



## MINUTES

### Town of Indian River Shores Regular Town Council Meeting

Thursday, December 10, 2020, 9:00 a.m.

6001 N. STATE ROAD A1A, INDIAN RIVER SHORES, FL 32963

#### 1. Call to Order

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

Mayor Foley called the meeting to order at 9:00 a.m. with the Invocation being given by Vice Mayor Carroll, followed by the Pledge of Allegiance. The Town Clerk called the roll for the **elected officials**, with those being present as follows: Mayor Brian **Foley**, Vice Mayor Sam **Carroll**, Councilmember Christian **Hendricks**, Councilmember John **McCord**, and Councilwoman Mary Alice **Smith**. STAFF present were Town Manager Joe **Griffin**, Town Clerk Laura **Aldrich**, Town Clerk Assistant Chelley **Pallo**, Town Treasurer Heather **Christmas**, Code Enforcement Officer Gary **Doyle**, Building Official Luis **Martinez**, Public Safety Department Chief Rich **Rosell** and Intern David **Jamnik**. RESIDENTS present were former Vice Mayor Bob **Auwaerter** (Ocean Colony), PZV Board Chair Patty **Gundy** and Patricia **Carneval** (Pebble Bay), Former Vice Mayor Mike **Ochsner** (The Estuary), Finance Committee Member Peter **Tedesko** (Sea Forest), and Former Vice Mayor Jerry **Weick** (Bermuda Bay). GUESTS present were Paul **Berg** (Vocelle & Berg), Dylan **Reingold** (IRC Attorney), Rebecca **Grohall** (MBV Engineering), and Reporter Janet **Begley** (TC Palm).

#### 2. Agenda Reordering, Deletions, or Emergency Additions

#### 3. Presentations/Proclamations 9:02 a.m.

- a. Town Code Enforcement Briefing (Gary Doyle, Code Enforcement Officer)

Mayor Foley introduced Gary Doyle, who said the former Town Manager asked Mr. Doyle to officially be the enforcer for this activity on an as-needed, on-call basis to address issues reported by Building Department staff or citizens' complaints. Prior to this, only the Building Official was able to address Code Enforcement or permitting issues, until the workload became too heavy.

Mr. Doyle explained the complaints are often received when land is being cleared and prepared for new developments, which usually involves loud equipment or jarring vibrations. Code Enforcement requires him to make direct contact with a resident, investigate and follow-up as it applies to the Land Development Code and/or Ordinances. The policy has always been to use a passive approach of educating, and occasionally use the assistance of the Town to enforce regulations. Mr. Doyle reminded them to keep in mind that the Town's rules are in addition to the HOA rules. Signs seem to be a continual problem, with examples cited of many real estate, election, and one estate sale sign.

Councilwoman Smith asked about noise limits in the Town, which Mr. Doyle explained as 65 dB, which is roughly equivalent to the noise of someone operating a blower within the Council Chambers. He added that the Town had recently purchased the equipment to measure this. The 8050 construction currently has loud noise from driving pilings for the footers oceanside. Work with this type of noise is limited to the hours of 7 a.m. to 7 p.m. Councilwoman Smith said she believes that the allowed noise level is too high.

One of Mr. Doyle's big issues is that residents frequently ask him to enforce their HOA's rules, as opposed to the rules of the Town, which he has no authority to do. The Mayor added

that Code Enforcement enhances the quality of life for our residents, and Mr. Doyle recognized that sometimes they need help with resolving an issue. Mayor Foley thanked him for the overview.

4. **Consent Agenda** 9:08

a. Approval of Regular Town Council Meeting Minutes dated November 19, 2020

A clarification on item 8.c., Public Safety Department Report about requiring a doctor's note for using sick day(s) was received by Councilmember Hendricks prior to him making a **motion to approve the consent agenda** as presented, which was seconded by Councilmember McCord and **passed 5-0**.

