



## MINUTES

### Regular Town Council Meeting

Thursday, September 24, 2020, 4:30 p.m.

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 Vice Mayor Auwaerter at 4:30 p.m., with the invocation given by Councilman Sam Carroll and the Pledge of Allegiance recited. Town Clerk Aldrich called the roll, with those present as follows: ELECTED OFFICIALS Mayor Tom Slater (via Zoom), Vice Mayor Bob Auwaerter, Councilman Sam Carroll (via Zoom), Councilman Brian Foley, and Councilmember Debbi Peniston. STAFF present were Town Manager Joe Griffin, Town Clerk Laura Aldrich, Town Clerk Assistant Chelley Pallo, Town Treasurer Heather Christmas, Building Official Luis Martinez, and Public Safety Department Chief Rich Rosell. RESIDENTS present were Chris Hendricks (Council-Elect, Marbrisa), and Jim McConnell (The Shores).

2. **Agenda Reordering, Deletions, or Emergency Additions** (4:31 p.m.) The agenda was unanimously approved as presented upon motion from Councilmember Peniston supported by Councilman Foley.

3. **Mayor or Council Items** - None.

#### 4. Discussion with Possible or Probable Action (4:32 p.m.)

- a. Council Code Enforcement Board Appointment Consideration – David Crawford (Town Clerk)

Town Clerk Aldrich stated that an application was received from Mr. David Crawford, who is interested in becoming a full member of the Code Enforcement Board, with Council approval. A **motion to make Mr. Crawford a full member of the Code Enforcement Board** was made by Councilman Foley, seconded by Councilmember Peniston, and **passed unanimously**.

Vice Mayor Auwaerter stated that per the agenda transmittal, there are still openings for the Utilities Commission, a Planning, Zoning & Variance Board alternate member and the MPO Bicycle Advisory Committee (BAC), as well as for two alternate members to the Code Enforcement Board.

- b. Surf Lane Repaving and Improvements (Town Manager) (4:33 PM)

Town Manager Griffin wanted to address this item as close as possible to the beginning of fiscal year 20-21. A copy of the road evaluation completed last year was included in the agenda packet. He called this a significant amount at \$121,837, and recommended Council approval.

Vice Mayor Auwaerter called Council's attention to the Town Treasurer's report that showed the Road & Offsite Drainage Estimated Cash Balance is currently in a negative balance situation. He had asked Mrs. Christmas to put together an analysis to ensure that we are in a positive balance situation prior to the close of the fiscal year ending September 30, 2021. The analysis that she provided projected that to be the case. Mr. Foley made a **motion, pending budget approval, to approve the Surf Lane Paving and Improvements as outlined in Agenda Item 4b**, which was seconded by Councilmember Peniston and **passed 5-0**.

- c. Consent Agenda Items 7.f. – 7.i. Discussion (4:35 PM)

With no discussion, Mayor Slater made a **motion to approve the Consent Agenda as presented**, which was seconded by Councilman Foley and **passed unanimously**. (see page 5)

## 5. Staff Updates:

### a. Building Official (4:36 PM)

Mr. Martinez stated the numbers continue to improve and increase as far as permits and inspections go. There are three new, very expensive, homes being built. They are also working on adopting the building permit software used by the County so we can piggyback on that to improve our efficiencies in issuing permits. The bidding process for the Town Hall Renovations is coming to an end and we should have numbers soon. He found out one hour ago that they have received the first submittal for the 8050 Blue project on the north end of Town, which was for a four-story condominium building.

Vice Mayor Auwaerter asked if they were on schedule from a permitting and inspections perspective, and Mr. Martinez answered that they are ahead of schedule as far as numbers, but they will hopefully have a new inspector under contract soon to help out. Mayor Slater commented that we are up \$11 million this year on single-family homes alone, which he thinks speaks well of our Town.

### b. Town Treasurer Report (4:38 PM)

Mrs. Christmas reported that they are currently in the middle of the planning phase of the audit, which is being done remotely this year. As noted in the Road & Offsite Drainage spreadsheet, they did process the fourth FDEP submittal for \$262,000, which was approved and now has to be processed through the State. She is hopeful that the check will come next week but expects it by mid-October at the latest. There will not be a report next month as she will be wrapping up the year-end revenue.

