

MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963
REGULAR TOWN COUNCIL MEETING
Thursday, September 23, 2010
3:30 p.m.

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

STAFF PRESENT: Richard Jefferson, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney
Bill Schauman, Director, Public Safety

OTHERS PRESENT: 3 Residents; 5 Guests, Press Journal Reporter

ABSENT: Frances F. Atchison, Councilmember (Telephone Conference)

1. **Call to Order**

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

Mayor Kenyon called the meeting to order at 3:30, with the invocation given and roll call as reflected above.

2. **Consent Agenda**

- a. Approval of August 26, 2010 Regular Town Council Meeting Minutes
- b. Approval of September 16, 2010 1st Budget Public Hearing Minutes
- c. Approval of Invoice from Town Attorney dated August 31, 2010
- d. Acceptance of July 12, 2010 Planning, Zoning and Variance Board Minutes

A **motion to approve the consent agenda as presented** was made by Councilmember Ochsner and seconded by Councilman Weick. It **passed 4-0** with no discussion.

3. **Mayor's Items**

Mayor Kenyon had nothing to discuss.

4. **Planning, Zoning and Variance (PZV) Board**

The draft Minutes from September 13, 2010 were provided, with no discussion on this item.

5. **Town Attorney**

Mayor Kenyon called the Council's attention to a letter from the Town Attorney regarding the attendance of a councilperson by telephonic means at a Town Council meeting, and asked Mr. Clem to elaborate. Mr. Clem said that the trend is now favorable towards allowing participation by one absent council person by speakerphone when the absence is caused by either an emergency or when attendance would be a great inconvenience. That person must be able to speak and hear what is going on in the meeting. He said that the Council may want to set a procedure for the Town to follow regarding a council member's absence from a regular meeting, and asked for input so that he could have something available for further discussion at the next Town Council meeting. There were no comments except the Mayor stating that it would be on the next agenda.

Please Note: 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.

6. Town Manager

a. Holiday and Tentative Meeting Schedule 2011

Mr. Jefferson asked for a **motion to approve on the 2011 Holiday and Meeting schedule**, which was made by Councilman Ochsner and supported by Vice Mayor Ahrens. It **passed 4-0**.

b. Update on Proposed Recycle and Garbage Change (Keeping 2x Week Garbage)

Continuing, the Town Manager said that there was a lot of correspondence regarding this from the residents, and the decision was made to leave the trash pickup and recycling "status quo." He found out from the trash haulers that there is only one community, Palm Island, which wants to change, so they will communicate directly with the trash haulers. In the rest of the Town we will pick up trash twice a week and recycle every other week. If a neighborhood wants something different than that they will make an exception at the trash company. Mayor Kenyon asked for and received confirmation that this was just an announcement, and asked if there were any comments.

Councilman Weick said that he had previously spoken with the Town Attorney about having the trash collection included in the tax bill, and the initial investigation by Mr. Clem was that it seemed to be too expensive. Later Councilman Weick's path crossed with Mr. Nolte, Indian River County Property Appraiser, who said it can be done at very little expense, even with differentiating between condos, houses and commercial customers because the tax bill codes also have these features. Councilman Weick asked Mr. Clem to look into it a little more to see if the fee for this service can be included with the non-ad valorem taxes, like the landfill bill. Councilman Weick thought this would be a way to save money and make it more convenient for those writing checks, billing procedures, etc. since garbage pickup is required in the Town. He thought it may even save enough to pay for an additional recycle pickup.

Mr. Clem said that he had spoken with someone in the Property Tax Department and was led to believe that it would be more expensive. He suggested that there be some "committee work" done to determine 1) if the residents desire this, and 2) the cost and difficulty of it (our Treasurer may be involved in this) from the Property Appraiser's perspective before this is brought before the Council for further consideration. Councilman Weick said that if it were to be implemented for next year, they would have to have information by January 1, 2011. He had no preference as to which year we would implement it, adding that the Town of Orchid currently employs this method of billing for garbage and recycling. Councilman Ochsner and Councilman Weick briefly discussed the value in this idea. The Attorney said that he would speak with Councilman Weick and the trash hauler further.

Councilman Weick asked the Town Manager if the proposed trial change to the pick-up was canceled, and Mr. Jefferson said that was correct, the trash would be collected twice per week, and recycle every other week. He said that everybody had been notified.

