

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

REGULAR TOWN COUNCIL MEETING
Wednesday, September 23, 2009
3:30 p.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
Laura Aldrich, Town Clerk
William Schauman, Director of Public Safety
Judith L. Lewis, Town Treasurer

OTHERS PRESENT: 9 Residents, 3 John's Island Representatives, County Commissioner Joe Flescher and County Commissioner Bob Solari, and Reporter Lisa Zahner from Vero Beach 32963

ABSENT: Frances F. Atchison, Councilmember (Excused)

1. **Call to Order**

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

These items were performed as scheduled, with the Roll Call as reflected above.

2. **Consent Agenda**

- a. Approval of August 27, 2009 2nd Budget Workshop Minutes
- b. Approval of August 27, 2009 Regular Town Council Meeting Minutes
- c. Approval of August 31, 2009 Special Call Workshop Meeting Minutes
- d. Approval of August 31, 2009 Special Call Council Meeting Minutes
- e. Approval of September 15, 2009 1st Budget Public Hearing Minutes

A **motion to approve the consent agenda as presented** was made by Vice Mayor Ahrens, seconded by Councilman Weick, which **passed unanimously** with no discussion.

3. **Mayor's Items**

- a. Discuss Joint Meeting with the City of Vero Beach and Indian River County Regarding Water, Sewer and Irrigation

Mayor Kenyon said that Commissioner Davis is planning to call a joint meeting between the Town of Indian River Shores, the City of Vero Beach and the County Commission is to provide a forum for discussing water and sewer options for the future. He stated that the Town has not made any decisions regarding our current written agreements. There is ample conversation, but no action will be taken until due diligence has been accomplished. Much research has been done by Mr. Tom Cadden, who was asked to address the audience.

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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.

Mr. Cadden gave a brief history of the Franchise Agreements, which were signed in October 1986 and expire in October 2016. A five-year notice period begins in November 2011. At a recent County Utility Advisory Committee meeting, they discussed providing service to County residents south of the City of Vero Beach and the residents of the Town of Indian River Shores who are serviced by the City, agreeing on a resolution asking the County Commissioners to indicate that they will not renew their Franchise Agreement with the City. The County has put giving notice on hold until after this joint meeting. Mr. Cadden attended the County Commission meeting when this was discussed, and strongly recommends attending the Joint Meeting. The area has two water systems that continue to spend capital funds, some of which may not be necessary depending on the outcome of the joint meeting. As a resident, we all pay more into County taxes than municipal taxes, so this is a very important issue, he concluded.

A resident (Jim Ueltschi) asked why Indian River Shores has service provided by Florida Power and Light (FP&L) and the City, and the Mayor said that a portion of the Town was annexed later. Mr. Ueltschi discussed filing suit to break the franchise agreement. Mayor Kenyon agreed with Mr. Cadden, that the Council and anyone who is interested should strongly consider attending the Joint Meeting if and when it is set up.

A motion to support a joint meeting of the County, City of Vero Beach and the Town of Indian River Shores to discuss water, sewer and irrigation considerations was made by Vice Mayor Ahrens, supported by Councilman Weick.

Commissioner Flescher said that Mr. Cadden has given an excellent account of what has occurred to date with a very accurate timeline. He added that he serves on the Utility Advisory Board, which did intend to have a resolution to make a direct change to their contract expiring in 2017, which might have been perceived as a negative preemptive action. Mayor Kenyon said they do not intend to vote on anything that binds the Town to future action, but will go and observe so they can make a solid decision that best serves the Town based on facts. The Commissioner encouraged a Resolution that the Town Council will attend the meeting. The meeting is intended to be an opening ground for information, especially concerning right-of-ways, and what would take place in the event that the agreement was severed, maintenance agreements and the existing infrastructure. Any voting would be to direct staff to get more information.

Councilman Weick asked Commissioner Flescher if the County definitively broke the agreement with the City, and he replied that the intent of the Utilities Advisory Committee was clearly to sever the relationship as of 2017 between the County and the City. However, it was not brought forward, as the County Commission thought it was better to bring the parties together for general discussion and to iron out the issues first.

Vice Mayor Ahrens agreed with the Mayor, that the Council's interest is to do what is best for the Town, adding that he is interested in attending the meeting. Councilman Ochsner agreed with the rest of the Council. The vote was called on **the motion, which passed 4-0.**

Mayor Kenyon said that they would notify the County Commission that the Town enthusiastically supports a joint meeting on the water issue. Commissioner Flescher thanked them.

