures.”

The Town Manager added that this is exactly what Mr. Duncan had presented during the Budget Workshop, and there was discussion about whether or not the Town could pursue this option. The Auditor approved it, and the Town Attorney also researched it from a legal aspect and found that the Town could take such action. Mayor Cadden reminded them that they had made a motion to follow this course of action. Mr. Clem said that this letter is further substantiation that the Council that they are following good legal and accounting practice.

6. **Town Manager**

- a. HB 3.0475 on Hurricane Mitigation Retrofits on Residential Roofing (Richard Jefferson). Mr. Bradshaw said that the Florida Statute 553.844 has some requirements that some residents have asked to be clarified. Mr. Jefferson, the Building Official, explained that before 1986, homes in the Town were built to withstand 100 mph winds. In 1986, the Town Council passed an ordinance requiring that homes be built to 140 mph wind standard. In 2001, the State legislature also mandated that homes withstand 140 mph wind speed.

If a new roof is to be installed on a home built prior to 2001, the nailing pattern must now be 4” rather than 12” and a secondary water barrier must be applied. For any home with an insured value over \$350,000, all of the trusses have to be reconnected according to today’s code with hurricane straps, and it has to be done by a licensed contractor. It takes an engineer to design the straps, a licensed contractor to install them, and the roofer has to re nail the roof. Then there is a surcharge of up to 15% of the cost of the roof. The average cost of a roof in Indian River Shores is \$81,000, so an additional \$12,000 would be added. Councilmember Atchison asked if the home has to be brought up to code prior to resale, and Mr. Jefferson clarified that this only applied to reroofing.

The second criterion applies to a home with an insured valued of \$750,000. If an application is received for a building permit to reroof, all of the openings in the home must meet impact resistance. If the home is in a wind-borne debris region (anything from 82nd Avenue East is included), impact glass or shutters must be installed when there is a permit applied for on any job \$50,000 or more. This applies to all outside openings (doors, garage doors and windows).

Councilman Becker received clarification on when these mitigation standards have to be met as follows: When a homeowner applies for a new roof on a house built prior

to 2001, it must be checked for compliance. Other conditions involve the home's insured value, which the state law says applies to ANY permit. Mr. Jefferson said that he has requested clarification from the State on this, whether it applies to inside or outside the home, and the level of cost for the permitted improvement.

Councilmember Ahrens asked about the specifications on the shutters, which Mr. Jefferson said had to meet the 140 mph exposure for approval. Councilmember Becker asked if the plans for homes built between 1986 and 2001 would reveal if the construction met the roof tie-down standards, and Mr. Jefferson said that the plans are only as good as the installer. They *should* have the tie-downs, but it may not have been done.

Mr. Jefferson said that he has a form, Uniform Mitigation Verification, which can be used for approximately 47% decrease in homeowners insurance if a homeowner meets the criteria for roofing, depending on the provider. The Building Official added that once the form has been signed, the discount would apply in future years. Mayor Cadden asked if it applied to homes built after 2001, and Mr. Jefferson said that newer homes already receive this reduced insurance rate. He added that when he gets clarification on what type of permit activity requires implementation of the hurricane mitigation standards, he will document it and will allow 30 days before implementing the standard in Town.

Mr. Gerry Weick asked if it applied if a resident does not have insurance on the home, and Mr. Jefferson said that the taxable value of the home would then be the criteria. Every home improvement now requires a contract stating what the prices are for what improvements, and a letter from the insurance company stating the value of the home. Any licensed contractor can examine the house, and Mr. Jefferson said he had a form for them to sign stating that the roof straps have been checked. You may just need more nails installed. Homeowners may have shutters that meet the 2001 Code and therefore will not need to install new windows or doors.

Jack Mitchell, John's Island, said that from 1971 on the Southern Standard Building Code was used, which required 140 mph impact glass. Mr. Jefferson said that that Code only required 110 mph protection until 2001, but the Town enforced 140 mph after 1986.

Clark Daugherty elaborated on the potential for how serious the problem is. His 1978 home is very large and has a very large roof. His \$67,000 in shutters does not conform to the current standard. For a homeowner to get a roof replaced, at \$80,000 or \$120,000, who comes to get a permit and finds out that there is not only a 15% additional cost but that they also may have to purchase new shutters or windows, the news could be devastating. Mr. Daugherty said he had a shutter company at his home yesterday and they said his shutters could not be retrofitted, as the new shutters have different strapping and are a different size. He was surprised that a motor that was \$125 when installed on the shutters now costs \$700. There is a great deal of confusion about what this legislation applies to, he continued, and said it is a statewide and community problem because of the values of the homes. He recited a quote of \$11,000, or \$12,500 to put in 140 mph glass or shutters for an 11' x 18' opening, and a new garage door that used to be \$3,000 to meet 140 or 160 mph would now cost about \$7,000.

Mr. Jefferson mentioned that this legislation applies to a 12-month period for accumulation of \$50,000 in renovation to anything in the home (of a certain value).

