

**MINUTES**  
**TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES**  
**REGULAR COUNCIL MEETING**  
**Thursday, June 22, 2006**  
**3:30 p.m.**

PRESENT: David J. Becker, Vice Mayor  
Frances F. Atchison, Councilmember  
E. William Kenyon, Councilman  
William H. Ahrens, Councilman

STAFF PRESENT: Robert J. Bradshaw, Town Manager  
Laura Aldrich, Town Clerk  
Chester Clem, Town Attorney  
Bill Schauman, Director of Public Safety  
Richard Jefferson, Building Official

ABSENT: Thomas W. Cadden, Mayor (excused)

1. **Call to Order.** Vice Mayor Becker called the meeting to order at 3:30 p.m.
  - a. Pledge of Allegiance
  - b. Invocation – Vice Mayor Becker
  - c. Roll Call
  
2. **Consent Agenda.**
  - a. Acceptance of Building & Grounds Committee Minutes of May 10, 2006
  - b. Acceptance of Planning, Zoning & Variance Board Minutes of May 8, 2006
  - c. Approval of Regular Town Council Meeting Minutes of May 25, 2006
  - d. Approval of Invoice from Chester Clem, Town Attorney, for Services Rendered

A **motion to approve the consent agenda as presented** was made by Councilmember Kenyon and seconded by Councilmember Atchison. There being no comments, the Vice Mayor called for a voice vote, which **was approved by all present.**
  
3. **Mayor’s Items**

None
  
4. **Planning, Zoning and Variance Board**

Mr. Weick said that nothing was brought forward to discuss.
  
5. **Town Attorney**
  - a. Second and Final Reading of Ordinance 484, Comcast Cable Franchise Agreement  
Mr. Clem said that the following ordinance, as read in title below, was fully discussed at our last meeting and was advertised in the newspaper as required. Mr. Kenyon discussed the term limit of five (5) years, receiving clarification from the Town Attorney on the non-exclusive franchise and that there would be no revenue allocations at this time (franchise fees). Mr. Clem stated that he has reviewed several other agreements and this one is very similar, but if there is a change in law, we have the ability to levy and collect a fee.

***NOTE:** The Town of Indian River Shores does not keep verbatim minutes as a matter of record. If a person decides to appeal any decision made by the Town of Indian River Shores Town Council with respect to any matter considered at this meeting, he or she will need to make a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. See Florida Statute 286-0105.*

**ORDINANCE NO. 484**

**AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA ADOPTING A FRANCHISE AGREEMENT WITH COMCAST OF COLORADO/FLORIDA, INC., (COMCAST) GRANTING COMCAST A NON-EXCLUSIVE FRANCHISE TO OPERATE A CABLE SYSTEM AND PERFORM OTHER SERVICES WITHIN THE TOWN OF INDIAN RIVER SHORES AS MORE PARTICULARLY DESCRIBED IN THE FRANCHISE AGREEMENT PRESENTED WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

Councilmember Kenyon made a **motion to approve the second reading of the ordinance adopting a 5-year franchise agreement with Comcast**, seconded by Councilman Ahrens. The **motion passed**.

**b. Responsibilities & Duties of Town Officials on County Advisory Committees**

Mr. Clem said that each of the Council are appointed to a regional or County board or committee that has been set by law or State statute, and the conduct for voting at these meetings represent the individual elected official's decision based on the input they have gathered while attending these meetings. For one of Indian River Shores' elected officials to provide input to another regarding an upcoming vote, it should be received as advice rather than a mandate on how to vote, Mr. Clem stated. Vice Mayor Becker asked if it were allowable under the Sunshine Laws to provide input to another elected official, and Mr. Clem said in this case it would be, as it normally would not directly impact the Town. Mr. Kenyon asked if any elected Town official could bind the Town, and Mr. Clem replied that the elected person is acting as an individual, and has been appointed to vote on behalf of the Town. Dr. Becker clarified that all of the committees that the Town Council sits on do not have the final decision; whether it is the MPO or LAAC or whatever. The County Commissioners still have the authority to accept or reject the committee's recommendation. Mr. Ahrens joined the discussion by stating that the committees represent the governance of the County, and Mr. Clem clarified that a municipal advisory committee to the County would bring matters before the Town Council and take the Council's recommendation to the Commissioners. Mr. Clem added that legally, the committee members do not represent their respective municipality. He reminded them that any item can be added to the agenda and brought before the Council, especially something like an environmental issue. He then addressed a case that was presented in Volusia County regarding the Sunshine Law that Mr. Kenyon had provided, which had a result exactly the opposite of a similar one that had occurred in Indian River County. He encouraged the Council to follow the Government in the Sunshine Manual, and to use the media as a guide (consider if a discussion or action be a positive or negative headline).