5. **Town Attorney**

6. **Mayor or Council Items** 9:10

The Mayor noted that there was a leak in a water line in John's Island, and a second in Robles Del Mar, both of which were repaired. He suggested that they keep track of this type of issue as we go on with water discussions with the City of Vero Beach.

7. **Discussion with Possible or Probable Action** 9:11

a. Comprehensive Plan Amendment DEO Response Presentation (Rebecca Grohall)

Mr. Griffin said the agenda transmittal includes a chronology of events, with the draft updated Comp Plan completed in July and the first reading of Ordinance 549 in August, after which the draft Comprehensive Plan document was sent to the Florida Department of Economic Opportunity (DEO) for review. In November, we received their comments, which contained six (6) objections and corrective recommendations. These have been addressed in the document before the Council. Once it is approved by the Town for resubmittal and we have DEO's approval, we can proceed with the second reading of the ordinance. Mr. Griffin turned the discussion over to Rebecca Grohall.

Ms. Grohall of MBV Engineering walked the Council through a historical overview of the Comp Plan, explaining that it was written in 1990, and had not been updated in 30 years. We are moving from 1990 to 2020, which is the farthest allowed. The document outlines the Town's Goals, Objectives and Policies (GOPS) that are intended to be broad-based, with the Land Development Code (LDC) as the implementation document. While many policies are current, some were obsolete with state-level or agency management regulations. Today, we have *new maps*, one in Chapter 1 for the *historic and archaeological sites*, and a new map in Chapter 5 for *coastal high hazards*. We have added State-preferred verbiage about the Coastal High Hazard area, and another verbatim statement on participating in the CRS program. The Town is well-ranked nationally for CRS and the residents get a discount for flood insurance. We included the 5-year Capital Improvement Plan (CIP) that was adopted in late September 2020. The *Traffic Circulation Element* was updated in Chapter 2, and the *Level of Service Standards* were reinstated in Chapter 4 as requested. Ms. Grohall showed the *Storm Surge Zones map* and the *Historic and Archaeological Sites map* that depicts where Indian middens, shipwrecks and Jungle Trail are located. She concluded that this will be transmitted back to DEO once Council approves it, and then hopefully we will have it back for a second reading in January for implementing the Ordinance.

Councilmember Hendricks said the State's objections were reasonable. Mayor Foley asked if there were any comments.

Patty Gundy, Chairman of PZV Board, said the PZV Board was originally responsible for the review and updating of the Comp Plan, and they went through several iterations before it was approved by Council and sent to the State. She was disappointed that the PZV Board did not receive a copy of the Comp Plan with revisions that addressed the State's response prior to being provided a copy of the State's 18-page response in the agenda packet, and upon review she found several errors that were both typographical and minor, regarding chapter numbers and the recommended adoption dates for the maps. She expressed concern that it is not completely ready to submit. The five-year plan should be in the Table of Contents, Introduction starts on page 2, and changed to Traffic Circulation from Transportation Element.

We didn't specify why it was not changed. The Public Facilities and Capital Improvements had three (3) major changes, which were fine other than typos. A five-year schedule is referred to as an Appendix but an Attachment is provided, and neither is explained in the chapter. The Comp Plan should be something that anyone can pick up and understand what the book is about, like a novel. High hazard area, map names don't match. She is concerned that the courtesy review will fail and believes it needs a cover sheet explaining why we didn't fully comply with the recommended changes. The old septic map is there but is obsolete, as the Town received a much better septic-to-sewer map from the City of Vero Beach.

Mayor Foley thanked her, and Mr. Griffin said he takes responsibility for the septic-to-sewer map, which is an easy fix. He added that we will look at Mrs. Gundy's comments and incorporate what is necessary, and then submit the document to Tallahassee. Mayor Foley agreed. Ms. Grohall stated the footer of each document does have the chapter and page number. The lower right corner also has dates for the maps as requested. Ms. Grohall answered the Mayor's previous question that this is normal, and the State's comments seemed to be very light to her. She's seen as many as 20-30 comments; we only had 6. The agency reviews were attached, and it was approved by the FDoT, TCRPC, and other agencies. Mayor Foley said we need to be careful with aspirations, as we will be required to implement them. We will polish it up and submit the Comp Plan for final review.

