



MINUTES

REGULAR TOWN COUNCIL MEETING
THURSDAY, MAY 26, 2022 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. Mayor Foley indicated that before the meeting would move forward, he wanted to express his sorrow at the terrible and sad loss of the Acting Town Clerk Chelley Pallo who had unexpectedly passed away. A brief a moment of silence was held for Chelley and her family. Mayor Foley thanked Chief Rosell and the Public Safety Department indicating that they were instrumental in setting up the GoFundMe page for Mrs. Pallo-Darnell's family. The Invocation was led by Vice Mayor Carroll and the Pledge of Allegiance was led by Mayor Foley. Those present for roll call were Councilmember Mary Alice Smith, Councilmember Chris Hendricks, Mayor Brian Foley, Vice Mayor Sam Carroll, and Councilmember Bob Auwaerter.

2. Agenda Reordering, Deletions, or Emergency Additions (9:02 AM)

There were no changes to the agenda. Vice Mayor Carroll made a motion to approve the agenda, which was seconded by Councilmember Hendricks and passed unanimously.

- a. Mayor Foley brought forward agenda item 2a "Designation of Interim Town Clerk" and recommended the appointment of Elizabeth Scheidel. Councilmember Auwaerter made a motion to approve the appointment of Elizabeth Scheidel as Interim Town Clerk, which was seconded by Vice Mayor Carroll and passed unanimously.

3. Presentations/Proclamations (9:04 AM)

- a. Presentation for the Vero Beach Community Complex – School Superintendent David Moore shared information on the current state ranking of Indian River County schools. Cindy Emerson, Director of Instructional Innovation for Indian River County School District was introduced to discuss the private/public partnership project. She indicated that in January of 2021, 11.6 acres of land was donated by the Jimmy Graves Foundation to the IRC School District. The Vero Beach Community Complex is an area of the sports stadium for FHSAA regulated track and field, soccer and lacrosse along with a ½ mile historic-walking trail, student entrepreneurial section, innovation lab, open-space amphitheater and an inclusive, fully accessible playground. The fundraising campaign will be launched this year in 2022. Project completion date is 2026. Ms. Emerson noted that fundraising is being handled through the Education Foundation and she introduced Mr. Hart, Community Liaison Specialist for the School District who discussed the need for donations for the project to come to fruition. Mayor Foley thanked the presenters and expressed his support for the entire project and with specific excitement towards the entrepreneurial center. It was indicated that the Town funds should not be utilized for the project as that would not be appropriate, but that the website could be utilized to get the word out to the generous, philanthropic community to allow them to get involved in the donation process. Councilmember Hendricks indicated she would be supportive of using any resources available to assist with raising

awareness of the project including the community center. Councilmember Smith thanked the presenters as he read about the project in the newspaper and that the presentation brought clarity to the project indicating that she would welcome assisting the presenters to continue to get the word out. Vice Mayor Carroll liked the idea of using the website and indicated that the email list and the newsletter could be useful as well use of the community center. Councilmember Auwaerter indicated that he looked forward to supporting the project as he believes the motive behind the project is genuine and will benefit the community enormously.

4. **Comments From the Public Regarding Agenda Item(s)** (9:30 AM)

There were no comments from the public regarding agenda items.

5. **Consent Agenda** (9:31 AM)

a. Approval of Regular Town Council Meeting Minutes dated April 28, 2022

A motion to approve the consent agenda was made by Councilmember Hendricks, seconded by Vice Mayor Carroll and passed unanimously.

6. **Mayor's Report** (9:31 AM)

Mayor Foley advised that a state statute allows the County the ability to create no anchor zones in waters that are in the Town's jurisdiction. The perceived benefits are there will not be boats sitting without occupants for an extended periods of time and it is another tool to deal with abandoned vessels that can leak fuel and/or be an eyesore for the community. Mayor Foley will take Commissioner O'Bryan and the Town Manager to look at the areas and view some of the vessels that are abandoned. Formal action will require a county ordinance and there may be a possible need for a Town resolution enforcing and piggybacking on the County ordinance.

The second point of discussion was the "rate case" involving the City and the entry of the Motion for Summary Judgement in the defendant's favor which was tabled to discuss later in the meeting about authorizing the Town's attorneys to file an appeal or other action to reverse that determination. The Federal court case that is pending regarding this issue is not affected by the local case.