### c. Public Safety Department Report (4:39 PM)

Chief Rosell said that sick-leave stats went up to 9.7% due to two officers with a combined total of 280 hours who both had surgery that month. They are both retiring within the next month or two. If not for these two officers, the total would have been somewhere in the 4% range.

He mentioned that Council may see an increase in motor vehicle stops. Most of these are warnings due to the construction on A1A and the speed limit reduction to 35 MPH. and this will continue until that construction is over. Vice Mayor Auwaerter commented that a lot of the drivers seem very confused about the lane changes, and Chief Rosell agreed, stating that they have met with the contractors several times. There is not much that can be done except for that when there is a change made to a lane, they inform PSD, who sends a patrol car to provide a presence until drivers get used to the change. The contractors are doing the best they can; they have retrained some of the flagmen holding the STOP and SLOW signs, and they have been very cooperative with PSD.

### d. Town Clerk Updates/Report (4:41 PM)

Mrs. Aldrich stated the only item in addition to her written report is that we are going to have to schedule a reorganization meeting as well as a final recognition meeting for the outgoing Council, and asked that the Council start thinking about their schedules and let her know.

### e. Project Updates (Town Manager) (4:42 PM)

Mr. Griffin stated that effective October 1<sup>st</sup>, Mrs. Christmas will be elevated to the position of **Deputy Town Manager**. He publicly thanked Mrs. Christmas for the cooperation and support that she has given him since he has been here, and added that she will still be handling her Town Treasurer duties.

At the July meeting, Town Council authorized Mr. Griffin to execute an agreement with Indian River County regarding **CARES Act Funding**. He and Mrs. Christmas recently amended the amount of funds requested from \$40,000 to \$65,000, which requires an amendment to the agreement. He informed the Council that he will be executing that amendment and submitting it to the County.

The submittal deadline for the RFP for the **Town Hall Remodel** was Wednesday, 9-23. Although there were 11-12 contractors at the mandatory pre-bid meeting two weeks prior to the closing, at the bid closing yesterday we only had one submission, which Mr. Griffin found to be disappointing. We have been working on this for about a year with architects and construction managers. The bid review committee is comprised of Mr. Griffin, Mr. Martinez and Mrs. Christmas, and they will be examining the lone bid and will most likely interview the contractor before making a decision and reporting back to Council.

Vice Mayor Auwaerter asked how the number looked compared to Mr. Griffin's expectations, and Mr. Griffin responded that it was about \$120,000 higher than what he thought, but it is very close to what has been budgeted. The problem could be with contingencies and things of that nature, but he will brief Council on that once negotiations have been completed, if that is what we decide to do.

Mayor Slater asked if there is any requirement that we obtain a second bid, and Mr. Griffin answered there is not, as we went through the public process of procurement and made the bid available to the public, advertised correctly, etc. We do have the ability to reject the bid and re-bid the project, but would expect to have the same amount of people bidding but with a higher number.

The **cemetery improvement** project has almost been completed. He provided pictures to the Council that were taken today. He thinks the contractor is doing a fabulous job; once the sod is completed, the next phase is parking improvements. He has ordered the pavers, which should take about 2-3 weeks., and our timetable indicates completion by November 1<sup>st</sup>.

He addressed that as shown on the Road & Offsite Drainage Fund spreadsheet that Heather provided through the end of September 2021, there is not a lot to play with for the tree trimming and right-of-way trimming needed to keep our rights-of-way clear along A1A and our other roads themselves. We are funding the upcoming Surf Lane project right out of the General Fund.