Commissioner Solari said that this process goes back to February, when the utilities department made a presentation to the County Commission about their capacity to serve different areas, which followed the City of Vero Beach's announcement of pursuing FEMA funds for a new wastewater treatment plant. He thought it best for all of the County to follow Senator Pruitt's Sustainability Report which called for regionalization, and suggested it to the City of Vero Beach who was initially disinterested. A few months later the City of Vero Beach's Utility Committee seemed to like it. No decisions have been made by the County

Commission. He continued that meanwhile, the City had a consultant do a rate study which suggested rate increases of roughly 52% for wastewater and 33% for water over a 5-year period. This gave the County the motivation to examine their future anticipated rates, which again seemed to point to regionalization as a viable option. An open, transparent process that allows the information to be presented to everyone at once is what Commissioner Solari said he desires.

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

Nothing to report.

5. **Town Attorney**

Nothing to report.

(Five Audience members left at this point)

6. **Town Manager**

a. Holiday and Tentative Meeting Schedule 2010

Mr. Bradshaw asked for the Council's consideration of the subject schedule for next year, which **motion was made to approve the proposed 2010 Holiday and Tentative Meeting Schedule** by Councilman Ochsner and supported by Councilman Weick, passing 4-0.

b. Resignation of Tom Cadden from the City of Vero Beach Utility Advisory Committee

Mayor Kenyon clarified that Mr. Cadden was not resigning from the role of the Town's Utility liaison, but rather from the City of Vero Beach's Utility Advisory Committee. A **motion** by Councilman Ochsner **to accept Tom Cadden's resignation from the City of Vero Beach's Utility Advisory Committee** was seconded by Councilman Weick, and passed with a 4-0 vote.

Resident Jack Mitchell, 220 Sandpiper Point, received permission to speak and thanked Commissioners Flescher and Solari for taking the time to come to the meeting and helping them to better understand what has been taking place and to what there is to look forward.

c. County Lifeguard Positions at Tracking Station

Mr. Bradshaw said that in the County's 09/10 budget, the position for the lifeguard at the Tracking Station Beach was eliminated. The Town has concerns about this, and he introduced Lifeguard Lieutenant Joe McManus and Dr. Peter Wernicki.

Dr. Wernicki, an orthopedic surgeon spoke first. He has lived in the County for about 20 years and formerly in Indian River Shores for five years. He is also the medical advisor to the United States Lifesaving Association, a non-profit organization for lifeguards across the country, and serves on the Advisory Board of the National Red Cross. When it came to his attention that the County's budget required the loss of lifeguards at the Tracking Station, he was greatly concerned. He has spoken on this subject with local columnist Russ Lemon and to the Commissioners at the County's budget meeting. This beach has a 25-year history of being known as a swimming beach, and the public expects lifeguards. There is ample parking and showers, restroom and changing facilities. Indian River Shores families and others regularly use this beach. He truly believes that at some point, without lifeguards, lives will be lost here. It is touted as a guarded beach from 9-5 seven days a week in the Indian River County Recreation Fall and Winter brochure. He said that at the very least, without lifeguards in the budget, the beach should be closed since it is known as a swimming beach.

Mayor Kenyon asked about the frequency of use of this beach, and Dr. Wernicki said there were 40,000 visitors who used it during the last budget year. An important fact is that there were 4,800 "preventative actions," which are when the lifeguard takes a proactive role to prevent a mishap. If there are no lifeguards and a problem occurs, the Indian River Shores

Public Safety Department will get the call. In reality, Dr. Wernicki continued, the lifeguards are public safety officers, certified EMT's. He pointed out that the Indian River Shores Public Safety Officers are not trained in ocean rescue, and should not be entering the water to save lives. They would have to follow protocol and wait for a boat to come. Usually when a child gets in trouble, the parent goes in after them, and then there is potential for multiple drownings. According to the figures provided by the lifeguards, with cutting every possible dollar, they can continue guarding this beach for \$11,000, which the County has refused to come up with.

The Mayor asked when the service is expected to end, and Mr. Bradshaw said that they have no one scheduled after October 1. Dr. Wernicki added that the lifeguards did not know this was going to occur until about a month ago, it was not discussed with them at all.

Councilman Weick asked if there has been any change with the County's policy on safety and welfare of the public, which surely is impacted by removing a lifeguard from a beach that thousands of people use. We have three (public) beaches in Indian River Shores: two are small and unguarded with no facilities, and then there is the Tracking Station Beach, our only guarded beach with facilities. Commissioner Flescher responded that they did not change policy.

Mayor Kenyon asked how much of the County budget is assigned for Indian River Shores' Parks and Recreation, answering himself that he believes it is "zero." Councilman Ochsner added that he did a quick calculation based on the assessed valuation, and the Town sends about \$7.8 million to the County's General Fund. He asked what the Town gets in return, adding that a qualified lifeguard for \$11,000 isn't much to ask. The Mayor said he thinks the Town has been taken advantage of for a long time.

