



MINUTES

REGULAR TOWN COUNCIL MEETING

THURSDAY, MAY 27, 2021 9:00 A.M.

TOWN OF INDIAN RIVER SHORES

6001 N. STATE ROAD 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 by Mayor Foley at 9:00 AM with an announcement that our dear friend and colleague, Former Mayor Tom Slater, passed away on Wednesday, May 26th. He said that words could never express the contributions that Tom made to us, not just as a Mayor and Councilperson, but as a friend and a colleague. Mayor Foley asked for a moment of silence in remembrance of Mr. Slater. After the moment of silence, Vice Mayor Carroll gave the invocation, and the Pledge of Allegiance was recited. Those present were ELECTED OFFICIALS: Mayor Brian **Foley**, Vice Mayor Sam **Carroll**, Councilmember Christian **Hendricks**, Councilmember John **McCord** and Councilwoman Mary Alice **Smith**. STAFF present were Town Manager Jim **Harpring**, Town Treasurer Heather **Christmas**, Town Attorney Chester **Clem**, Town Clerk Laura **Aldrich**, Assistant to the Town Clerk Chelley **Pallo-Darnell**, Building Official Luis **Martinez**, and Public Safety Deputy Chief Mark **Shaw**. RESIDENTS present were Patty **Gundy** (PZV Board, Pebble Bay) and Peter **Tedesko** (Finance Committee, Sea Forest). GUESTS present were Mike **Korpar**, John's Island POA, and Rob **Bolton** (*arrived at 9:23, CoVB Water Department*).

2. Agenda Reordering, Deletions, or Emergency Additions

With no changes to the Agenda, it was **unanimously approved as is upon motion** by Vice Mayor Carroll with support from Councilmember Hendricks.

3. Presentations/Proclamations

- a. Swearing in of New Town Manager, James Harpring

Mayor Foley announced that new Town Manager Jim Harpring is being sworn in today, as is pursuant to Florida law. Town Clerk Aldrich administered the Oath of Office to Mr. Harpring. Mayor Foley welcomed Mr. Harpring, adding that he has hit the ground running and is a very quick study.

4. Consent Agenda

- a. Acceptance of Charter Review Committee Meeting Minutes dated April 5, 2021
- b. Approval of Special Called Town Council - Reuse Water Arcadis Study Meeting Minutes dated March 16, 2021
- c. Approval of Special Called Town Council – Town Manager Search Meeting Minutes dated April 12, 2021
- d. Approval of Regular Town Council Meeting Minutes dated April 22, 2021

With no discussion, a **motion to approve the consent agenda items as presented** being made by Councilman McCord and seconded by Vice Mayor Carroll, which **passed unanimously**

5. Town Attorney

Nothing to report.

6. Mayor or Council Items

Mayor Foley said the **Charter Review Committee (CRC)** has done incredible work as evidenced by a very detailed set of minutes which was just accepted via the Consent Agenda. He thanked them for their very exhaustive and thorough review of the Charter, and stated that he has had a conversation with Town Manager Harpring regarding this. In looking at the calendar, by the time the new Town Attorney has started and has had a chance to review the work of the CRC, the timing would be very tight in terms of getting something on the ballot by this August. The process starts with the CRC, which is followed by a legal review of the recommendations from the CRC before it

comes to the Town Council. He would also like input from the citizens via a Workshop so there is transparency with what we are changing. The Mayor did not see anything particularly radical in the proposed changes, but he thinks by the time the Town Clerk gets done with her work, there will not be enough time to put this on the ballot, as it would have to be finalized by August. He does not think that's doable, and he doesn't think it is transparent of Council to proceed during the summer when a good number of the residents are not in Town. We should work as diligently as possible to conclude the process with a target date for a Workshop meeting to obtain public opinion before the residents return to their other homes in the Spring of 2022. Town Council agreed that this was an appropriate plan. Mayor Foley said it is now in Mr. Harpring's and the Town Clerk's capable hands.

Mayor Foley expressed his confidence that his fellow Council members have read with interest the very detailed CRC Meeting minutes, and suggested that they should pay particular attention to the discussion with the citizens, with the understanding that the Charter is really the framework for the government (of our Town). There are policies and procedures that are best left as policies and procedures, such as a nepotism policy. In his opinion, this is something that is closer to a policy/procedure and does not really need to be in the Charter. He thinks that the CRC is right on track and that most of the comments made recognize that many of the powers and limitations are already delegated by State Statute and/or the Florida Constitution. Mayor Foley reminded them that Statutes may change, and it is best just to reference them as opposed to including specific statutory verbiage in the Charter. These are the types of things he thinks Council will need a few meetings to "flesh out," as they will likely also have an opinion on what is best left as policy and procedure versus what should be included in the Charter. He thanked the CRC again for their hard work. The Council was in consensus regarding scheduling of the next steps.