**6. Town Manager**

**a. Building and Grounds Update (Ital Veron)**

Mr. Bradshaw introduced Mr. Veron by stating that the committee had been very active the past six months. Mr. Veron greeted the elected officials and said that as the Chairman of the Building and Grounds Committee, he was pleased to be there to update them on the activities of the Committee over the past eight months. The Committee members are Gladys Baldwin, Richard Dowd, Edna Weiler, Linda Zynda and himself. They have met almost monthly since last October, since it had been a protracted lapse between the meetings due to the hurricanes. First he thanked Mr. Bradshaw and the

Town staff for having provided such quick relief after the hurricanes. The Committee's focus has been the cemetery, which was badly damaged from the hurricanes and had been neglected even prior to that. Sprinkler system repairs and adjustments were addressed first, followed by the addition of 15 pallets of sod and the manufacture of concrete fence posts for repair. The Tuerk plot had weeding and sodding accomplished and the interior fence removed, and heavy vine growth was removed from many trees. Two trees were removed from within the fence line, which is the Town's property. A six-inch caliper live oak has been replaced along the south side by the gate area. Activities have been coordinated with the John's Island Garden Club (Mrs. Hay and Mrs. Gibson), who the Committee hopes will continue major tree planting outside the fence.

Regarding expenses as of May 31<sup>st</sup>, six percent of the \$20,000 Capital budget was spent. About 42% of the \$7,000 operating account has been spent.

A recently approved expense by the committee was to purchase U.S. flags to place on Veteran's graves in the Cemetery, which Mr. Jack Mitchell was instrumental in launching. Several requests have been made by Town residents for seating close to grave sites, and a few may be added to the east boundary fence line next year. Mr. Kenyon asked how large the property is, and it was estimated to be about three (3) acres. The A1A benches were addressed as some had excessive rust in their supports that resulted in their removal, which may be replaced if a proper setting can be found.

Another topic of discussion has been the convenience store at the south boundary, which does not subscribe to the image that Indian River Shores portrays. The volume of business, especially around lunch time, overflows onto 46<sup>th</sup> Place, which is a County road. A meeting will be arranged with Jim Davis, Indian River County Road Maintenance Department, as well as follow-up contact with the owners of the convenience store for improvements to the road and building.

The Town's 5-acre tract is another object of focus, which is scheduled for major trimming along the fence line. Research will be conducted to determine if there is a legal requirement for the fence. Inside the tract of land not much is planned to be done, as it is our staging area for hurricane debris. Mr. Kenyon asked if we have any liability for people walking through the property to the beach, and Mr. Bradshaw replied that we have a fence with a gate and a sign stating that the property is private.

The summer and fall plantings will continue, with some sodding, year-round and plants to be added.

At the last meeting, the committee agreed to make a recommendation to the Town Council to go forward with the proposed Post Office expansion. Mr. Veron said that he had reviewed Mr. Jefferson's plans, which are adequate to build an addition. They meet all of the requirements previously stated including adding a small conference room, alleviating the current Post Office income problem, and additional office space. He encouraged the Town to have an architect review the drawings *only* for plan correctness against program and elevations prior to moving forward. He reflected on the plans that were presented two years ago. This plan accomplishes the most pressing need, which is the Town Hall facilities, and stated that the work should begin as quickly as possible. He recommended piggybacking on the Ad Hoc Building Committee's selection of James Gibson as the architect to review the plans. He reiterated that we are very, very fortunate to have Richard Jefferson to provide such detailed drawings.

