



MINUTES

REGULAR TOWN COUNCIL MEETING

THURSDAY, NOVEMBER 18, 2021 9:00 AM

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. The Invocation and Pledge of Allegiance were led by Vice Mayor Carroll. Those present were ELECTED OFFICIALS: Mayor Brian **Foley**, Vice Mayor Sam **Carroll**, Councilmember Bob **Auwaerter**, Councilmember Chris **Hendricks** (*arrived at 10:37 AM*), and Councilmember Mary Alice **Smith**. STAFF present were Town Manager Jim **Harpring**, Deputy Town Manager/Town Treasurer Heather **Christmas**, Town Attorney Peter **Sweeney**, Town Clerk Laura **Aldrich** and Public Safety Deputy Chief Mark **Shaw**.

2. **Agenda Reordering, Deletions, or Emergency Additions** (9:01 AM)

A **motion to approve the agenda as presented** was made by Councilmember Auwaerter and seconded by Vice Mayor Carroll, which **passed 4-0**.

3. **Presentations/Proclamations**

There were none.

4. **Comments From the Public Regarding Agenda Item(s)** (9:02 AM)

Mayor Foley said normally he would ask for comments on any agenda item at this time, but today, he would like to ask for any comments other than on agenda item 8d and stated that Council would take comments regarding that item once they reach it on the agenda. There were no comments from the public regarding any agenda item other than 8d.

5. **Consent Agenda** (9:02 AM)

- a. Approval of Regular Town Council Meeting Minutes dated October 28, 2021
- b. Approval of Public Portion of Closed Executive Session for Water Litigation dates October 28, 2021

Vice Mayor Carroll made a **motion to approve the Consent Agenda**, which was seconded by Councilmember Auwaerter and **passed 4-0**.

6. **Mayor's Report** (9:02 AM)

Mayor Foley said the Charter Review Commission will be discussed in December including setting dates for a workshop.

He mentioned that the Council will be attending a Chapter 164 proceeding meeting with the COVB City Council tomorrow at 10 AM, and that the meeting will be broadcast live. A link to the stream will be available on the Town website.

7. **Councilmember Items** (9:16 AM)

None.

8. **Discussion with Possible or Probable Action** (9:18 AM)

- a. Ambulance Revenue Adjustment & Write-Off

With no one offering any comments, Councilmember Auwaerter made a **motion to approve the ambulance revenue adjustment and write-off**, which was seconded by Vice Mayor Carroll and **passed 4-0**.

b. Resolution 21-14 – Third Budget Amendment FYE 2021

Town Treasurer Christmas explained that the purpose is to true-up the budget for the fiscal year for projects previously approved. Vice Mayor Carroll made a **motion to approve Resolution 21-14, third budget amendment for FYE 2021** with support from Councilmember Auwaerter, which **passed 4-0**.

c. Body Worn Camera and In Car Video Purchase

Mayor Foley said these were included in the original budget and are to ensure the safety of both our Public Safety Officers and the public. Councilmember Auwaerter made a **motion to approve**, which was seconded by Councilmember Smith and **passed 4-0**.

d. Special Taxing District/Children's Trust

Mayor Foley said that the Council had received a fairly exhaustive presentation in June from proponents for the Children's Trust, and Council had questions that have since been answered. He opened the floor for public comment and asked that everyone keep it to between 3-5 minutes.

Brian Barefoot, resident at 270 Coconut Palm Road, former Town Mayor and current member of the IRC School Board, spoke in favor of the Children's Trust and wanted the opportunity to vote on the referendum.

Hope Woodhouse, resident at 199 Island Creek Drive, member of the Children's Trust Exploratory Committee and member of the Children's Services Advisory Committee (CSAC), spoke in favor of the Children's Trust and requested the right to vote on the referendum.

Allen Jones, resident of 200 Beachview Drive spoke in favor of the Children's Trust and putting the referendum on the ballot.

Susan Miehle, resident of 130 Island Cottage Lane expressed that she is not in favor of a Special Taxing District to support the Children's Trust.

Tony Tremaine, resident of 101 Clarkson Lane, referenced the letter he wrote to the Town Council and spoke in favor of the Children's Trust, stating he felt it belongs on the ballot.