At the recent Special Called Meeting where we discussed **legal representation for the reuse water issue** with the City of Vero Beach, Mr. Griffin was instructed to conduct some meetings and take care of selecting a new attorney. After two separate meetings with Mr. Berg of Vocolle & Berg, one with Vice Mayor Auwaerter and one with Councilman Foley, he decided to continue with the firm of Vocolle & Berg, with Paul Berg being the lead attorney. Mr. Berg filed a complaint regarding our issue with the City of Vero Beach yesterday, and Mr. Griffin suggested that Council discuss having a shade meeting. With the Governor's authorization to continue the use of electronic meetings through the end of September, he suggested a meeting on Tuesday, September 29<sup>th</sup> at 10 AM.

Town Attorney Clem said Florida Statutes require as a prerequisite that pending litigation exists in order to hold a shade session, which must be requested at a public meeting. It is required that the shade session be opened at a public meeting, which would then be closed to go into private session. The private session would consist of the attorneys for the Town, the Town Manager, the Town Council and a court reporter, who would take verbatim minutes at the meeting and seal them, to be unsealed only after that litigation has been completed.

The duties of the court reporter were discussed between Vice Mayor Auwaerter and Mr. Clem, who clarified that his or her first obligation is to note who is present, and then take down every word that is said. Nothing is off the record during that meeting. The transcript becomes a public record when litigation has concluded.

Mayor Slater said this situation will be settled by a future Town Council, as himself, Vice Mayor Auwaerter and Councilmember Peniston will be leaving the Council in November. He asked Mr. Clem if it is permissible under any condition for the Council-elect to attend the shade meeting, and Mr. Clem answered that it is not permitted. The requirements are very strict. Councilman Foley

said they will have to “download” the content of the first shade meeting at the second shade meeting to catch them up.

Vice Mayor Auwaerter made a **motion to schedule a shade meeting regarding the reuse water issue with the City of Vero Beach on Tuesday, September 29<sup>th</sup> at 10:00 AM**, which was supported by Councilman Foley and **passed unanimously**.

6. **Council/Committee Reports or Non-Action Items** (4:54 PM)

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

a. Committee & Informational Updates or Comments

Vice Mayor Auwaerter stated he has one more **MPO meeting** and, as Chairman, he intends to bring up FDOT’s use of DBi Services to fix issues along state roads. He found out there is a customer database that apparently no one knows about, so he is scheduling a meeting in October where they will present. We have had issues along A1A in terms of the bike path and other things. We should not have any problems near-term, once the construction is complete, but he believes it is important that we have a way to get customer service responses.

Councilman Carroll attended the **Beach & Shores** meeting via Zoom. Mr. Charest commented that he is expecting to receive the consultants’ report on the critically-eroded area of Sector 4 by the end of this month, which will be forwarded to the FDEP. Councilman Carroll said that he knows Mr. Griffin has had email communications with them, and asked if there was anything he wished to add. Mr. Griffin said that Mr. Morgan (a citizen representative on the Beach & Shores Committee) approached him two months ago regarding trying to get agreement letters from residents with regard to easements to complete the sand renourishment. A letter was created, and we were at the point of needing the actual parcel number for each property. He spoke with Mr. Morgan again recently regarding the issue, who stated that they are at a threshold level where that solicitation is not needed. Mr. Griffin is standing prepared to send the letter imploring our residents to agree with the easement if needed.

Councilman Carroll went on to say that, regarding Sector 3, the low bid was received from Ahtna Marine & Construction Company (AMC) for \$17.1 million. AMC subsequently reported an error in the bid. The next lowest bid was \$29 million. There was considerable conversation and discussion about Sector 3; the most critical point made being the concern of the County being able to get an extension on the funding from FDEP if there is a delay. Mr. Charest is leaning on the side of believing that this is an enormously large project which could potentially preclude some smaller local bidders. They have effectively gone back to the drawing board. As of September 15<sup>th</sup>, Sector 3 residents had a 68% approval rate for the easements.

\* *Recessed for the 2<sup>nd</sup> Budget Public Hearing at 5:01 p.m.  
5:08 reconvened.*

Continuing, Councilman Carroll stated that the long and short of it is that the beach renourishment in Sector 7 is going to be delayed. Vice Mayor Auwaerter said it is pretty disturbing that people are turning down free sand, and Sector 7 is pretty wide.