Councilwoman Smith asked about time constraints, and Mr. Griffin said we have 180 days from November 6<sup>th</sup> in which to perform the second reading of Ordinance 549. Vice Mayor Carroll asked about the comments from the TCRPC regarding affordable housing and the needs of vulnerable populations. Ms. Grohall said while there are not traditional affordable housing opportunities in the Town, they are available nearby.

b. Town/COVB Reuse Water Direction (Town Manager) (9:33 AM)

Mr. Griffin said the Town filed a legal complaint with the City of Vero Beach (COVB) in September, but it has not yet been served. The Council had directed that discussions be initiated regarding a possible settlement, and after four meetings, there has been no resolution. He is now asking for direction from the Council. The complaint must be served by January 21<sup>st</sup>, Mr. Berg explained. Mayor Foley said the prior Council directed that the complaint be filed but not yet served, but that it would be served if there was not a favorable resolution. He thinks that the complaint should be served to allow the process to continue.

Councilwoman Smith asked for clarification on non-pressurized versus pressurized water. Mr. Griffin said the issue surrounds this status, as the COVB claims they provide pressurized water, while the County does not provide it for reuse. They have one reuse water rate, which is unpressurized, at 21 cents per 1000 gallons. This is a technical and semantic issue, Mr. Berg affirmed. The City is trying to make a delineation between these two terms. There was minor discussion between Vice Mayor Carroll, Councilmember Hendricks and Mr. Berg about the terms and rates. Mr. Berg said the cost to pay for reuse water is for as it goes back out, not what the sewer bill is for incoming. Mr. Griffin continued, not everyone in the County gets reuse water for irrigation. The County had a Resolution from March 1, 2019 that provided the rates of 21 cents, and the City is charging us 67 cents.

Mike Ochsner, who was on the Council at the time the agreement was made with the City (as was Mr. Weick), said there was never any distinction mentioned between pressurized and non-pressurized water at the time the agreement was made. The City did not want the Town to switch to the County as their water provider, so they made a presentation that promised a minimum of 50 pounds PSI and a rate-match with the County. They didn't want to see revenues slip through their fingers.

Councilmember McCord said we have been down this road before with the City, and that he believes we should serve the complaint.

Jerry Weick affirmed what Mike Ochsner said, stating that the same rates for the people in the County would be given. They matched the rates but added an equalization charge on the residents' bills. The City of Sebastian pays this equalization fee of 6%, which is a franchise fee, as a tax for providing water. They took Sebastian rates and applied that to us for potable water. There is no difference in the contract with the terms.

Mayor Foley agreed, it's time to get on with it. Their current argument is that they would be losing money on this, and based on the Fort Meade case, believe they don't have to abide by it. Mr. Weick said they wrote the contract, and we approved it.

**A motion to instruct Mr. Griffin to serve the CoVB with the filed legal complaint regarding reuse water** was made by Councilmember McCord, seconded by Councilwoman Smith, and **passed 5-0**.

c. Charter Review Committee Establishment and Appointees (Town Manager) (9:49 AM)

At the last Council meeting, Mr. Griffin was instructed to bring back recommendations for establishing this committee, which Mr. Griffin included in the agenda packet. PZ&V Board Chair Mrs. Gundy, former Vice Mayor Auwaerter, and former Vice Mayor Ochsner have volunteered as members of the Committee. Councilwoman Smith said she sat in on the Charter Review Session with Florida League of Cities' Lynn Tipton, and agreed that the document should be brief. Mayor Foley agreed, adding that the Committee would have to follow public meeting requirements, and bring recommendations forward to Council.