Mr. Becker asked why an architect was necessary, given the detail of the drawings, and Mr. Veron replied that it is a simple formality – the drawings need to be

sealed, the preservation of the architecture must be addressed, and there needs to be assurance of a proper sized cueing area in the Post Office.

b. Approval to Purchase Four Satellite Phones

Mr. Bradshaw stated that the Public Safety Department has requested these phones as an integral part of the hurricane plan, and have requested and received bids from Global Information, SatPhone, and AirStar, the low bidder. The total amount of \$5,510 includes the phones, air time and activation fees. Mr. Kenyon asked what it costs to use these phones, and Chief Schauman said that it was a lump sum of air time for the year that would be used as needed during the emergency situation. He asked if it was an annual cost, and Mr. Bradshaw said if we continue to subscribe to the service it would be. A **motion was made** by Councilman Kenyon and seconded by Councilmember Atchison **to purchase the four satellite phones**, and was **approved by those present**.

c. Staff Space Requirements

1) Approval of Conceptual Design on Office Space

Mr. Bradshaw said that this was already discussed with Mr. Veron, and the conceptual design will be reworked for Post Office boxes and office configurations. Councilman Kenyon, supported by Councilmember Atchison, **motioned to approve the conceptual design of the building addition**. The motion passed. Vice Mayor Becker asked if everyone had reviewed the design and if there were any questions. Having received an affirmative first response and negative second, he called for the vote. **The motion passed.**

2) Approval to Solicit Bids for Construction of Required Space

Councilmember Kenyon, seconded by Councilman Ahrens, made a **motion to approve solicitation for bids for construction of required space at Town Hall**. There being no discussion, the call for vote revealed **unanimous approval by those present**.

d. Meeting Dates

1) Special Council Meeting for Update from Labor Attorney (26-29 June)

Mr. Bradshaw mentioned this meeting, and there was no discussion.

2) July Budget Workshop and TRIM Schedule

Addressing the highlighted areas on a handout that the Council had in their packet, Mr. Bradshaw stated that a July 20<sup>th</sup> Budget Workshop is scheduled to be held, with the Council's approval, at 2 p.m. prior to the regular Town Council meeting at 3:30, which has been moved up one week. Mr. Kenyon said it looked okay now. Continuing, Mr. Bradshaw called to their attention the September 7<sup>th</sup> First Public Hearing for the Proposed Millage and Tentative Budget and the September 21<sup>st</sup> Second and Final Public Hearing for Adopting a Millage Rate and Budget. Mr. Kenyon asked if these were set in stone at the moment, and the Town Manager and Town Clerk said that these are the dates that we have to work with, considering the schedule of the County Commissioners and the School Board, and have to be firm. Mr. Kenyon was alright with them, and both Mrs. Atchison and Dr. Becker said that they would not be here on the 7<sup>th</sup>. Mr. Bradshaw asked Mr. Ahrens if he would be here, and he replied that he did not know at this time. The Town Clerk ascertained that Dr. Becker would return Sept. 16<sup>th</sup> and Mrs. Atchison would return for the Council meeting, which was discussed as possibly being moved up to September 21<sup>st</sup>. After more discussion, it was agreed to let it stand as is for now.

- 3) July Regular Town Council Meeting Date to Third Thursday, July 20  
The Council was agreeable to this change.

At this point, Vice Mayor Becker asked to deviate from the agenda to recognize the Chairman of the County Commissioners, Art Neuberger. He was invited to the podium, and said that he was there because he does try to visit the Town every once in awhile. He sees all members of the Council frequently at various committee meetings, and spends about 75% of his spare time in Gifford and Wabasso, who have more problems than anyone. Mr. Neuberger spoke about the article Mr. Clem had brought up regarding the Sunshine violation, and wanted to talk about committees. He wondered if the Council reported back the committee assignments to the general public, which is a question he hears a lot. One committee, LAAC, is made up of different organizations, like the Chamber of Commerce, Historical Society, and local governing officials. The municipal members are representatives of that municipality, and the others are only members of that organization. They may be replaced by their respective organizations for not reporting back.

