

MAYOR
THOMAS F. SLATER

VICE MAYOR
MICHAEL B. OCHSNER

COUNCIL:
ROBERT F. AUWAERTER
RICHARD M. HAVERLAND
DEBORAH H. PENISTON



TOWN MANAGER
ROBERT H. STABE, JR.

TOWN CLERK
LAURA ALDRICH

TOWN ATTORNEY
CHESTER CLEM

MINUTES REGULAR TOWN COUNCIL MEETING

Thursday, September 20, 2018

2:30 p.m.

6001 SR A1A, Indian River Shores, FL 32963

1. Call to Order

- a. Invocation
- b. Pledge of Allegiance
- c. Roll Call

The meeting was called to order at 2:30 with the invocation given by Vice Mayor Ochsner and pledge of allegiance recited. **Present:** Mayor Slater, Vice Mayor Ochsner, Councilman Auwaerter, Councilman Haverland, Councilmember Peniston; **STAFF:** Town Manager Stabe, Town Clerk Aldrich, Town Attorney Clem, Town Treasurer Christmas, PSD Director Rosell, PSD Captain Shaw, Building Official Perry; **RESIDENTS:** Bill Driscoll, Sue & Tom Ether, The Shores; Nancy Auwaerter, Ocean Colony; Leslie Hunt, Beth Scheikel, Paul & Merrill Spellman, Ocean Pearl; **GUESTS:** Rusty Simmons, The Strand; Dylan Reingold & Kate Cotner, IRC Attorneys; Michael Korpar, John's Island Security Director; **REPORTERS:** Janet Begley, Press Journal

2. Agenda Reordering, Deletions, or Emergency Additions

Councilman Auwaerter announced that resident Rick Carlton, a Marine veteran and former volunteer with the Public Safety Department, had passed away this month.

Mayor Slater said that he had an update to be discussed under Mayor's Items on the upcoming Public Service Commission (PSC) meeting.

3. Presentations/Proclamations (None)

4. Consent Agenda

- a. Acceptance of August 13, 2018 Planning, Zoning & Variance (PZV) Board Minutes
- b. Approval of August 23, 2018 Regular Town Council Meeting Minutes
- c. Approval of August 23, 2018 Special Called Town Council Meeting Minutes
- d. Approval of September 6, 2018 Special Called Council Community Center Reconstruction Modifications
- e. Approval of September 6, 2018 First Budget Public Hearing Minutes
- f. Approval of September 11, 2018 Special Called Council Town Manager Contract
- g. Approval of Invoice Dated August 31, 2018 from Town Attorney
- h. Approval of Old Winter Beach Road Invoices

With little discussion, a **motion was made to approve the consent agenda as presented** by Vice Mayor Ochsner and seconded by Councilman Auwaerter, which **passed 5-0**.

5. Town Attorney

6. Mayor's Items (2:34)

- a. Mayor Slater noted that the PSC hearing will be held on October 9th and 10th regarding intervention filed in the FPL-Vero Beach Electric Utility case. He will be speaking on behalf of the Town and Council to the Commission in Tallahassee about how the sale impacts our Town. Council Auwaerter added that the spreadsheet that he created with electric rates through July this year shows that Vero Beach's rates are the second highest, 32 of 33 municipal electric utilities in the State. He added that the School District pays \$300,000 more for electricity with Vero Electric than they would with FPL.

The Mayor said that the hospital also pays about three quarters of a million dollars more than they would with FPL, and will emphasize this and specific facts about our Town. The County, City and Town are united in the desire to have the sale go through. The results of the Tallahassee hearing will be available, according to County Attorney Reingold, on the 9th or 10th, and if a decision isn't made, there could be one made by the 18th. The mandatory Prehearing is October 3rd, at which the Town's special legal counsel Bruce May and County attorney Dylan Reingold will attend.

b. Old Winter Beach Road (2:41)

Mayor Slater addressed the project to ensure The Shores homeowners are aware that the Council recognizes the endurance required for construction activities in their proximity. The Town Attorney has suggested that they consider a continual liaison for the Town and The Shores on this project. Bill Driscoll, Board member of The Shores, asked if they could provide a short presentation to the Council in October about the issues they face, landscaping importance, and a proposal for landscaping restoration to standards. The Council agreed to place it **on October's agenda**.

7. **Discussion with Possible or Probable Action**

a. The Strand Performance Bond for Removal of Protected Trees (PZV Recommendation) – Town Attorney (2:43)

Mr. Clem said that the Planning, Zoning & Variance Board had discussed this at the meeting on September 10, and determined that the bond is acceptable. It ensures if the developer fails to complete what they begin once trees have been removed, they must be replaced.

Paul Spellman, 21 S. White Jewel Court, Ocean Pearl, lives adjacent to the property, and spoke about the beauty and pleasantries of the community and the way it is governed. He questioned the removal of 5-7 very large trees near his property line, noting the developer and Tree Protection Officer (Mr. Patton and Mr. Doyle) have both walked their property. Further discussion ensued with Building Official Perry and Mr. Clem, including the subject of a 12' high hedge.