**A motion to form a Charter Review Committee consisting of residents Patty Gundy, Bob Auwaerter and Mike Ochsner based on the recommendations provided by Town Manager Griffin as stated in the agenda packet** was made by Vice Mayor Carroll, with support from Councilmember McCord, which **passed unanimously**.

d. Planning, Zoning & Variance Board Report & Possible Action (Chairwoman Gundy)

Chairwoman Gundy reported that the minutes from their November meeting have not yet been published, and research for the Clean Waters Act has begun. Mrs. Gundy pointed out that the Town still has neighborhoods with septic systems, which are quite old at this point. The Comp Plan has a comment that a sewerage pipe is available, and she wondered if the Council may want, as a future topic at a Council meeting, to set a time frame to tie in.

She added that at their last meeting, the PZ&V Board granted a very specific variance to a John's Island resident for a kayak dock.

Mayor Foley said the State Statute requires *the provider* to issue a notice regarding septic to sewer conversion, and since we are not a provider, it is not the Town's responsibility.

e. Committee Appointments – Finance Committee, Randy Rogers Term (Town Clerk) (9:57 AM)

Mrs. Aldrich explained that Randy Rogers two-year Finance Committee term expired, and he expressed an interest in remaining on the Committee. At their last meeting, the Finance Committee voted to recommend his reappointment to the Committee to Council for their approval. Vice Mayor Carroll made **a motion that Randy Rogers be reappointed to the Finance Committee for another two-year term**, which was seconded by Councilmember McCord and **passed 5-0**.

## 8. Staff Updates

a. Building Official Report & Statistics

Mr. Martinez reported that there is still a lot of activity in SurfsEdge, with the first two models opening next month. At the north end of Town, Blue 8050 is coming into the picture now with pilings and three (3) buildings containing a total of 16-20 oceanfront units. Lennar has four (4) homes in The Strand and three (3) more will soon be completed. Two (2) new, large homes on the ocean and two newer larger homes in John's Island are in process. Councilmember Hendricks stated that there is a home in SurfsEdge that appears to be very close to the perimeter wall. and asked if this required a variance or whether it was an optical illusion and is not as close to the wall as it appears. Mr. Martinez said he would look into it.

b. Town Treasurer Report (10:00 AM)

Mrs. Christmas stated that, due to the early meeting date this month, she has nothing to report, but that she will have reports for both November and December at the January meeting.

c. Public Safety Department Report (10:01 AM)

Vice Mayor Carroll said that the rate of **absenteeism** for FY 2020 was over 10% on an annual basis. He asked that the Town Manager in the Absenteeism Report, the officers be listed by their name rather than as Officer A, B, C, D, and so forth, as he believes this

information to be public record. Additionally, he thinks it would be helpful for Council to understand how we are doing cumulatively, and recommended that a Year-to-Date Absenteeism rate be added. He believes that Town Treasurer Christmas budgets a 6.5% absenteeism rate annually, and this would be helpful for Council to determine whether we are on track.

Vice Mayor Carroll went on to say that Officer S missed five shifts in November for a total of 120 hours and asked whether this was an outlier. Chief Rosell answered that the officer took five days due to illness. He said the officer with chronic absenteeism burned through all of his vacation time, and today is his last day, as he is retiring. That officer was really affecting the numbers, and the rate should get better going forward.

Vice Mayor Carroll said the Bureau of Labor Statistics annual rate of absenteeism for the two categories he believes to be most closely aligned with our Public Safety Department (service occupations and local government occupations) is 3.4% and 3.1%, respectively. It seems to him as though the Town of Indian River Shores is greatly above average, in almost every measurable category. He understands about the outlier officer and he also understands that with only 19 officers, one or two being absent can heavily skew the average. He suggested that Public Safety Department Management take extra steps to encourage a culture of coming to work rather than a culture of taking advantage of a perk, namely, 288 hours per year of sick time just because you can. He believes that is a manageable challenge, and that management should take whatever initiatives they believe appropriate in order to get our absenteeism down to a rate that is more in line with the averages of the Bureau of Labor Statistics.