Joanne Binford, Indian River County resident, spoke against the Special Taxing District for the Children's Trust.

Wanda Lincoln, resident of 511 Shores Drive, former member of many boards for childcare resources and current Chair of Quail Valley Charities, spoke in favor of the Children's Trust and asked that Council let the residents vote on the referendum.

Jordan Stewart, the President of the IRC Taxpayers' Association spoke against the Special Taxing District and is not in favor of the referendum being placed on the ballot.

Richard DeWolf, resident of 140 Sago Palm spoke against placing the Special Taxing District referendum on the ballot.

John Dillon, resident of 175 Island Creek Drive spoke against a resolution to allow the Special Taxing District referendum onto the ballot.

Paul Kaneb, resident of 1050 Beach Road spoke against allowing the Special Taxing District referendum to be placed on the ballot.

Pat Thompson, resident of 251 Island Creek Drive referenced a letter that she wrote to Vice Mayor Carroll and spoke in favor of the Children's Trust, asking that the referendum be placed on the ballot.

Mayor Foley announced a five-minute recess at 10:07 AM. The meeting reconvened at 10:13 AM.

Lisa Kahle, facilitator of the Children's Trust initiative, introduced Indian River County Administrator Jason Brown and said he was here to clarify a few points regarding the millage. Mr. Brown addressed the Council and said he was available for any questions regarding the County's administration of CSAC currently or what would happen under the Children's Trust. He said the County currently levies 1/8th of a mill, and if the referendum is passed, their goal is to decrease that.

Mayor Foley asked whether a decrease in millage would require a vote by the County Commissioners and Mr. Brown confirmed that it would. Mayor Foley clarified that the decrease in the millage is a goal, but not a guarantee, which Mr. Brown confirmed. Mayor Foley asked why the decrease couldn't be written into the resolution, and Mr. Brown said he doesn't know whether they can bind the Commission to reduce the millage. It is certainly their intent, and he is happy to include language indicating such.

Councilmember Auwaerter asked Mr. Brown about the anticipated staffing requirements for the Children's Trust, which the two discussed briefly. Mr. Brown said the ordinance does allow for up to 8% of the millage to go toward staffing, but he does not think it will all be used. He went on to say that he thinks additional staffing would

be beneficial because an increased budget should come with increased oversight, which requires County staff, and Councilmember Auwaerter said he agreed and will discuss further later.

Mayor Foley said the advisory board is to be modeled after the current CSAC Board and asked about the current processes, and Mr. Brown said there is a grant-funding subcommittee which then takes their recommendations to the Board as a whole, which consists of informed experts in the matter.

Lisa Kahle wished to clear up a few points, including that 60% of the advisory board would be appointed by the Board of County Commissioners, and that there will be one Commissioner on the Board. They have been very busy the last few months with the municipalities and are looking forward to getting out to educate the voting public. She reiterated that the recommendation for the Children's Trust was based on a decade of grassroots research and that every voter should be a part of the decision.

Michael Kint, former CEO of the United Way of Indian River County said there are two references in the draft ordinance that indicate the Board of County Commissioners is the ultimate authority for all decisions made by the Children's Trust. He stated a dedicated millage rate is necessary so that funding for the children is available even through periods of economic downturn.

Bob McPartland, District Administrator for the Department of Children & Families (DCF), City of Sebastian Councilmember and member of CSAC, said that philanthropy has not stopped in Martin County, where they already have a special taxing district for the children. He said he has seen examples of how the Children's Trust can be better than CSAC on the Martin & Okeechobee Children's Services Councils, of which he is a member.

Lamarre Notargiacomo, IRC resident, spoke against the Special Taxing District and is not in favor of it being put on the ballot.

Mayor Foley moved on to Town Council comments starting with Councilmember Smith, who said this is not a small amount of money and the Town residents would be paying a disproportionate share. This would create more government, more bureaucracy and more staff, and she does not feel as though the government should be the middleman between our residents and charities.