Dr. Becker asked Commissioner Neuberger about the Council for Economic Development's meeting the other day, when Mr. Keating was asked how much is in the road building fund and why it isn't being spent more rapidly, which is a question that he, too, is frequently asked. Mr. Neuberger said that it is a good question, and that no one worried that it wasn't being spent until our growth spurt a few years ago. As the old saying goes, it's 10 years from concept to concrete, and now there is an aggressive plan. Some of the developers are getting into the "proportionate share" program, but we are behind in roadway development. A road from 53<sup>rd</sup> Avenue from the end of Indian River Boulevard will go to I-95, and 82<sup>nd</sup> Avenue is in the planning stages, as is 58<sup>th</sup> South & North and 66<sup>th</sup> Avenue. Dr. Becker asked about the plan for widening 58<sup>th</sup> Avenue north of Route 60 connecting to CR 510. Mr. Neuberger affirmed, but added that 66<sup>th</sup> will be completed first. Another contentious road was 43<sup>rd</sup> Street being widened, which has gone from yes to no, back to yes. The intersection at 58<sup>th</sup> and SR 60 is having a public hearing to make it three lanes from every direction, an \$8 million project. Dr. Becker reflected on the MPO's lack of anticipation for growth since he has been a member for the past five years. Mr. Neuberger said that the building boom is slowing down a little now, and even the Department of Transportation didn't see it coming.

Councilmember Atchison asked about the County Commission meeting last week whereby the 9-1-1 system was discussed, and that if one area goes down, where the backup would be and when in the future he was referring to during that meeting. He discussed Sebastian and Vero Beach's dispatch procedures, and the time to transfer calls. Vice Mayor Becker joined the discussion about Vero's reluctance to join centralized dispatch, and Councilmember Atchison and Chief Schauman also spoke about response times and communications between dispatch and municipalities. Chief Schauman stated that Indian River Shores dispatch goes through the County and there is no lag time. Councilmember Atchison concluded that the conversation at the County Commission meeting was regarding cell phones and the confusion they may create based on the tower they happen to be near rather than the location of the emergency.

Commissioner Neuberger thanked them for allowing him to speak, and stepped down from the podium. They all thanked Mr. Neuberger, and Vice Mayor Becker thanked Mr. Clem for his legal opinions as well.

7. **Call to Council**

a. Committee Reports.

Council of Public Officials (COPO). Councilman Kenyon said that the discussion on 911 calls was also discussed at the COPO. At the last meeting, Mr. Kenyon continued, the Town Council discussed the possibility of forming a League of Cities chapter in Indian River County, and at that time there were only two cities who had agreed. As of yesterday, he continued, all four of the other cities are behind this and there will be organizational meetings later this summer. He said he thought it would be a terrible mistake to not be in favor of this. Representatives Stan Mayfield and Mike Haridopolos both were at the COPO meeting, and wanted this new organization to have at least three meetings a year. Councilmember Atchison asked if it had ever been decided about the allocation of votes, and Councilman Kenyon said it would be decided when the Charter was developed, but the talk has been about one vote per municipality.

b. Metropolitan Planning Organization. Vice Mayor Becker said there was no meeting.

c. Beach and Shores Preservation. Councilman Ahrens reported that this committee has postponed meetings until August.

d. Parks and Recreation Committee. This Committee also has postponed meetings until August.

e. Land Acquisition Advisory Committee. Councilmember Atchison said that she wanted to clarify the Ryall property purchase. It was initially contracted for 10.1 acres, and because the appraisal showed 7.3 acres it was prorated to adjust the value. The County staff knew about the acreage differential and that Mrs. Ryall was dying and actually did pass on a few days later. If it had gone to probate, LAAC's offer would not have been the highest offer, which must be taken. Councilmember Atchison continued that she made the motion to keep the offer at the original price, and was supported by an 11:1 vote. As an integral part of the San Sebastian Greenway, she felt that it was important. Councilman Kenyon asked if there were any funds available from the State, and she said that it was part of the bond funds, and there was always the opportunity for grants.

f. Florida League of Cities Board of Directors. The Vice Mayor asked on behalf of the Town Clerk if anyone was interested in attending the FLC Annual Conference, to please see her.

8. **Call to Audience**. Councilman Kenyon complimented Chief Schauman on the Public Safety Department report that was in their packet. There was nothing further discussed.

9. **Adjournment**

There being no further business to discuss, Vice Mayor Becker thanked the audience for coming and adjourned the meeting at 4:45.m.

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/s/

Laura Aldrich, Town Clerk

*(Approved by the Town Council at the 7-20-06 meeting)*