Condo inspections previously brought up by Councilman Auwaerter were discussed by the mayor who indicated that Senate Bill 4 regarding condominium safety was discussed as it passed by a 38 – 0 vote to address the Surfside Tragedy. Although the final bill is not there yet, if it does, it would not appear that the Town would be required to pass any ordinances to deal with the issue because it looks like the State is stepping in. The bill addresses mandatory inspections after certain periods of time after construction. The inspection will be handled by qualified architects and engineers for structural integrity. Notices of deficiencies will be issued to the association or the owner of the building. It only applies to buildings three stories or higher which would impact some structures in the Town. If it passes, there may be a requirement for an enabling ordinance just to require HOAs and buildings in the Town to issue Notices of Compliance that they have done the inspections. Mayor Foley thanked Councilmember Auwaerter for bringing this matter up for discussion.

Next, Mayor Foley discussed water ordinance as the County has passed an ordinance to comply with St. John's Water Management District about certain limitations on watering during times of the year in order to qualify for funding from St. John's Water District funding for certain projects. Mayor Foley asked the Town Attorney and the Town Manager to investigate this further and review the current Town ordinances to make sure they are sufficient as the Town had and has currently some funding that has been used for Town projects to ensure that the Town is not disqualified or retroactively penalized from using those funds.

7. **Councilmember Items** (9:36 AM)

Councilmember Auwaerter said he attended the Board of County Commissioner's meeting on May 17th and during that there was a discussion about the CRS (Community Rating for Insurance) and the County was able to lower or make the rate better by moving it from a six to a five. Councilmember Auwaerter brought this to the Town Manager's attention to determine if there is anything that can be done to save money for the residents. Town Manager Harpring indicated that the Town is in the process CRS recertification currently with the coastal engineers. Town Manager Harpring indicated that the Town has been hitting all the milestones relative to public communication and it will be more about the location and what can be done. Additional information will be brought to the Councilmembers once the update review is complete. Councilmember Auwaerter noted that he wanted to know what the County did to make it drop from a six to a five.

8. **Discussion with Possible or Probable Action** (9:38 AM)

- a. **Council Approval for Appeal of Circuit Court Ruling** - Mayor Foley indicated he would issue the prelude and then turn it over to Town Manager Harpring and Town Attorney Sweeney to discuss further. This involves the determination of the dismissal of the rate case in the State Court and to discuss the time frames to move forward with the filing motions to get relief from that judgment which needs to occur fifteen days from the date of the ruling. Town Manager Harpring indicated that the ruling was on May 19th. Mayor Foley indicated that he was seeking from the Councilmembers approval to delegate to the Town Attorney, Town Manager and Holland and Knight authority to file the post-trial motions or the appeal. Town Attorney Sweeney reiterated that there are certain time frames depending on how the Council wanted to proceed. Mayor Foley indicated that the options were to accept the court's dismissal of the rate case or allow the attorneys to proceed to move to overturn it. Councilmember Bob Auwaerter motioned to move forward with proceeding to overturn the ruling which was seconded by Vice Mayor Sam Carroll. Mayor Foley indicated that he wanted to clarify that the motion would be more appropriate to authorize the Town Manager to move forward with appropriate action to seek to reversal of the Judgement including Motion for Post-Order Rehearing and/or Appeal. Vice Mayor Sam Carroll seconded the motion. The roll call proceeded with all members unanimously voting in favor of the motion: Mayor Foley, Vice Mayor Carroll, Councilmember Auwaerter, Councilmember Hendricks, and Councilmember Mary Alice Smith.
- b. **Town Clerk Status** Town Manager Harpring said based on favorable interviews he sought approval from the Council to discuss terms and conditions of employment to include salary and start date. This will be brought back in June for Council approval. Vice Mayor Sam Carroll moved to allow Town Manager and other members of the staff the authority to negotiate a contract with the candidate and move as quickly as possible. Councilmember Bob Auwaerter seconded the motion, and it passed unanimously.
- c. **Resolution 22-04 – Budget Amendment** - Mayor Foley indicated this was a standard quarterly requirement and asked for Treasurer Christmas to speak on it. Town Attorney Sweeney indicated that he would read it briefly into the record. Councilmember Auwaerter indicated he had one question on Exhibit A: to clarify that the term "decrease" was utilized but sought to confirm that the term was "increase". Treasurer Christmas validated the term is "increase". Vice Mayor Sam Carroll motioned to approve the amendment, which was seconded by Councilmember Chris Hendricks. The roll call proceeded with all members unanimously voting in order: Mayor Foley, Vice Mayor Carroll, Councilmember Auwaerter, Councilmember Hendricks, and Councilmember Mary Alice Smith.
- d. **Ordinance 552 Charter Amendment – First Reading** - Town Attorney Sweeney asked Mayor Foley if he could read the Ordinance into the record and upon approval, Town Attorney Sweeney read Ordinance Number 552:
 - Amending the Town Charter to relocate the description of the territorial boundaries into an Appendix
 - Adding a referendum requirement to the Town to join any new taxing district