Mayor Foley said they are being asked as a political body to decide whether to put the Town into a Special Taxing District for twelve years. This is not a traditional role of the government such as roads and bridges, public safety, etc. He has issues with the lack of accountability to the taxpayers in the proposed Special Taxing District, especially for twelve years. Mayor Foley said there is also the money, where 2.7% of the County's population (the Town) will be paying 17.7% of the taxes. He does not have confidence that there will be a reduction in the millage rate. He said the idea of putting it on the ballot and letting the voters decide sounds great, but in fact it disenfranchises the voters of the Town of Indian River Shores. If 100% of our voters vote against it but the majority of the County approves it, we are still in the Special Taxing District for twelve years. His belief is that the Town of Indian River Shores should not elect to be included in the Special Taxing District.

Councilmember Hendricks said he does not believe this should be mandated. He pointed out that many of our residents do not live here full-time and therefore have another community towards which they contribute. He is opposed to special taxing districts in general and believes they often cost more to operate than they are worth. He does not believe being part of the Special Taxing District would be the right decision for the Town.

Vice Mayor Carroll said that being a member of the Town Council means sometimes making difficult decisions on behalf of the residents of the Town, and such is the case here. He pointed out that the main difference between the current CSAC and the proposed Children's Trust is that CSAC receives its funding from the County code, which he is okay with because it came into being through a legislative process. The BOCC is appropriately the ultimate arbiter as our elected representatives, and they must decide what is best for the County's residents. A straightforward way to increase funding that would not involve a Special Taxing District would be to convince the BOCC to increase the assigned millage through a resolution at one of their meetings. He said he objects to a Special Taxing District that gives assured funding to charitable organizations and calls for an escalated millage over a twelve-year period.

Councilman Auwaerter said he has concerns regarding establishing good outcome metrics and then monitoring them. As far as he can tell, the charitable organizations will be self-reporting their outcomes and he wonders who will check to ensure they are accurate. He believes the administrative costs are too low to ensure funds are being spent properly. His final issue is with the length of the twelve-year term. He would feel more comfortable with a five-year term after which the successes and failures are determined. Due to those concerns, he cannot support the Special Taxing District as it is currently structured.

Mayor Foley asked if there was any further discussion and there being none, Vice Mayor Carroll made a **motion to oppose the resolution to include the Town of Indian River Shores in the proposed Special Taxing District for the Children's Trust**, which was seconded by Councilwoman Smith and **passed unanimously**.

Mayor Foley announced a five-minute recess at 10:59 AM. The meeting reconvened at 11:07 AM.

9. **Staff Updates** (11:07 AM):

a. Building Official Report & Statistics

Mr. Harpring explained that Mr. Martinez was unable to attend, but the report is in the packet and the trends continue to inch up. He said himself and Mr. Martinez have been completing a workflow analysis regarding inspections, permitting, etc. He noted that anyone who is around the Town Hall campus for an appreciable amount of time knows how hard the Building Department works and the volume that they deal with. Mayor Foley said he heard from a builder who said the Town's turnaround time is outstanding compared to many other places. Councilman Auwaerter asked if there was any word from Tallahassee regarding upcoming building code legislation due to the condo collapse. Mr. Harpring answered there is a bill currently in the committee stage that would call inspections at thirty years.

b. Town Treasurer Report

Mrs. Christmas had nothing to add to her report.

c. Public Safety Department Report & Statistics

Mr. Harpring advised the Council the statistics are provided and noted that detectives served a warrant for felony charges that occurred in the Town. He mentioned that the CVS fire was an issue for residents regarding prescriptions, but those issues were resolved soon with the store reopening. The mutual aid agreement with Indian River County was used and the fire was quickly brought under control. Public Safety personnel also resolved the issue with the known antagonists behind 7-11. Councilmember Hendricks mentioned the 2017 issue regarding theft from caretakers of an elderly John's Island couple. Councilman Auwaerter asked if Mr. Harpring has a sense that COVB will get a handle on the homeless camp just south of Town, and Mr. Harpring said he did discuss that issue with their Chief of Police and advised they can call on our PSD as needed.

d. Town Clerk Report

Mrs. Aldrich said they are narrowing down choices for agenda management software.