Mayor Foley continued that his next item to keep on the radar is the **Arcadis study** regarding the potential of disconnecting from the COVB Water Utility and connecting instead to the County. He thought one big issue that they have not focused on is financing, and if his fellow Council members agreed, they should have at least a recommendation from the Town Manager within the next couple of months regarding what team could give us an idea of what it would entail to disconnect from the City and connect to the County. He said he does not have a lot of experience with municipal revenue bonds, but there are people that do. He would like to know how it can be financed, what it would cost and what the impact would be. He asked his fellow Council members how they felt about this, and all were in concurrence.

Mayor Foley added that Councilmember McCord was part of a team of citizen volunteers who assisted the Town with the COVB Electric Utility issue, and that there is an incredible amount of talent in this Town in terms of residents with successful occupations and professions. He suggested this may be a model that Councilmember McCord can share with Mr. Harpring, as he personally only was slightly informed about it, and informed Mr. Harpring that the Town has a lot of resources and had already gone through a parallel issue with the electric utility.

Mayor Foley said the last item in his Mayor's Report is that there is an issue on the horizon in that it looks as though each municipality in the County may be asked to approve adding a referendum to the ballot regarding adding a **dedicated Children's Fund Tax by Referendum**. The approval is not for the tax itself; it is simply for putting the item on the ballot so the taxpayers of the County can decide. Mayor Foley said some preliminary numbers were available from Town Treasurer Christmas. There are currently more questions than answers, such as is this replacing a tax already in place, etc. He continued those workshops will be or may have already been held. It seems that if one municipality objects to going forward with the referendum, it cannot be done. He believes this is an issue that needs to be thought long and hard about so the Town understands what it is really getting into, and he does not believe he currently has enough information. He said it initially sounds like a pretty good idea to him, trying to create a sort of lockbox for children's programs to keep funds from getting invaded by other spending. Mayor Foley said they will be getting a report on this that will explain the details, and reiterated that Council would not be approving the tax, rather a resolution for a referendum to be added to the ballot so the County voters can decide whether they want this dedicated fund.

Mayor Foley asked Mr. Harpring if he captured that correctly, who confirmed he did. Mr. Harpring stated he met with some of the organizers of this fund, including Lisa Kahle and IRC Clerk of Court Jeff Smith. Many of the same questions Mayor Foley asked were presented to them, and the answers were not clear, but they are working with the County Attorney Dylan Reingold to determine the viability and the actual legal sufficiency of whether the County can proceed in some other fashion if one of the municipalities opts out. Mr. Harpring continued that conceptually, it would replace the Children's Services Advisory Council (CSAC). He said he asked some pointed questions that he believes must be answered before Council can make some specific determinations as to how the new fund would differ from CSAC moving forward, other than increasing taxes. He also does not believe it would be

a 1:1 trade, or a replacement of one thing or a reduction in the general tax rate. At this point in time, there are more questions than answers, but they are trying to work through those things.

Mayor Foley suggested that a proponent could give the Council a presentation at a future meeting. He believes they would like for this to be on the ballot this November, so they will need the answers to a lot of these questions before the ballot for the voters to be informed. The Council agreed with Mayor Foley's suggestion.

Councilwoman Smith said she ran some numbers and spoke with Mrs. Christmas, and she talked to the organizers about the impact on the Town's citizens, and it seems that it would be upward of \$1.3 - \$1.5 million for this \$6 million program. They currently get about \$620,000 for children's services. She thinks they would have trouble with the County on actually getting somewhere with that money. She has also pointed out to them that this is a sizeable amount, especially if we are also going to be raising our rates for water. It would require more staff at a cost of approximately \$400,000 per year. Councilwoman Smith thinks she gave them a lot more to think about than their proposed \$278 per each taxpayer, when it's more than that for Indian River Shores. And the Town would be paying for 20% of the new program, along with all the other programs that our residents already support.