- Removing the Town Clerk as a charter officer
- Reorganizing the Charter with appropriate renumberation of sections
- Adding additional language to the granting powers of the Town and
- Adding language to be in conformance with state law

Mayor Foley asked if there was any discussion on the Charter Amendment and as there was no discussion required, Vice Mayor Sam Carroll motioned to approve, seconded by Councilmember Bob Auwaerter, passed unanimously. The roll call proceeded with all members unanimously voting in order: Mayor Foley, Vice Mayor Carroll, Councilmember Auwaerter, Councilmember Hendricks, and Councilwoman Smith.

- e. **Stormwater Retrofit for Indian and Seminole Lanes Change Order** –Town Manager Harpring indicated that there was a request for a change order on the retrofit due to circumstances that arose once the project broke ground. There were no questions for the Town Manager on the retrofit. Mayor Foley asked if there was a motion, it was so moved by Vice Mayor Sam Carroll, seconded by Councilmember Bob Auwaerter and it passed as the ayes carried.
- f. **Town Manager Evaluation** – Mayor Foley opened discussion as it has been the year anniversary of Town Manager Harpring’s position with the Town that it would be appropriate to discuss a salary increase and evaluation of his performance. Mayor Foley indicated he would like to kick off the discussion as to performance indicating he has had the pleasure of working with Town Manager Harpring for the past year and believes him to be incredibly hardworking, anticipating needs and very responsive. Mayor Foley approached the discussion of salary and indicated that there are two components to review: salary adjustment component and a percentage increase to get to an appropriate number commensurate with the skill and work being brought to the job including completing the town hall renovations, the early stages of collective bargaining, loss of Town Clerk through retirement, and loss of Acting Town Clerk. Mayor Foley was also complimentary of the Monday weekly briefings.

Vice Mayor Carroll spoke and indicated that all of his dealings with Town Manager Harpring have been excellent. Vice Mayor Carroll also stated that he believes Town Manager Harpring has extensive knowledge of all the municipal affairs of the Town and uses very good judgment in the time that they have worked together providing sound advice to Council as well has exemplary performance and excellent understanding in financial matters including working with the Town Treasurer Christmas on the budget preparation in a careful manner to control costs. Vice Mayor Carroll complimented the Town Manager on guiding the staff in a collaborative way as well as motiving the staff. He further stated that he believes that Town Manager Harpring has made a good impression on the residents of the Town and raised the visibility of the Town. Councilmember Vice Mayor Carroll indicated that he is extremely pleased with Town Manager Harpring’s leadership skills indicating they are nothing short of excellent.

Councilmember Auwaerter spoke next and indicated that he believes Town Manager Harpring has a good knowledge of what is going on with the Town and keeps the Council apprised in an appropriate manner.

Councilmember Hendricks spoke next stating that he agrees with what has been said and believes that Town Manager Harpring has not only made a good impression on the Council and the Town residents, but that he is well-respected in Indian River County and has elevated the Town in the State of Florida. Councilmember Hendricks stated that he is very pleased that Town Manager Harpring was hired.