Commissioner Flescher said that the lifeguards are paid through the MSTU fund, which comes from the unincorporated Indian River County residents. The Vice Mayor asked the Commissioner to reconsider and put it back in the budget. Commissioner Flescher said that this beach is the lowest-attended beach in the County, with less than half of the next highest attended. It is also within close proximity to two more widely-used City beaches.

The Commissioner added that he has heard the Council's direction to find as much as \$100,000. Lifeguard coverage and costs were discussed in detail for several minutes. Councilman Weick noted that there would be seven (7) miles of unguarded beach between the City beach and Wabasso, and the Town already has two unguarded beaches.

The Mayor said that we are down to the last week of current situation, to which Commissioner Flescher replied he will go back to the shop and get a result.

Mr. Bradshaw asked Lt. Joe McManus to respond with his perspective. Mr. McManus, 13450 77th Street, Fellsmere said that he is also an elected member of a public bargaining unit representing public employees in Indian River County. He has great respect for the Commissioners, both of whom have public safety in mind, but does not agree with the funds required that have been discussed. He reviewed three options: 1) three part-time positions for \$42,110 covering the beach six days a week using existing staff; 2) for \$52,000 increasing the hours from 20 to 24 hours per week; and 3) \$110,000 for two full-time and one part-time guard, which Lt. McManus felt was the appropriate level. However, they can adequately cover the beach for \$42,110 a year. They cut operating expenses an additional \$10,000 and identified a reserve contingency fund of \$190,000 in the MSTU. "This beach needs to be guarded because someone will die," Lt. McManus said, adding that the cost to look for a submerged body far exceeds that amount.

Councilman Weick and the Lieutenant discussed 911 response to Tracking Station calls (usually Indian River Shores) and the local/tourist differentiation of beach-goers at this beach. Lt. McManus said that they recognize individuals who frequent that beach on a year-round basis as residents, seasonal or otherwise, knowing quite a few by name or by face. During the

season, he sees visitors who come because it is off the beaten path and offers more privacy.

The Lieutenant said he has been a lifeguard since 1974, and discussed how quickly someone gets in trouble even on a calm-looking day. This budget decision was done without staff input, and the resulting proposal is counterintuitive and counterproductive to the budget priority, with Priority #1 being public safety. It is being treated as Priority #2 because they fall under the Recreation Department. In fact, the lifeguards are State-licensed EMTs and professional life-savers. Mayor Kenyon said that the Town truly appreciates the service they provide to the County and the Town.

Commissioner Solari said that public safety and lifeguards are extremely important, as are other services such as mental health, Cultural Council (Tourism) and 25 other agencies that experienced budget cuts. This was talked about at the first Budget Hearing on September 8, and did not hear anything from Indian River Shores then. Rather than thinking of it as an Indian River Shores issue, his focus was more on how to cut \$10 million out of a \$302 million budget. The Commissioner added that it was nice to hear more from those who are affected, to know that they are interested.

Councilman Ochsner iterated that Lt. McManus said that someone will die, offering that the elected officials represent public interest and are responsible. He asked why this beach should be closed when tourism is a main industry? Commissioner Flescher said he will get right on it.

Resident Jack Mitchell addressed the comment made by Commissioner Solari that they weren't thinking of Indian River Shores, but were thinking in terms of the County. He stressed that it is necessary that we protect our residents and visitors, suggesting that the County provides very little service to the Town, one of the major "tax cows" in the County. Mayor Kenyon agreed, adding that this is our message. We are entitled to get some share of the funds back, Mr. Mitchell concluded.

Councilman Weick asked how much the County has in reserves, and Commissioner Flescher said he will find out for him.

Dr. Wernicke added that he appreciates the County Commissioners and their willingness to address this, but with only one week to go, if the lifeguards taken away, he strongly encouraged somebody to close the beach and keep the gates closed.

Commissioner Solari said that they don't have another meeting until October, but if the town can get a letter to them tomorrow, he will chat with County Administrator and suggest very strongly that he close the beach in the interim. Commissioner Solari suggested that Mayor Kenyon's good, strong language be included in the letter.

The Town Manager was directed to prepare and send **two letters, one from the Town Manager and one from the Mayor, to the County Commissioners, regarding the concerns with closing the Tracking Station Beach and requesting that it be budgeted.**

Resident Nancy Raftery, Park Shores, asked how much the County spent to restore the Tracking Station Beach after the hurricanes? She questioned if it was considered so valuable then, why not now?

7. Call to Council

a. Committee Reports

Parks and Recreation. Councilman Ochsner attended this meeting on September 3, in which the Committee is still its composition, as Jim Davis is retiring October 1 and Chris Mora will be replacing him. A discussion regarding the reduced hours for the Gifford and North County pools resulted in a recommendation to use a compromised reduced schedule at the Gifford pool to keep it as available as possible.