Chris Hendricks, Council-Elect and Chairman of the Beach & Shores Committee, said he believes the County voted to sign the contract for the \$17.1 million bid, and gave the contractor two weeks to decide whether to accept the project or to pay the small fine, which he believes is 2-5% of the contract. They also voted to re-compete the contract and split Sector 3 into two parts, North and South. They agreed to do North, so yesterday the County Commission agreed to do Sectors 1 and 2, because if they didn’t, it wouldn’t make any sense to do Sector 3 North. Sebastian agreed that the County can do the northern part of Sector 3. One of the reasons they are cutting the contract is that the original plan for Sector 3 was \$14 million. The potential to do all of Sector 3 would probably be around \$28 million, so breaking it up makes sense. They will do the northern portion this year, and the southern portion next year. Sector 7 has to be done as

well. If he had to guess, he would say that Sector 4's best chance of sand replenishment is three years from now.

Vice Mayor Auwaerter said that the County Public Works Department has dragged their feet regarding Sector 4, as the SandTech report was available in September 2019t. Mr. Hendricks spoke about the procurement process at the County level and reduce the size of future projects, so they aren't too big for bidders. He opined that in the future, sand will be more expensive, expecting \$10 million for the same amount the County has historically spent about \$5 million per year. The sand element can't currently be separated from the transportation element the way the current bids are produced, so it is a mystery why the cost doubled. In the future RFPs they can request that it be broken out with cost for a better idea of what to expect. Vulcan, which is likely to be the sand supplier, is going to be opening up a new mine on Route 60, so transportation costs in the future may go down. There is definitely a need for better planning so that this type of hiccup doesn't happen in the future.

Vice Mayor Auwaerter said that he thinks one potential solution is to get the Federal government to change the rules so that we can utilize sand from the Bahamas. There is a lot of sand over there that they are willing to sell. He asked Mr. Hendricks if Sebastian Inlet District will be using sand out of their sand trap? Mr. Hendricks answered that they will be using their own sand; the only cost is for transportation to distribute it to Sectors 1 and 2. There was also an easement issue in Sebastian, as they had a hard time collecting easements. Some modification of the easement document to make it more acceptable to homeowners may be necessary. They have volunteer residents collecting easements as well. They hope to have close to 80%.

Councilman Carroll clarified if they were asking for new bids just for the Northern portion of Sector 3, and Mr. Hendricks answered that was his understanding. Even though FEMA and the State are giving a good portion of the money for the project, it is still a big drag on the County, as they don't put that kind of money away.

Councilman Foley stated that he attended **TCCLG** via Zoom on September 2nd and **TCRPC** on September 18th. Nothing of note transpired at either meeting.

Mayor Slater attended **TCRLC** on September 16<sup>th</sup>, and aside from reemphasis on the need to keep government local, which is the big drive of Florida League of Cities, nothing of consequence was discussed, although it was a very long meeting.

## 7. **Consent Agenda** (5:08 PM)

- a. Acceptance of Planning, Zoning & Variance Board Minutes dated July 14, 2020
- b. Approval of Transmittal Hearing for Updated Comprehensive Plan Minutes dated August 27, 2020
- c. Approval of Regular Town Council Meeting Minutes dated August 27, 2020
- d. Approval of Special Called Meeting -Reuse Water Issue Minutes dated September 10, 2020
- e. Approval of 1<sup>st</sup> Budget Public Hearing Minutes dated September 10, 2020
- f. Approval of Public Safety Department Dispatch Software License Purchase as Budgeted FY20/21
- g. Approval of Maintenance Department Mower Purchase as Budgeted FY 20/21
- h. Approval of Maintenance Department Vehicle Purchase as Budgeted FY 20/21
- i. Approval of Public Safety Vehicle Purchase as Budgeted FY 20/21

*(See approval - Motion on page 1)*

## 8. **Call to Audience**

9. **Adjournment** Vice Mayor Auwaerter adjourned the meeting at 5:16 PM.

Respectfully submitted,

/s  
Laura Aldrich, Town Clerk

*Approved by the Town Council at the October 22, 2020 Regular Town Council meeting.*