Chief Rosell agreed, and said at their Supervisor's meeting every 6 weeks, which is attended by every rank from himself down to Acting Sergeant, every one of the agendas has contained a sick leave item for the last three years, along with other different agenda items. Supervisors are not just encouraged but ordered to ensure that the officers are abiding by the sick leave policies. He offered to counsel each individual in the Department in writing every 2-3 months, just to ensure that everyone is on the same page. They are trying to change the culture, but it is really the outliers that are increasing the numbers.

Councilwoman Smith asked if the other officers agree that there is sometimes more abuse than there should be, and if they do anything themselves to try to encourage the outliers. Chief Rosell said an officer was let go less than a year ago for abusing sick time, and his fellow officers had turned on him in the months preceding that as they knew what he was doing, and they wanted him gone. The "blue wall" has been mentioned, and it definitely exists. When we had six people go out on one shift about a month before COVID-19, he sent Captain Iovino and Lieutenant Beaumont out twice in one day to each of their houses to ensure they were actually sick, because he thought there was a case of "blue flu" going around.

Councilmember Hendricks stated he did not feel comfortable listing officers by name on the Absentee Reports. He said he worked up a draft document regarding sick leave that he will send to Mr. Griffin. It is his personal opinion that they should not hold sick leave against Chief Rosell. When a person has a doctor's note, he is not accountable, whether it be for one hour or 100 hours or 280 hours. We want to find out who is taking unexcused leave, a day here and there. That is what he is concerned about, as well as those who are getting a lot of overtime.

Mayor Foley stated that he does not know the legality regarding listing the officers by name on the absenteeism report, such as whether it is a HIPAA issue, as the absentee report is public record once published as a part of the agenda packet. Town Attorney Clem said that should be looked into before proceeding and disseminating information to the public, as he certainly doesn't want to violate any federal statutes. Councilman Foley said he is unsure, and obviously doesn't want to do something they shouldn't be doing. He is not sure there are any issues since the information is available for review by the Council.

Vice Mayor Carroll said the main reason he brought it up is because he was trying to determine who the outliers were based on the four years of information provided to him by

Mrs. Christmas, and it was difficult for him to put it all together based on date of hire. Chief Rosell said he believes that any Council Member can stop by his office at any time, and he can go over the biographical information of each officer in the Department without violating HIPAA, so long as he doesn't go into their medical history. Vice Mayor Carroll said he has already gone over that information with Mr. Griffin and Mrs. Christmas, but thanked Chief Rosell for his offer.

Mayor Foley recapped that they all agreed. there is no need to list officers' names on the Absenteeism Report, and Vice Mayor Carroll concurred.

Mr. Griffin stated that one of the concerns was the perception that an officer might take a sick leave day and then double-up by picking up a shift for overtime the next day or the day after. This creates a concern of whether the officer is fit for duty. Mr. Griffin had a conversation with Councilmember Hendricks about this very issue. Mr. Griffin said he is satisfied with the assurances that he received from Chief Rosell and Deputy Chief Shaw that this doesn't happen often. Chief Rosell said that they always attempt to fill available shifts with per diem officers when they have enough notice, as their rate of pay is less than that of the more senior officers.

Chief Rosell pointed out, for the newer Council Members benefit, that there are a couple of pages associated with **response times**. The response time for medical calls for the month of November was 6.3%. A response time in the 5s would be considered good for a Town of our size. When it goes over 6, he analyzes it. More times than not, it is a dispatch error. The reason this month's response time went over 6 was due to the construction on A1A.

Councilmember Hendricks asked Chief Rosell if the department has everything they need to do their job. Chief Rosell said they have everything they need, including budgeted replacements of items that are old/outdated. Mr. Griffin stated that one of his main concerns regarding Public Safety is the management of their **fleet of vehicles**, so he asked Chief Rosell for a five-year replacement plan, which the Chief had provided to him.