Councilmember Smith spoke next stating that Town Manager Harpring has been extremely helpful to her, and she enjoys the discussions and his assistance. She also appreciates that he does things on his own, taking it upon himself to offer the Community Center for Interim Town Clerk Parnell’s memorial. Councilmember Smith also noted that Town Manager Harpring has been successful in bringing a cohesion to the staff that

reports to him and his knowledge of the local officials and all the systems in Indian River County and how to handle some of the issues that the Town has been dealing with has been very helpful to her.

Mayor Foley directed the discussion as to the current salary of \$145,000 indicating that it is not commensurate with the appropriate figure for a Town of this size. Councilmember Smith started the discussion by noting that the figures provided for comparison of the salaries of town managers for the different towns were not similar to the number of employees of the Town and the public safety aspect that the Town Manager assists with. She indicated that the median of \$180,000 and she would recommend an adjustment to the Town Manager's salary of \$20,000 and then the raise on top of that, so that the new salary would still be below the median, but more than what the Town Manager is earning currently. Councilmember Auwaerter spoke next stating that he reviewed the comparisons provided and subjectively looking at barrier island or oceanfront communities of similar size, he came up with an average of \$197,000. Councilmember Auwaerter further stated that he is considering Town Manager Harpring's experience level along with the other factors mentioned and would like the base salary to increase before percentage increase to be \$175,000. Vice Mayor Carroll spoke next indicating that he agreed with Councilmember Auwaerter's approach as well as Councilmember Smith's approach indicating that it should be two steps: bring Town Manager's salary to an appropriate level and a justified percentage increase. Councilmember Auwaerter indicated the increase of the base salary figure would be the amount of \$165,000 to \$170,000 with the adjustment of an appropriate increase the year forthcoming. Councilmember Hendricks spoke next stating that based on his experience in the private and public sector on other boards and as an auditor doing analyses of other counties, that the matter is subjective and should be based on the worth of Mr. Harpring's to the Town which is everything and that a base salary of \$175,000 to \$180,000 is appropriate with the incentives that have been discussed in the past. Mayor Foley indicated that knowing what he knows now and going back a year ago that he believes the salary should be \$170,000 to \$175,000 and questioned whether there was a consensus on those figures which was validated by the Council.

Mayor Foley indicated that it would be appropriate to decide the percentage increase at the time that the increase was determined for the rest of the staff members. This was agreed upon as well by the Council. At this time, a second motion to approve the salary adjustment to \$175,000 effective immediately was moved by Councilmember Bob Auwaerter, and seconded by Vice Mayor Sam Carroll, passed as the ayes carried.

Town Manager Harpring thanked the Council and stated he was deeply humbled and extremely appreciative by the words of the Council.

- g. **Planning, Zoning and Variance Board Membership Appointment** - Mayor Foley mentioned that he wanted Mrs. Gundy to speak and that there was a recommendation of Susan Anderson by the PZ Board. Mrs. Gundy discussed Mrs. Anderson's resume including information about her experience with affordable housing and working with communities affordable housing a reality. Mayor Foley indicated that the applicant was highly qualified and is pleased that she is taking this on at no cost based on her background. Motion to approve appointment of Susan Anderson was made by Mayor Sam Carroll which was seconded by Councilmember Chris Hendricks and passed as the ayes carried.

9. **Staff Updates** *(10:04 AM)*

a. **Building Official Report & Statistics**

Mr. Martinez said the numbers for the month and year seem to be leveling off a little bit from the last few months, but the value for the market remains high. Additions and alterations are also slowing down some. He explained that values are still high \$26 million vs. \$23 million last year and inspections are above average from previous years. Mayor Foley asked Mr. Martinez if he is handling the workload okay and Mr. Martinez indicated he is for now.

b. Town Treasurer Report

Mrs. Christmas discussed that she is getting ready for the budget at this time which is being finalized with the Department heads right now and Town Manager Harpring and anticipate completion by June 1st. Councilmember Hendricks inquired if the the appraised property value estimates of 73 million for the new homes would be included. Mrs. Christmas indicated that those figures would not be included as the numbers were through January of this year. Councilmember Hendricks asked if it was a year lap which was confirmed by Mrs. Christmas. Mrs. Christmas indicated that they should have the estimated values by next week. Councilmember Auwaerter had a question about the figures in #4 under Public Safety about several open positions and inquired as to what ranks. Mrs. Christmas indicated those figures were based off April. Mayor Foley asked if at the next Council meeting in June if the list of dates for the approval meetings in August and September could be provided and Mrs. Christmas indicated that she had already planned on providing.