Mayor Foley said those are all good points, as it has an ad valorem component. He believes they figured it at \$170 per \$500,000 of value, which Mrs. Christmas added \$145 for the first year and then \$190 per \$500,000 in value. Mayor Foley reiterated that there are more questions than answers at this point. Councilwoman Smith said our residents will not be paying that, they will be paying a much larger amount, like \$700. Mayor Foley said they were talking about \$500,000 in value, which is on the low side here, so there is a disproportionate impact because of the higher property values here. He said if there are questions that are unanswered that are fundamental, he is not sure that the County is ready to roll this out. He requested a presentation from whomever the proponent of it is, rather than them just asking the Town to rubber-stamp a resolution that is getting passed around the municipalities.

Town Manager Harpring said he believes they are planning that, and he suggested to them that their timing was probably a bit ambitious relative to a referendum being on the ballot this year, as we are just having this discussion today. Councilmember Hendricks asked if there was a website or other resource where he could read about this to get up to speed on this, and Councilwoman Smith said there is a proposed County ordinance that details everything. Mr. Harpring said he would ask Mr. Reingold for a copy. Mayor Foley said the County has proposed a model ordinance that he will share. Councilmember Hendricks thanked them.

Mayor Foley said Mr. Harpring will bring us up to date regarding the **COVB water issue**. There is no new news. The Town is proceeding with the Arcadis study and are in contact with them fairly routinely on their progress.

7. Discussion with Possible or Probable Action

a. RFP 21-01 Public Safety Exterior Painting Results

Mayor Foley said Council has received a recommendation to award the contract to McDine's Painting of Brevard. Mr. Harpring said the project has come in under budget in terms of the RFP and the proposal, and the Selection Committee was unanimous in its recommendation. Mayor Foley clarified that Mr. Harpring reviewed their decision and was comfortable with it, and he confirmed.

Mayor Foley asked if our process normally includes having a Selection Committee. Town Treasurer Christmas answered that she felt as though they should provide the ranking sheets this time, but they have done this in the past. Councilmember Hendricks asked whether there is a policy requiring three or more bids, to which Mayor Foley replied it is an RFP and it went out to bid. Mr. Harpring affirmed, and said there were a total of four submissions. McDine's Painting came out on top for all Committee members, who were Maintenance Supervisor Larry Bryant, Deputy Chief of Public Safety Mark Shaw and Town Treasurer Heather Christmas.

Mayor Foley clarified that his question was regarding process, and whether going forward the Town Manager would be overseeing the RFP process. Mr. Harpring said the selection process predated his employment and he finds it to be reasonable. Mayor Foley thanked him and asked if there was **a motion to award the contract for RFP 21-01 Public Safety Exterior Painting to McDine's Painting**, which motion was made by Vice Mayor Carroll, was seconded by Councilmember McCord and **passed 5-0**.

b. Signature Authorization Cards

Mayor Foley explained that this is a pro forma that authorizes the five Council members, Town Manager and Town Treasurer to sign for Town bank accounts. He said this has relevance when a check that exceeds the Town Manager's authorization limit needs a countersignature, or if signing a check in the absence of the Town Manager. Vice Mayor Carroll made **a motion to approve the signature authorization cards** which was seconded by Councilmember McCord and **passed unanimously**.

c. Delegation of Authority to Town Manager Regarding the Search for a New Town Attorney

Mr. Harpring said, from a procedural standpoint, as the Town Attorney is a Charter position and they work for Town Council, he is requesting delegation to proceed and has sent out notice of the vacancy. He continued that Council will very shortly be receiving packets of information with potential candidate information and recommendations, and then we can determine how to proceed. He thought it would be appropriate to receive delegation from the Council to act in their stead. While he has had conversations with the individuals who have submitted letters of intent, it will ultimately be Mr. Clem formatting the contract with the selected attorney.

Mayor Foley recapped that Council will not have to interview candidates for Town Attorney together at a public meeting; rather, Mr. Harpring will select appropriate candidates and will refine it to a final recommendation to be approved by Council, which Mr. Harpring confirmed. Mayor Foley said he likes that process. Mr. Harpring will be working with the Town Attorney on a day-to-day basis, and while he would like to meet the finalists before being recommended, he thinks this is a very efficient way of doing things.

Councilmember McCord said he thinks that it is important to have the consistency of one lawyer, as was the case with Mr. Clem, as opposed to a firm of attorneys, for continuity. Mr. Harpring said that everyone he has spoken with has other associates in their firm or who works for their firm. He said he was crystal clear that Council expects to see the same face every month absent a note from a doctor or the hospital. He reiterated that it was imperative that Council and the Town be represented by an individual regardless of the organization with which they are associated. He agrees that is very important, and reiterated that it was made very clear to the candidates as well.