Chief Rosell said that when he first started, Mrs. Christmas was managing the Public Safety Department's five-year plan, which is almost impossible to do from her position, and he doesn't know how she did it. In 2014, they had to purchase 4 brand new Chevy Tahoes, which is all well and good, except that they would all wear out at the same time and need to be replaced at the same time. They started staggering their purchases so that they never have to purchase that many at one time again.

Mayor Foley asked whether there was a status update on the **changing of the traffic cameras**, and Chief Rosell answered that it was in process. He does not believe the new ones are yet operational, but it will be soon, and he will give Council an update.

Councilwoman Smith asked whether he has received any word on **COVID-19 vaccinations for our EMS personnel**. Chief Rosell said he has only heard that it is coming soon and to be ready for it. The County Health Department and the Emergency Management Director will be managing the process. They are unable to force employees to get vaccinated but are certainly encouraging them to do so. They have not yet received a timeline from the County.

Mayor Foley asked if they have a liaison with the County to facilitate vaccinations. Chief Rosell said that they hired a former Assistant Chief with the County as their day-to-day IT person, and that he also has experience in the field of Public Health. He has been their liaison for the last eight months and they basically receive all the information before anyone else gets it, because he is onsite here. He will be managing the officer vaccinations, and he already manages officer testing.

Councilwoman Smith asked whether Chief Rosell envisions vaccinations being given in Town, such as at the CVS. Chief Rosell said that he has offered the Town as a testing site, but since the County testing sites were not overwhelmed, they didn't need to use us. If the Town Council wishes, he will offer the Community Center as a vaccination site, as he would love for there to be a site out here for the island residents. Mayor Foley said he believes there is a lot of competition to become an inoculation center, but it never hurts to ask. Chief Rosell

added that the officers are all medics and are therefore qualified to administer shots of that nature.

d. **Town Clerk Updates/Reports** (10:31 AM)

Mrs. Aldrich stated that there was a brief report included in their agenda packet, and the only thing she has to add is that she has been working on backloading the cemetery database and end of the year records management. She offered to answer any questions.

e. **Project Updates (Town Manager)**

Mr. Griffin said the Town Hall remodel project is scheduled to begin on Monday, January 4<sup>th</sup> with the area that houses the Building Department. During the renovations, each affected department will temporarily move into the Council Chambers, meaning all public meetings will be held in the Community Center for several months.

One of things not considered in detail was the renovation of the Council Chambers. Door replacement and painting are scheduled, but interior modifications are not. Councilwoman Smith said she would like for the chandelier to be replaced. Mr. Griffin requested that Council provide him with some input/direction as to any desired changes in this area.

**9. Council/Committee Reports or Non-Action Items** (10:34 AM)

*(MPO, EDC, TCCLG, TCRPC, IRC PSC Citizen's Oversight Committee, CoVB Utilities Commission)*

a. **Committee & Informational Updates or Comments**

Councilwoman Smith and Councilmember Hendricks had nothing to report.

**MPO** - Councilman Foley stated he attended his first MPO meeting on 12/9/20. The 2045 Long Range Transportation Plan was approved. As he does after all his committee meetings, he brought the meeting packet to the Town Clerk's office for storing, where it is available to his fellow Council Members, should they wish to read any of it.

**TCRPC** - The Treasure Coast Regional Planning Council also met, with nothing of consequence to report, Mayor Foley continued.

**TCCLG** - The Treasure Coast Council of Local Government will have its Annual Organizational Meeting in January, which was postponed from December.

**CoVB Utilities** - Councilmember McCord said he attended his first Vero Beach Utilities Commission Meeting and there was nothing of importance to report.

**10. Call to Audience**

None

**11. Adjournment** (10:37 AM)

Respectfully submitted,

/s

Laura Aldrich, Town Clerk

*Approved by the Town Council at the  
January 28, 2021 meeting*