7. Call to Council

a. Committee Reports

Water Utility Agreement. Councilman Ochsner asked if Councilman Weick was going to talk about the water contract issue, and he said he had planned on it. Mayor Kenyon asked to get it out in the open now, stating that the Fact Finding Committee (the Town Manager, Mayor, Tom Cadden, and Mr. Clem) met with the Town's consultant, GAI's Gerry Hartman, and determined to send a communiqué as an "attention getter" to the two major water service suppliers, Vero Beach and Indian River County. He explained that letter that was written for review by the water manager, the attorney and their special counsel's consideration, and it was not to any elected official at this point. Councilmember Ochsner's objection was to sending a draft contract. Mayor Kenyon said in Mr. Hartman's experience with approximately 400 negotiations, this format has been used in the past quite successfully and is very effective. Mr. Jefferson added that the responses are coming back from the two providers, and the first roundtable discussion with the Council will soon be set.

Councilman Weick said his problem was that he didn't know anything about the information request, and the public knew about it before the Indian River Shores Town Council. He had received a phone call Tuesday (9-21) that it would be on the Vero Beach City Council agenda under City Manager's Matters, 7b, entitled, "Asset Purchase and Franchise Agreement between the City of Vero Beach and the Town of Indian River Shores." Then at the EDC meeting that day a Vero Beach Councilman questioned him about the contract, to which he had to reply that he was surprised and knew nothing about it. He attended the City of Vero Beach's Council meeting that evening and publicly declared that he knew nothing about it, and Councilman Tom White handed him his copy of the City's reaction to our request. At the Vero Beach City Council meeting break, Councilman Weick saw Water Director Rob Bolton and asked where

the Town's copy was that was sent to the Council, and discovered it was mailed by the consultant. Mr. Bolton gave a presentation on how their proposal was derived in a slideshow format. It was unusual to come to another meeting to find out about what the Town is doing rather than being informed by his Town.

Mayor Kenyon said that the Sunshine Law limits the Councilmember's discussion, and with one meeting a month, each Councilmember has the responsibility to keep in close contact with the Town Manager, who sits in every meeting and is the source of information. Councilman Ochsner took exception to the Mayor's comment, stating that he didn't know to ask the question and felt blindsided. Councilman Weick said he was in the Town Manager's office about 2:30 on Tuesday and asked what was going on, and was told "Nothing." The document should have been sent out for the Council to just have a look at, not to discuss. He added that he was embarrassed for himself and for the Town Council.

Mayor Kenyon asked Tom Cadden to address this, who reminded the Council that they approved the contract with GAI, and it said in one of the paragraphs that the Town would do this. Councilman Ochsner said that his notes showed some basic bullet points, such as cost protection, high quality, good pressure, reliability . . . Mr. Cadden and Councilman Ochsner discussed the contract, which the Councilman said he had not seen. Mr. Cadden said that the GAI contract called for this document to be "staff-to-staff." It was placed on the City of Vero Beach agenda and made public by Mr. Bolton, which is his right and is not within our control.

Councilman Weick said even if they read the (GAI) contract and approved it, he contends that they still should have been told that a contract had been sent out for comment. Mr. Cadden said it was not a contract, but a proposal, and the Council would not have anything to act on until the City and County responded with comments. Councilman Weick agreed that all that was true. Mr. Cadden said that GAI did a wonderful job, living up to their contract. GAI has the responsibility to go back through the counter-proposals and come up with recommendations to bring to the Town Council for action. Councilman Weick thought the Town Council should also have the opportunity to comment on it and have their comments considered for incorporation. Mayor Kenyon said it was not a final contract but a draft looking for their ideas.

Councilman Ochsner questioned the terms "draft contract" and "proposal," stating that he understood that they were talking about a proposal, not a contract. Mr. Cadden clarified that the contract he referred to was the GAI contract with the Town. That is the only one. The Councilman said that the GAI document that went to the City looked a lot like a contract. Mayor Kenyon said it was GAI's strategy to get attention. Councilman Weick agreed that it looked like a contract, and reiterated that the Council should have been informed what is going out from internal sources, not at a public meeting in another city. Mr. Jefferson said they were not going to micro-manage Hartman and Associates, as the Council had approved that contract with GAI in July for them to proceed with this.

Councilman Ochsner mentioned that the Council did not approve the contract for GAI to also represent the other side, which is another issue. Mayor Kenyon said it is not the same kind of work, and we have the best man in the state working for us. Councilman Ochsner and Councilman Weick agreed that they were not aware of the strategy, and that just a "heads-up" would have precluded all of this. . Mr. Jefferson said that there was in July when we signed the contract with GAI. Councilman Weick concluded that the Council should have seen a copy of what was being sent to the City.

Beach and Shores. Councilman Ochsner reported that this meeting was held on Monday, September 20. Post-construction monitoring of Sectors 1, 2 and 7 was discussed, with no data available to suggest whether or not Phase II of Sector 3 is going to be approved. The sea-turtle monitoring is ongoing. A reef clean-up scheduled in August was postponed until October 9 because of weather. This will earn some mitigation credit for the County, which will save them upwards of \$250,000. The next fiscal year funding request includes two administrative requests and \$6 million for sand to complete the Wabasso Beach project. "Lessons learned" regarding the bidding process for Sector 3 was discussed.

