

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

**SPECIAL CALL UTILITIES LEGAL COUNSEL WORKSHOP
Monday, August 31, 2009
9:00 a.m.**

PRESENT: E. William Kenyon, Mayor
William H. Ahrens, Vice Mayor
Michael B. Ochsner, Councilman
Gerard A. Weick, Councilman

STAFF PRESENT: Robert J. Bradshaw, Town Manager

OTHERS PRESENT: Thomas Cadden, Utilities Advisor

ABSENT: Frances F. Atchison, Councilmember (pre-planned vacation)
Laura Aldrich, Town Clerk (pre-planned vacation)

1. **Call to Order**

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

Mayor Kenyon called the meeting to order at 9:00 a.m. The items were performed as above, with the Town Manager calling the roll.

2. **Legal Counsel for Utilities Options**

Mayor Kenyon began by stating at the last Council meeting on August 27, 2009, there was an extended discussion about when the Council needs to make their position known to the current utility provider. He then asked Tom Cadden to update the Council on our utility situation.

Mr. Cadden thanked them for coming back this morning to hear his presentation. This is an effort to keep them informed, and he wanted to make it clear that he was not proposing that they do anything that is outside of the Town Manager's authority. He proposed adding some consultants to review documents, and has found two law firms who have dealt extensively with Florida Power and Light (FP&L), both for and against them on behalf of municipalities.

The Town has until the end of 2010 to notify the City of Vero Beach if they intend to terminate the franchise agreement(s). Councilman Weick said the agreement was adopted October 30, 1986, so five years prior to that should be October 2011. Mr. Cadden agreed, continuing that he has not been in contact with the media, and is in contact with John's Island Properties, as they have a large interest in this and are offering their resources to assist the Town. Mr. Cadden added that he has been in close contact with Mr. Clem on this matter. Councilman Ochsner asked why the outside counsel was needed to review the documents, and Mr. Cadden said that he wanted the Council to have enough information to make the decision that is best for the Town. We need to have options lined up, and if a decision is made to break the agreement, there needs to be an alternate supplier standing by. We are not spending a lot of money or hiring this counsel to represent the Town, but rather to simply review the documents to determine our legal position and explore alternative scenarios. This will then be brought to the Council.

Mayor Kenyon said that another topic of extended discussion was whether it should be an attorney or a technical utility consultant. Mr. Cadden said that has had several conversations with the CEO of one of the largest power distribution companies on the East coast. He has given his opinion on what he thinks FP&L may or may not be interested in doing. There is also a CFO at another major utility company who is a part-time resident of Indian River Shores whom he has

been in contact with, and these two have an incredible amount of expertise. He wants to line up answers to serious questions, with the major objective of protecting the Town. The water utility was discussed briefly.

One of the potential legal firms is in Stuart, Florida, and Mr. Cadden said that he and Mr. Bradshaw would like to interview them and see how they review the certain documents. The other firm is in Philadelphia. The County's Utilities Committee, of which Mr. Faherty is a member, has passed a resolution requesting that the County Commission also pass a resolution terminating the agreement between the County and the City allowing the City to service Indian River Shores and the South end of the barrier island (the Moorings) at their meeting in September. We signed our franchise agreements in October 1986 and the County 30-year agreements were signed in March 1987, which gives the County almost the same window of opportunity the Town has.

Mr. Bradshaw said his individual signatory authority is up to \$5,000, but he would prefer that the Council authorize him and Mr. Cadden to visit the Stuart law firm in case it goes higher than that.

3. **Call to Audience**

None present.

4. **Adjournment**

There being no further business, the meeting was adjourned at 9:20 a.m.

Respectfully submitted,

/s _____

Laura Aldrich, CMC

Town Clerk

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