Mayor Foley thanked Councilmember McCord for this excellent point, and agreed 100%. Mr. Clem said it is absolutely essential for the attorney to be present at Council meetings and to be available for conversations prior to the meetings. He said there may be very few occasions in which the attorney is unable to attend a PZVB Meeting and would need an alternate to attend in their stead.

With no further discussion, Vice Mayor Carroll made **a motion to approve the delegation of authority to the Town Manager regarding the search for a new Town Attorney**, which was seconded by Councilmember McCord and **passed 5-0**.

d. FDOT Highway Lighting Maintenance Agreement

Mr. Harpring explained that there is a procedural change made by the State to implement a 7-year agreement as opposed to a continuous agreement. The agreement indicates the specific amount of revenue, with increase over a period of time, that the Town receives for the ongoing maintenance of the specific number of streetlights in Town. Mayor Foley asked if the payment is a loss to the Town. Mrs. Christmas answered that we bill them the \$4,500 amount and it is a positive for the Town. **A motion to approve the FDOT Highway Lighting Maintenance Agreement** was made by Vice Mayor Carroll, was supported by Councilmember McCord, and **passed unanimously**.

8. Staff Updates

a. Building Official Report & Statistics

Mr. Martinez said for the month of April, the numbers continue to go up with the inspection workload both in the office and the field. He asked if there were any questions regarding the numbers, and there were none.

b. Town Hall Renovation Report

Mr. Martinez continued that Phase II is underway and Phase I is 99% complete. They are working through some minor punch-list items such as paint touchup, finding locations for garbage cans, etc. He said the Building Department is enjoying their new space very much, everything seems to be working well and they have received a lot of positive comments from customers.

Mrs. Christmas provided **Change Order #11**, which she explained was received after the packet was issued, which is for an additional \$2,800 for downspouts that were not originally included.

c. Town Treasurer Report /Project Updates

Mrs. Christmas stated that the **budget** is in process and a draft budget will be issued to the Finance Committee next week in advance of their June 10th meeting, which will be held at 9 AM in the Community Center, as well as via Zoom to receive input from those Finance Committee members who are already away for the summer.

Mrs. Christmas continued that she will have a **budget amendment** for next month's meeting which will include the Town Manager change as well as the Arcadis water study.

Regarding the **American Rescue Plan Act (ARPA)** funds, we are still receiving guidelines and updates from the Treasury Department regarding how those funds should be handled, so within the next month or two she will be requesting to establish a new fund to monitor these funds.

Mayor Foley thanked Mrs. Christmas for the great job she did in helping him to prepare his homework for the Treasure Coast Regional League of Cities (TCRLC) and TC Regional Planning Council. They were asked to come up with scenarios of **how they would spend the Town's allocation from the ARPA**. Mrs. Christmas did a very nice, detailed analysis that he thinks is worthy of Council review. Later he will go into one warning about the claw-back. A lot of money has been given out under FEMA grants and various recovery programs funded by the federal government, only for them to come back five years later and say the money wasn't spent in the way they envisioned. Even though it was approved by someone at the Federal level, it doesn't necessarily mean that they won't come back for it. Council really needs to keep that in mind moving forward. It is tempting to take the money and try to use it, but it could create budget havoc years later.

d. Public Safety Department Report

Deputy Chief Mark Shaw said the **license plate-reader cameras** are up and installed. He said they do not have complete access to them yet, as their IT person is away at the moment; when he comes back, they will have nationwide access. They are a lot smaller than the previous cameras, and they are catching a lot of tags.

Deputy Chief Shaw said, other than that, they are getting ready to start the **exterior painting** of the Public Safety Building, and he thanked Council for their approval.

Councilmember Hendricks said he had a **question regarding the stats** and said that law enforcement infractions are listed at 122, when they usually average around 30. Deputy Chief Shaw said these aren't even from minor speeding, those citations were issued for individuals driving 60+ MPH in a 35 MPH zone. FDOT removed the construction barrels, which he believes makes people think everything is back to normal. Deputy Chief Shaw said they are never heavy-handed with citations, but all those he looked at were very excessive and warranted a citation. He added that 90% of the citations were issued between Sunday and Thursday, not on the weekend.