Mayor Kenyon asked if this will finish the needs of the beaches for awhile, and Councilman Ochsner said that Sector 5 in the City of Vero Beach is next. It is concluded for the Town at this point. Treasure Shores will not be a guarded beach after October 1. New signs will be installed at Treasure Shores, Sea Grape and Turtle Trail that say "Swim at Your Own Risk" or "Unguarded Beach." Mayor Kenyon noted that Sebastian's Mayor was very involved and unhappy with the County's decision to close Treasure Shores Beach. Using the \$1 million given by Windsor to the County to support recreational activities seemed to provide a good opportunity to keep the beach open.

Councilman Weick said that the Town Council should go on record as opposing the closing of Treasure Shores Beach. The County is saving \$119,000 by closing this beach, which amounts to .016 miles, which on a \$250,000 house with a \$50,000 exemption would cost \$3.20/year per family. We spend more money on turtles that we do on saving a life. Vice Mayor Ahrens said that the State is on television all the time about coming to Florida to enjoy its beaches, and unguarded beaches are not an attraction. The Treasure Coast Beaches are ranked #2 in the State of Florida, and having unguarded beaches hurts tourism and economic development.

MPO. Councilman Weick attended the September 8th meeting on behalf of Councilmember Atchison. The top priority list for 2010 includes the I-95 and Oslo Road interchange, which will be resubmitted for 2012-13 cycle; US 1 to St. Lucie County is in process of 6-laning; and the 82nd Street (north-south) route will probably not be until 2020. Bus shelters are arriving, with one of the first scheduled to be installed at 37th Street. They are also working on the 5th Avenue connection between Miracle Mile Shopping Center (Fresh Market side) and the neighborhood on the side to ease the flow of traffic onto Miracle Mile. Mayor Kenyon asked if there are any indicators of usage for Indian River Shores on the Go-Line busses, and Councilman Weick said it has been a substantial increase in usage throughout the County, but not much in Indian River Shores. The 2035 Long Range Plan includes the widening of I-95 from Route 60 going north in 2021 and when that is completed, I-95 from Route 60 going south would commence.

Affordable Housing Advisory Committee. Vice Mayor Ahrens reported there was no meeting.

Elected Officials Oversight Committee. This group did not meet.

Economic Development Council (EDC). Councilman Weick attended this meeting on September 21, with two presentations, one from CEO Scientist/Director of ARVO which is an agricultural process to raise organic, jumbo shrimp in self-contained ponds using reuse water. The other presentation was an update by ENOS, the bio-energy facility that purchased the old Ocean Spray packing house on Oslo Road to convert bio-mass (lawn and organic waste) to ethanol. This is mainly a demonstration or pilot plant, and they expect to produce 8 million gallons of ethanol/year. About 50 jobs are anticipated, and it should be operational in the second quarter of 2012 to get investors. Mayor Kenyon asked what grants they might receive, and \$50 million in Federal monies from the Department of Energy and job grants from Indian River County are expected. The Mayor mentioned his concerns voiced several months ago about pollution from this facility. Commissioner Solari said they are not any greater than from the former citrus plant, and permitting requirements from the Department of Environmental Protection are very stringent. Everything they will be doing is very self-contained, with very little left to go to the atmosphere, guessing it would not be much more than exhaust from a couple of trucks. Councilman Weick added that it is estimated to be more environmentally friendly.

TCCLG. Mayor Kenyon said that they met on September 1, and much of the conversation revolved around budgets. Other counties seem to be freezing budgets, salaries and bonuses. The presentation was made by Ralph Poppell, who is concluding his term after eight years. He was very frank and insightful about what to expect from the legislature and how to approach them. No one expects him to disappear from politics. Another item discussed was the use of natural gas for automobiles, which Sebastian is looking into for the City fleet.

Water Utility Investigation Committee. Mr. Jefferson said that after the responses have been received from the City and the County, the Committee (Mr. Cadden, Mr. Clem, the Mayor and Mr. Hartman along with himself) would meet. Councilman Weick said he would be leaving this evening and return from his vacation October 19, and Councilmember Atchison said she would return by the 13th. No one else had plans to be absent from Town.

7. **Call to Audience**

No one had any comments.

8. **Adjournment**

There being no further comments, the Mayor adjourned the meeting at 4:18 p.m.

Respectfully submitted,

/s
Laura Aldrich, CMC, Town Clerk

(Approved by the Town Council at the 10-28-10 Meeting)