10. **Town Attorney Report** (11 15 AM):

Mr. Sweeney said the state litigation with COVB regarding reuse water rates is still progressing and he is happy to brief Council members individually on the progress. He stated that Council has now received their full set of Charter Review Committee materials for review, and he looks forward to receiving Council's direction regarding the proposed changes. Mayor Foley proposed they have their initial discussion at the December meeting and then host a workshop to finalize the changes.

11. **Town Manager Report** (11:17 AM):

Mr. Harpring said FDOT is addressing the thermoplastic striping and bumps. FDOT is performing testing and moving towards finishing the bike lanes. He mentioned that the Public Safety personnel are currently participating in a County-wide mock hurricane tabletop exercise. Regarding the agenda management software and technology for the Council Chambers; these proposals should be before the Council in December.

Mr. Harpring said he was contacted by the Cultural Council regarding their program Art in Public Places, who will be putting together a request to hang artwork at the Community Center. He mentioned the ongoing beach renourishment in Sector 3, with sand being placed at Treasure Shores at the moment. He also noted receiving many inquiries regarding tree trimming and aesthetic concerns due to the hurricane mitigation program run by FPL and Davey. Councilman Auwaerter mentioned low branches overhanging the sidewalks. DBI Services, an FPL contractor, used to maintain this but they went out of business. Our FDOT partners and Larry Bryant of Public Works will be checking sidewalks for branches and possibly include the County. Mr. Harpring further advised the Council that he made a presentation on the state of the Town at the Economic Development Council Meeting.

Mayor Foley said we are all set for the Chapter 164 proceedings tomorrow at 10 AM. He said it is the City's intention to defer to their attorney and City Manager instead of having Mayor Brackett represent the City Council. The whole concept of this meeting is that the two councils get together to try to achieve some sort of resolution, so he is giving a heads-up that the meeting may not go the way it was envisioned. Mayor Foley has prepared a statement and is ready to present it if necessary.

Mr. Sweeney said section 164.1055, Florida Statutes says Joint Public Meeting and there is no other way to interpret that. He read from the statute regarding the intended actions at the meeting and said that Mayor Foley is the designated representative of this body, and that he agrees with Mayor Foley that it should be a discussion between the two governing bodies.

Mr. Harpring mentioned that the idea of any staff articulating anything at a joint public meeting flies in the face of the requirements of the statute. It defeats the purpose of the second meeting.

12. **Call to Audience** (11:38 AM)

Mayor Foley said he appreciates this council and the thought they give to the issues. It is a privilege to work with them, as they are dedicated and hardworking.

Mayor Foley gave the call to the audience, and Joanne Stanley of Republic Services introduced their new Divisional Manager, William Conrad.

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

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

a. Call for Committee Reports, Informational Updates or Comments

Councilman Auwaerter said with regard to the Utilities Commission Meeting and Councilmember Hendricks' comment about it not being clear whether they were to discuss rates; that only applies to stormwater management, not the other water rates, since the stormwater management rates will only apply to City residents.

Vice Mayor Carroll said there was a Special Called AHAC Meeting on November 10th to review the 2021 AHAC Incentives Report, which is an annual requirement, and that the report was approved.

Mayor Foley said there was a presentation regarding the Loxahatchee River at the TCCLG meeting, the point of which was that they are buying blocks of land to divert water to help with algae blooms. He said he would like for the Ocean Resources & Conservational Alliance to give a presentation regarding commonsense ways to reduce discharge of nitrates and phosphates into the lagoon at the December or January meeting.

Councilmember Hendricks said he attended a Beach & Shore Preservation Advisory Committee Meeting on the 15th. He said the king tides swept away a lot of the sand placed on the beach during the Sector 3 beach renourishment. The project cost \$30 million and Sector 7 will be proposed next. The County is having a hard time getting people to sign easements to accept the free sand, though there are some counties in Florida that actually charge their beachfront residents for sand replacement. He mentioned that the IRLNEP program's long-term financial strategy involves the need for \$250 million over 20 years from the counties from Brevard south to Martin in order to clean up the lagoon, which would result in a big tax increase. He also stated that the counties are going to start worrying about future water supply and there is supposedly a committee forming; he volunteered to serve as Town representative.

14. **Adjournment** 11:40 AM

Approved by the Town Council at their
December 16, 2021 Regular Council meeting