Councilwoman Smith asked if the **speed limit will be changed back to 45 MPH soon**. Deputy Chief Shaw said they will not until the project has been released. He spoke unofficially with someone at FDOT last week who told him there are still 260 corrections that need to be made, so it may be a bit until it is officially finalized.

Deputy Chief Shaw said, other than that, they have definitely seen a decrease of cars on A1A. He asked if there were any questions. Mayor Foley said this is his least favorite part of the Public Safety report and said the **absenteeism rate** is still right around 6%, and it looks again like it is one individual with 40 ¾ hours sick leave used. He asked if it looks like they are getting it back down to a more reasonable standard, recalling that Vice Mayor Carroll had found statistics indicating that a little less than 3% would be an average absenteeism rate, and if that was still our goal. Deputy Chief Shaw said, historically, 6% has been their average for a very long time; when it gets over 10%, they have concerns and start performing spot checks to ensure that officers are home during different points throughout the day. He said when Chief Rosell returns, himself, Chief Rosell and Mr. Harpring will meet to discuss different ideas (to reduce the rate.)

Mayor Foley said it is off the point a bit, but the private sector has been moving away from a distinction between sick time and vacation time and utilizes a concept called "**Paid Time Off**". Mayor Foley said he knows that was probably a very lively debate during contract negotiations with the Union, because, generally, there is a reticence to change from something that looks bankable. Going forward, the fact that we have these statistics and think about it is not a productive use of anyone's time, including Public Safety's time trying to determine whether an officer is actually sick and at home. Mayor Foley said there is a mechanism for people to move away from that and encourage people to be honest with what they are doing. Deputy Chief Shaw said he has drafted a Paid Time Off policy, obviously contingent upon negotiations, which includes sick and vacation time. He believes it would work, and a lot of smaller agencies similar in size to ours have already implemented a PTO policy; those that he has talked to love it. Mayor Foley said that is good to hear and thanked Deputy Chief Shaw.

e. Town Clerk Updates/Reports

Town Clerk Aldrich said her report is in the packet and unless anyone has any questions, she has nothing further to add.

f. Town Manager Updates

Town Manager Harpring thanked the Council for their communication thus far, and thanked Mrs. Christmas, Mrs. Aldrich, Mrs. Pallo-Darnell, Mr. Martinez and everyone else for welcoming him. He said he has begun holding monthly staff meetings and has also met individually with everyone. He met with Chief Rosell and Deputy Chief Shaw regarding the issues mentioned by Mayor Foley and they will be trying to bring those numbers down, as there are unintended financial consequences anytime someone calls out sick. Scheduling pre-approved vacations is easier to manage, but it is always difficult when you have the overtime numbers.

Mr. Harpring continued that he has already started discussing the **Collective Bargaining Agreement (CBA)** with Chief Rosell and Deputy Chief Shaw regarding how they will move forward in that area. He is hoping to make some progress with some more defined provisions in the CBA that will benefit the Town.

Mr. Harpring said the **COVB tabled their resolution on Chapter 164 proceedings**. He said he is aware that (COVB City Manager) Mr. Falls and (IRC County Administrator) Mr. Brown met. He was not invited to that meeting, but subsequent to that, he has had no contact from the COVB regarding a meeting with himself or any members of the Town, as was indicated at the City Council meeting when they tabled the Ch. 164 proceedings. Mr. Harpring said discovery is ongoing in the litigation; due to the volume of the documents, it is going to take some time.

Regarding the **Arcadis study**, he speaks with Tim Ware of Arcadis weekly and there should be no impediments to the timeline as outlined in the project documents. We should see something regarding funding in August and the final report sometime in January. Regarding the COVB Utilities Commission Meeting, handouts were provided, and Councilmember McCord attended the meeting, which was also televised.

Regarding **Old Winter Beach Road**, Mr. Harpring said he spent some time out there and spoke with all the relevant parties including Public Safety. He has determined there are not parking issues where the "No Parking" signs were placed, and they are going to be removed. The issue relative to people driving over the swale is a Town issue, as we maintain that. He has spoken with Mr. Rich Szyrka, Director of Public Works for IRC, on numerous occasions to determine the parameters of what the County will or will not approve. He said they are evaluating the bioswale solution with rocks that will help maintain the sand in the swales and also with the percolation, and he is waiting to get feedback from some engineers. He has spoken with some Town personnel who may be able to facilitate that at a reasonable cost. Mr. Harpring said this is less of an issue of benefit to The Shores and River Club and more of an issue of the Town in maintaining that drainage.