Leslie Hunt, also lives in Ocean Pearl, questioned why we have an ordinance to protect trees, and then allow the clearing by a developer of 141 old trees, not small ones. Mr. Stabe said that the developer's configuration of the property meets building codes, as well as the Town's minimum 50% canopy coverage, which is unheard of anywhere. **A motion to approve the performance bond for The Strand** was made by Councilman Auwaerter and supported by the Vice Mayor that **passed 5-0**.

b. Community Center Hood System Quote – Town Manager (2:54)

Mr. Stabe explained this \$19,810 hood system is required in a commercial kitchen, and is not part of the original quote. Council questioned why some items were not in the original quote and if costs are being tracked. Mrs. Christmas said there are a number of items that were not included in the bid that will need to be brought to the Council as lowest bid quotes come in for approval. Elected officials and staff were all surprised that some items on the plan were not included in the bid. A request from the Council for a summary **cost range estimates before next meeting** for the missing pieces and who is installing the kitchen will be provided. **A motion to accept the quote to purchase the hood** was made by Councilman Auwaerter with support from Councilmember Peniston, which **passed 4-1**, with Vice Mayor Ochsner opposing.

c. Municipal Solutions Final Invoice (#3) – Public Safety Compensation Study – Town Manager (3:04)

The Council had agreed to hire David Evertsen, who had recently sent an email to Mr. Haverland including a 25% courtesy discount for delayed results. We have a balance due of \$2,970 (discounted from \$3,960), according to our signed contract for \$9,970. Council agreed it was not on time and was not what they wanted, and expressed irritation that Mr. Evertsen said he was working "on more important issues." Councilman Haverland commented that the report was poor, a boilerplate with not much useful information and missing important items. He suggested that the Town send a check for \$1,000 for full and complete payment, which was agreeable to the other elected officials. Councilman Haverland made **the motion to remit \$1,000 for the balance and note that it is the full and final payment**, which was supported by the Vice Mayor, **passing 5-0**.

d. Negotiation Session Request - Councilman Haverland (3:08)

Councilman Haverland recapped that the collective bargaining agreement expires September 30, 2018, and historically, the request for items from the Union would be received several months in advance. The Council made an offer to the Union in July, and no response was received until today. He suggested that specific dates and times to meet for negotiation be provided by the Council, asking for October 16th in the afternoon or other dates in November.

The Mayor noted that historically, the Town hired a labor attorney for negotiations, and the past two contracts have been negotiated by the Town Manager. He asked the Council to consider having a labor attorney assist the Town Manager with contract negotiations with a goal of a better outcome as in the past.

A motion to submit October 16th at 3 p.m. and a second negotiating session on November 8th or 9th, and November 15th as a third option if needed was made by Councilman Haverland seconded by Vice Mayor Ochsner, which **passed 5-0**.

A second motion to authorize the Town Manager to engage a labor relations attorney to conduct negotiations based on recommended attorneys whose names they have received was made by Vice Mayor Ochsner with a second from Councilman Haverland, **that passed 5-0**.

3:15 PM Dylan Reingold & Kate Cotner left

e. Town Manager Search - Mercer Group – Town Manager (3:15)

With the cost differential nearly half of what the other firm charges, the Town Manager recommended that the Council consider hiring The Mercer Group to conduct a professional search for a Town Manager for \$14,750. Mr. Stabe found The Mercer Group online, and Mrs. Christmas vetted their services with prior client Delray Beach, who used them for two positions and would use them again. Some of the Council mentioned familiarity with this large national search firm that also does actuarial work and executive compensation studies. Other Florida governments that have engaged The Mercer Group include Cape Coral, Hollywood, Largo, Citrus County and Polk County. Councilmember Peniston made **a motion to employ the Mercer group to aid the Town in the search for the next town manager**, seconded by Vice Mayor Ochsner which **passed 5-0**.

f. Building Permit Fee Restructure – Resolution 18-08 – Rob Perry/Heather Christmas (3:21)

Town Treasurer Christmas said that they were directed to review the building permit fees and to ensure they had a loss of \$200,000 - \$250,000. The only way she and Building Official Perry could achieve the loss was to adjust the variable rate fees, which are based on construction size, by 65%. They will watch the numbers closely to achieve the budgeted loss of \$230,000. Councilman Haverland said this was very responsive to his request. Building Official Perry noted that three large developments could potentially have an impact on uneven projections in the next year or two, 8050, Surf's Edge and The Strand. Quarterly reports, including revenues versus expenses, profit/loss, and projected fund balance will be provided by Mrs. Christmas for possible adjustment next October.

The Mayor read most of Resolution 18-08, entitled a Resolution For Decreasing The Town's Building Permit Fee Schedules, which was included their packets with an attached Schedule for Revised Permit Fees. **A motion to approve Resolution 18-08 decreasing the Town's building permit fees** made by Vice Mayor Ochsner and seconded by Councilmember Peniston **passed 5-0**.

g. Medical Director Agreement - Chief Rosell (3:24)

Capt. Shaw said the agreement with Dr. Ford expires this month, and he has provided excellent leadership to the staff. Although an increase was not requested, the Chief recommends paying \$2,000/month, as he had been receiving \$1,800/month for two years and drives from Melbourne for monthly meetings. Mr. Stabe added he is on the lower end of the pay scale for medical directors and is exceptionally well-qualified. He has taken the paramedics to an even higher level than they have been in the past. The Vice Mayor made **a motion to approve the medical director's agreement as presented, which passed unanimously** after Councilman Auwaerter's second to the motion.

h. 1st Amendment to Land Lease Agreement (Cell Tower) – Town Manager (3:27)

Mr. Stabe said this is a verbiage addition on page 1, lessee shall be responsible for cost of construction, which previously did not mention the Town's maximum liability of \$150,000 for