Beach and Shores. Councilman Ochsner reported that this group also met on September 3,

and recommended to the Board of County Commissioners that timing was of the utmost urgency, more so than price. It was unlikely that permits could be obtained in time to get the job done before next year's turtle nesting season. He was told that at the BCC meeting, some legislators assured them that they would be able to walk the permits through. It was disappointing that the BCC disregarded the recommendation of Beach and Shores Committee, especially since Commissioner O'Bryan is on committee and he voted against it. They disregarded the lowest bid and the best environmental solution. The quality of sand as evaluated by Coastal Tech was significantly worse than the Ranger solution, and annually the Ranger solution is 42% more expensive than offshore. Using offshore sand doesn't impact our highways with truck traffic, and the project could be completed in 45 days rather than a year. Councilman Ochsner said he is extremely disappointed in the voting by the Town's representative Commissioner Flescher and Commissioner O'Bryan, who sits on the Beach & Shore Committee.

Mayor Kenyon asked why they changed from using offshore sand, and Councilman Ochsner said he believed it was the push to "buy locally," adding that he disagrees it will help regardless of who does the job since money will be spent here. The quality of sand, timing, and annual costs all support the argument for using offshore sand.

Vice Mayor Ahrens said that he spent six years on this committee, and they never considered upland sand which would not pass DEP inspection in Tallahassee. The carbon imprint from the trucks and its impact on environment should be brought to DEP and the EPA's attention. Councilman Ochsner recommended to staff that someone contact DEP and EPA on federal highway, and Mr. Bradshaw agreed to get a letter together for the Mayor. Councilman Weick said that it is probably close to a million miles of trucks.

There was also a special called meeting of the Beach and Shores Committee on September 21st that he was unable to attend.

Treasure Coast Regional Planning Council. Vice Mayor Ahrens said he had nothing to report as he was unable to attend the meeting.

Metropolitan Planning Organization (MPO). Councilman Weick attended on behalf of Councilmember Atchison, reporting that they voted to approve the 2009 MPO Priority Projects Report. It includes the Oslo interchange at I-95; 4-laning 66th Avenue from CR 510 to SR60 within the next year; improvements on CR510 from CR512 to US 1; and the 6-laning of US 1 from Oslo Road to the feeder road and eventually to the County line, which will be the next main project. The next meeting is in November (October meeting cancelled).

Sustainability. Nothing to report.

Treasure Coast Regional League of Cities (TCRLC). The TCRLC met in Stuart, and Councilman Weick attended. The first guest speaker, John Daily, discussed \$18 million from the Federal government in stimulus funding for Florida in three areas: broadband, energy efficiency, and sustainability. The Town may be interested in seeking funds from energy efficiency for an improved fire truck, and information was requested on this. The other guest speaker was Rebecca O'Hara, who discussed SB 216 regarding expending public funds to influence voting outcome on anything that will come to ballot (electioneering). In other business, they approved the new TCRLC logo.

Affordable Housing. No meeting.

Land Acquisition Advisory Committee (LAAC). September meeting was cancelled.

Elected Officials Oversight Committee. No meeting.

Economic Development Council. Mayor Kenyon reported that this Council met, and SpectorSoft is a local company in the area who received a \$200,000 grant from the County that will afford them an additional 75 high-tech jobs in the near future. A second company, Ocucua, received a \$131,000 grant and is anticipated to add 25 jobs to our County.

Treasure Coast Council of Local Governments (TCCLG). At this meeting, Mayor Kenyon continued, moving the big radar tracking center to Palm Beach from Miami was discussed, as well as a health care and insurance program for small companies for discounted rates.

8. **Call to Audience**

Peter Young, John's Island Property Owners Association, commended the Council for their interest and efforts on the utilities issues, which are intricate and will be a long process. Commissioners Flescher and Solari's assistance is going to be especially important to this area, and he commended them for opening the dialog.

Clark Daugherty, 321 Indian Harbor, said that the Council would be wise to not be held responsible for the Tracking Station, and the Council agreed wholeheartedly that this would not happen.

Councilman Ochsner added that the two commercial neighbors, CVS and the 7-11, have vested interest as well, and perhaps the Town should contact their management for support. Councilman Weick added as an aside that the road between these two businesses is a County road, and the Town has asked for quite some time to have it fixed.

9. **Adjournment**

The Mayor announced that there will be a Final Budget Public Hearing beginning at 5:01, and being no further business for this meeting, adjourned at 4:52 p.m.

Respectfully submitted,

/s
Laura Aldrich, CMC, Town Clerk

(Approved by the Town Council at the 10/22/09 Meeting)