Mr. Harpring moved on to the **paving at Surf Lane**, which he said is moving along, and we anticipate the final put-down of pavement within the next couple of days.

Circling back to the **A1A road status**, he has spoken with his contact at FDOT, and a lot of the fixes mentioned by Deputy Chief Shaw are minor in terms of the location of some of the strips, putting down thermoplastics, which is one of the final steps, etc. FDOT will sweep the road prior to applying final striping so we should not anticipate any issues with people or cars in the bike lanes, or nails or rocks or anything like that.

Mr. Harpring said he is preparing a **summary of the legislative changes** that affect the Town and Public Safety; he has spoken individually with Council members regarding some of these but will produce something for the Council members to identify what may or may not need to change following the State's legislation.

Finally, Mr. Harpring said, he has already discussed individually issues relative to **hurricane preparedness**, but he believes it is important to talk about it early, especially on the Public Safety and Public Works fronts. He feels the Town is in fairly good shape in terms of both debris management and Public Safety. Very briefly, the County controls access to the bridges based on wind speed. There are challenges on SR A1A as we share borders with Brevard and St. Lucie counties. He has already spoken with Chief Rosell and Deputy Chief Shaw about increasing staffing during those periods of time to ensure the safety of the public and the security of Town property.

9. **Council/Committee Reports or Non-Action Items**

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

a. Committee & Informational Updates or Comments

Councilmember McCord stated he has been in communication with representatives of JIPOA regarding their pipeline deal with COVB, which is progressing nicely. They have not yet signed a contract, but it looks like the financing for the supply side is moving forward. JIPOA is putting up a significant amount of money for this. **COVB Utilities Commission Meeting.** Councilmember McCord reported that he attended the meeting on Tuesday, 5/25. He recognizes on Mr. Bolton's part that the City Council has made at least a tentative decision to proceed with building a significant water treatment facility to supply the residents as a replacement to the existing facility, so Mr. Bolton has to march to that drum. He continued that we were initially told the cost of the facility would be approximately \$50 million, before any schematics or financial information was received. He said things changed, and he became aware of the \$60 million price tag at a COVB City Council Meeting; it was never mentioned at a COVB Utilities Commission Meeting, the only number ever given to them was \$50 million.

The City hired an outside financial advisor to evaluate the replacement cost, and at the Utility Commission meeting it became evident that the cost would not be \$50 million, but in the range of \$60-70 million. As the numbers change, an appropriate rate structure cannot be determined. To their credit, the financial analysts said their product was not a rate structure or rate recommendation. So, we don't know what the actual costs are going to be, and without the actual costs, how do we determine what the rates are going to be? It seemed pretty obvious to him that there is going to be a significant rate increase. He does not know how it will compare against other utilities in the State of Florida or nationwide, but a \$60-70 million investment that has a 30-year term is a large amount of money for a small city the size of Vero Beach.

Councilmember McCord continued that the Town is 10% of the capacity, and wondered if we are 20% of the revenue? He said we are certainly in excess of 10%. Councilmember McCord received some interesting comments from Town residents who watched the COVB Utilities Commission Meeting, and read one of them aloud. He commented that he believes the City has decided that they would like to proceed, but have they looked at other options, like trying to partner with the County to build the new facility? He knows that the Utilities Director takes his direction from the Mayor and City Council. Councilmember McCord is very, very concerned for the citizens of Vero Beach and, should we decide at the end of the day to remain partners with them, he doubts the COVB would be willing to guarantee a 17% increase long-term on rates as part of the construction. If they did, he doesn't know how we would trust them, based on their previous performance.

Mayor Foley said how this affects us most directly is, in the litigation, one of their defenses is that, regardless of what they agreed to in the contract, which was to match the County's rates, if, in their judgment, which inhibits their ability to properly set rates, they can basically rip the contract up, as they are doing now. Whether that is just a lawyer thing, he does not know – they will find out as it unfolds. If the whole basis of the bargain is destroyed, it doesn't make you feel good about continuing to do business with someone.

Councilmember McCord reiterated his concern about the size of the project in relation to the size of the City, and the uncertainty surrounding the rates. Both he and Mr. Auwaerter have been saying from the beginning that this will be significantly more expensive. This is a very serious matter: a 30-year contractual commitment. He thinks they are exposing the Town's residents to a long-term liability, and he thinks Council should have a lot of second thoughts about it.