Councilmember Atchison asked about educating our residents. Mayor Cadden said he would check with Representative Poppel for further information.

7. **Call to Council – Committee Reports**

Metropolitan Planning Organization (MPO). Councilman Becker said he had nothing to report.

Parks and Recreation. Nothing to report.

Beach and Shores Preservation. Councilman Ahrens said that his meetings were cancelled.

Land Acquisition Advisory Committee (LAAC). Cancelled.

Sustainability. Cancelled.

Treasure Coast Regional League of Cities (TCRLC). Vice Mayor Kenyon said that they meet next month.

Economic Development Council (EDC). Cancelled due to Tropical Storm Fay.

Treasure Coast Council of Local Governments (TCCLG). Nothing to report.

Florida League of Cities (FLC). Mayor Cadden reported that he went to the Annual Meeting of the FLC in Tampa, and attended two extraordinary discussions.

1) Constitutional amendments. There are eight (8) scheduled to be on the ballot in November. Amendment 5 is the most controversial, which was removed from the ballot by a judge. Mayor Cadden said Amendment 2, the Florida marriage protection amendment, was done by a citizen's initiative. He said that the hidden nastiness of this is if a couple was cohabitating, say a widow and widower who did not want to entangle their finances, may no longer have rights to assist with medical procedure decisions or have access to medical information.

2) Government by referendum is horrendous, he added, and Hometown Democracy is 100% referendum. The Mayor recounted circumstances of a lawsuit involving the manager for the City of St. Pete Beach, an ex-attorney, and an ex-mayor that had to do with a 200-page change to the Comp Plan, which was voted on unanimously by the City Council. The Attorney then had to reduce the changes to a 75-word summary for the ballot. It passed, and then the IRNA got upset and is suing City because the 75 words was not representative of the Comp Plan. These two groups have spent close to \$2 million on the Comp Plan.

Vice Mayor Kenyon asked about Amendment 5, which the Mayor did not believe would be on the ballot. It would add more sales tax, and the State revenue would be \$2 billion short if it were to pass. Mr. Clem said it was a poorly thought out legislation. The Vice Mayor asked why it was removed from ballot, and Mr. Clem said the 75 words or less title was too vague.

Mayor Cadden said that the ad valorem tax bills were supposed to go down, and Councilmember Atchison said hers went up \$400 rather than drop \$240.

A Professor from Florida Southern University, Dr. Susan MacManus, was the fascinating speaker, who the Mayor has asked to come to our Town and give her Power Point presentation about these amendments. Mr. Jefferson asked if we were going to advertise it, and Councilmember Atchison suggested having it at the October meeting when more people have returned and elections are closer.

Councilmember Atchison asked about the date for the November meeting, which has been tentatively set for November 20, but the Florida League of Cities Legislative Conference that she needs to attend begins on the 20th. She asked the Council to consider meeting on Wednesday November 19. This was carried to the next meeting so all could check their schedules.

8. **Call to Audience**

Mr. Mitchell, as a PZ&V Board Member, had requested that the hurricane mitigation change be placed on the agenda today, and asked if the Council will relay their concerns

about it to the Legislature or Florida League of Cities (FLC). The Mayor said he would inquire of the head attorney for the FLC, the Florida Association of Counties (FAC) and also Representative Poppel. This was not a very high issue of concern at the annual meeting compared to the Amendments and Hometown Democracy. Mr. Clem said that there are probably not very many \$750,000 houses in the other counties of the State, and it would be more beneficial to get the support of the FLC or FAC before going to a legislator. Councilmember Atchison also offered to bring it forward at the Legislative committee meetings.

Councilman Becker asked the Mayor when we would be discussing Dr. Faherty's question regarding the electric and utility referendum. He deferred to Mr. Bradshaw, who explained that the letter indicated that the Attorney General was to respond to the legality of the legislation in "a timely manner." Mr. Clem added it could be voted on by mail ballot by November 4th, but it will not be on the official ballot for general election. He continued that in his opinion, the most dangerous thing is the transfer of water and sewer into the electric committee, which has potential impact to the Town. The Town's contract with the City of Vero Beach has worked very well the past 10 or 15 years as compared with prior 20 years. Mayor Cadden agreed with the Town Attorney, believing it would be detrimental to have the customers of Vero Beach deciding how we get our utility services. Mr. Daugherty also recalled the difficulty with water service prior to the current contract with the City. Mr. Clem suggested that the Council begin dialogue with the City of Vero Beach in preparation for 2011 negotiations on this contract. There was a consensus to begin exploring terms of renewal, although formal negotiations will not be until later, to make sure there are not any problems.

Mr. Clark Daugherty thanked the Council for being so persistent in the fight against County charter government and urged continued education on this topic for the residents. Councilmember Atchison and the others thanked him, Mr. Mitchell, and other residents for their efforts in this as well.

9. **Adjourn**. Mayor Cadden asked if there was any further business, and hearing none, adjourned the meeting at 4:09 p.m.

/s
Laura Aldrich, CMC, Town Clerk

(Approved by the Town Council at the 9-25-08 Meeting)