Councilmember McCord added that he is not criticizing Mr. Bolton, who is doing as he should. His concern is with the COVB investigating other options in light of these costs, rising interest rates, and financing sources? The issue is what is this going to cost us, and will they stand behind the rate structure (he said they won't). He is concerned for the Town's residents. He also warned JIPOA to be careful with the contract they sign with the City. At the end of the day, he thinks that something similar will happen as did with the FPL deal. Once the public became aware of the facts of the dynamics of the deal, and what their savings would be, as compared to staying with the COVB... the City should never have been in the electric game to begin with. Now, Vero is trying to hold on to its last vestige of a utility infrastructure. Old Vero needs to change, and once residents pick up the fact that this is going to be really expensive, he hopes that Vero will look at other options, whether the Town is with them or not.

Mayor Foley thanked Councilmember McCord and said the oath they all took is to uphold the best interests of the residents and taxpayers of the Town, and that is their focus going forward. A lot of what Councilmember McCord said plays into that, because you can't look at this in a vacuum. You have to look at this in terms of what the pressure is going to be on the rate structure that may encourage someone to not honor an obligation to match County rates. We don't want to be in litigation for the next 30 years, as it is not in the best interest of our taxpayers or anyone. Mr. Harpring will be working on this closely with our outside counsel, consultants and financial advisors, and we will hopefully have some options to discuss.

Councilwoman Smith asked Councilmember McCord what the extrapolated amount with interest for the 30-year loan would be? Councilmember McCord said they have no idea what it is going to cost until they get bids and financing and start construction. Councilwoman Smith mentioned that the City's attorney made a comment along the lines of the City "owning" the Town of Indian River Shores. Mayor Foley said it is no surprise that is their legal argument, but we provided the City with a copy of our legal opinion, and we are confident that their argument is just fantasy. Mayor Foley asked that they stay focused on what is best for the Town's taxpayers.

Councilmember McCord pointed out one issue that was raised relative to the septic to sewer conversion. He said the Utilities Commission is very big on trying to get rid of the septic systems and that this is an important issue for the Town; he hopes that we do our best to eliminate septic systems in Indian River Shores. Mayor Foley said he appreciates that, and that again requires some sort of long-term commitment.

Economic Development Council. Vice Mayor Carroll announced that they met on May 18th, but he was out of town. Councilmember Hendricks said he did attend in Vice Mayor Carroll's stead, reporting there was a presentation from the C-PACE Finance Group regarding how corporations could receive funding for renewable energy, energy conservation, efficiency, wind hardening, etc.; anything to reduce their energy bill. During the discussion, the issuance of this bond came with one big caveat for the banking industry, and that is that when the bond is let, the bankers will have to make their liens against the corporate buyer secondary to the bond. The second problem is that the collector of the bond... payments will be done by the local government through an additional tax assessment. Councilmember Hendricks said he doesn't believe this will ever happen.

TCCLG. Mayor Foley said the last meeting was held right at the end of the legislative session, and some of those bills have been signed. Mr. Harping will be updating Council on those bills that affect us, including home-based businesses. He is unsure how much of an issue it would present in Town – how excited will people be to open a home-based business in a non-HOA area, because this bill does not prevent HOAs from having rules against them. We do have some non-HOA areas and may get the odd person trying to create a fender shop in their garage which would, strictly speaking, be within the purview of this Statute. He doesn't know how long the Statute will be with us, because he thinks it is going to create a lot of issues in other jurisdictions.

Mayor Foley said he lost track of whether the Governor signed the bill regarding code enforcement, making it impossible to anonymously report a code violation. He said that Public Safety will tell you that most of the disputes in Town involve a code violation. Mayor Foley thinks we need to look at our code enforcement mechanisms in general as part of this whole thing. He knows that Mr. Harpring is working on this and will report to Council.

TCRLC. This meeting was absolutely terrific, Mayor Foley said. Carr, Riggs & Ingram, the Town's CPA, made a presentation on the American Rescue Plan Act and how it affects us here, where we are referred to in the governing legislation regulations as a "non-entitled governing unit," which means our funding comes through the State and we don't receive it directly as the City of Vero Beach does. This means we have another layer of bureaucracy to work through. It was a little bit deflating to look at the draft guidance; It is going to be incredibly complicated to try to navigate our way through it. Even in a community our size, between \$1.6-\$1.8 million, as we go through all this rigamarole to get the funding, and we use it, with or without a partner, for the appropriate and allowed categories, the potentiality of a claw-back worries him more than not being entitled to the money. Council is going to have to look at this carefully and think about it.

TCRPC. Mayor Foley also attended this meeting, which was very heavily skewed towards content for the American Rescue Plan. He said a lot of that doesn't really relate to us, because of our "non-entitled" entity status, but we may have some opportunities to partner and may begin receiving some solicitations, for which Mr. Harpring will be the point person.

MPO. The Mayor commented that he attended this meeting, which is a very interesting organization. They did vote unanimously for the CR 512 project to include a roundabout as opposed to an intersection. There is some controversy about how this affects the communities in the Gifford area and their access to the main arteries, and there was a lively discussion on that. Mayor Foley said these plans go out 5-10 years and it is really interesting to see the vision of people, particularly when some of us will be off Council by then.

Beach & Shores Preservation Advisory Council. Councilmember Hendricks reported that he attended the meeting, and the County said they will consistently provide annual beach surveys to DEP to try to get the designation of Sector 4 changed. However, he said, he was looking at the current schedule for beach renourishments: Sector 5 was done February 2020; Sectors 1, 2, and 3A (which was recently done and completed by May with 600,000 cubic yards of sand put on the beach); and Sector 3B will be started in November of this year with another 300,000 cubic yards of sand, which basically means there are 900,000 yards

of sand just before Sector 4, which will eventually get there because sand moves south. Currently, Sector 7 is not getting the number of easements needed to proceed with beach renourishment, so that may not occur. Sector 6 doesn't really have the need for sand, and Sector 8 is also in a very good position and is not in need of sand. So, come 2022 the County is going to have need of a beach to put sand on, and it might be Sector 4.

Mayor Foley thanked Councilmember Hendricks, and said as we get into summer, we will see a diminishment in the frequency of these committee meetings.

10. Call to Audience

Mayor Foley made a call to the audience, which was answered by **Rob Bolton**, Director of Water and Sewer for the City of Vero Beach. Mr. Bolton said that he used to attend the Town Council meetings years ago but hasn't felt the need in recent years. Town Clerk Aldrich had requested some information from him last night, which prompted his attendance today. He listened to all the conversations today and feels that there may have been a communication breakdown, maybe because he hasn't been attending these meetings. What he saw was a lot of conclusion-making based on some rumors, philosophies and what appears to be bitterness over the electric system. He said the Water Department is not the Electric Department; they are two different things.

Mr. Bolton asked for the opportunity to sit down with Councilmember McCord and Mr. Harpring; he cannot speak from the political side of things, but he can speak from the engineering and management side of things and maybe share some more factual items than he hears happening. He said although he receives his paycheck from the COVB, he represents all the utility customers, including the residents of the Town of Indian River Shores. He understands the City and the Town are involved in a lawsuit, but so long as they discuss matters unrelated, he does not think there would be any problems or conflicts with that.

Mayor Foley said the Town Manager is empowered to talk to any person with which the Town has a business dealing, as can the members of Council so long as they are discharging their duties as a Council person within the confines of the Sunshine Law. Mayor Foley added that he makes decisions based on facts, not rumors. Mr. Bolton replied that he was referring to the inflated number of \$50 million to \$70 million to \$100 million. He is talking about people taking out of context a rate at 5,000 gallons vs. 11,000 gallons, and that the County rate structure at 11,000 is higher than that of the City. Those are the facts that he would like to try to present so that when Council makes decisions in the future, they have the facts regarding what the costs are true to what the projects are going to be and what the rates are going to be.

Councilmember Hendricks said he would look forward to hearing about it from the engineering perspective after Mr. Bolton meets with the Town Manager and Mr. McCord. Councilwoman Smith said she agrees; it seems that there is a lot of fog right now. Mr. Bolton said he would like to bring a lot of clarity and explain how the City got to the point they are at, and why they are looking for build a new water reclamation facility, and why they chose not to do business with the County.

Mayor Foley reiterated that the Town Manager and members of Council do not need permission to meet with anyone regarding the Town's business dealings, and that he was sure Mr. Harpring would brief Council either at a public meeting or on an individual basis. There were no further audience members who wished to speak.

11. Adjournment 10:28

Respectfully submitted,

/s
Laura Aldrich, MMC
Town Clerk

Approved by Town Council at the 6-24-2021 Regular Meeting