c. Public Safety Department Report & Statistics

Chief Rosell indicated the figures in the Treasurer Report contained old numbers as it did not include an employee who recently graduated from EMT school who started full time and two people who completed fire school (one was a new hire who came certified and other has been on staff for a year). There is another new hire who will come on board in July after he completes the police academy so he will come certified so there will be no extra expense. Mayor Foley thanked Chief Rosell and his public safety staff for their efforts with the GoFundMe page for Chelley and he hoped to get the word out further through the residents of the Town with the dissemination of the results of this meeting. Councilmember Auwaerter wanted to complement the Chief and his staff for their assistance in a structure fire in his community which was contained to the garage so that the house was not a total loss. Councilmember inquired as to the rules and regulations surrounding vegetation around a fire hydrant because there was difficulty finding the hydrant and an extremely long line needed to gain access from a different street. Chief Rosell indicated that the hydrants should be visible. Councilmember Hendricks discussed possibly having code enforcement looking into that matter and check on the hook ups as those should be visible as well.

d. Public Works Department Report

Mr. Bryant indicated that the Town sign was about two to three weeks out from being completed and they would be switching focus to the courtyard and the anchor.

10. Town Attorney Report (10:14 AM)

Mr. Sweeney indicated that he did not have much to add as the direction was given by the Council earlier in the meeting on proceeding with the water litigation and he will continue to move forward with the Town Manager.

11. Town Manager Report (10:15 AM)

Town Manager Harpring thanked the Council again for the earlier discussion on his performance and complimented the entire staff for their work indicating any success is a result of a good, collective team effort. Town Manager Harpring indicated that subsequent to the presentation at the April Council meeting by Florida City Gas, he has had some preliminary discussions with them and hopes to have some more definitive information at the June meetings as to locations and agreements. Town Manager Harpring indicated that he is in the process of a comprehensive review of all agreements that the Town has with outside contractors. A new cleaning service has been secured for the Town and Public Safety. He further stated that Mrs. Christmas and Mr. Bryant have meet to discuss landscaping and other projects.

12. **Council/Committee Reports or Non-Action Items** (10:16 AM)

a. Call for Committee Reports, Informational Updates or Comments

Councilmember Hendricks discussed the beach enforcement committee of the coastal division that oversees removing abandoned boats along the river and ocean and noted that any ordinances that could be passed to help would be appreciated. He further indicated that the committee mostly relies on state and federal permits to do it which tends to be the hold up where they could use support. Mayor Foley indicated that Treasure Coast Regional League of Cities and Treasure Coast Council of Local Governments has their joint barbeque meeting on July 20th. Mayor Foley invited the Council and Town Manager to attend indicating this is a great event to collaborate with elected officials and state representatives. The event is being held in Okeechobee and is being presented by the City of Okeechobee. Mayor Foley also announced that Regional League of Cities has their general meeting August 11 – 13 at the Diplomat Beach Resort in Hollywood and all elected officials are welcomed. Councilmember Auwaerter indicated that he attended the recent City of Vero Beach Utilities Meeting, he raised the issue of irrigation water including pressurization and the smell of the water out of the lift station which were dismissed by City Attorney Turner. Mayor Foley indicated that there was previously a log kept regarding the complaints and issues and would like to locate the log and continue that documentation. Mayor Foley indicated that he had one request for Councilmember Auwaerter as the representative for the Utilities Commission. As background information, Mayor Foley discussed the presentation by the City of Vero Beach of the cost of the new sewage treatment center and the cost of \$61 million as of three years ago with the projected increase of monthly water bill of \$80 a year for the average user. Mayor Foley discussed with the increase in construction costs and materials involved due to supply shortages has there been any update to the cost of the product and anticipated effect on the cost to the user. Mayor Foley asked that Councilmember Auwaerter obtain an update on the anticipated cost to the user and the feasibility of the project, and it was indicated that possibly a public record request by the Town Manager would be beneficial. Councilmember Auwaerter indicated that he will research the matter and provide an update at the future meeting.

13. **Call to Audience** (10:24 AM)

Brian Mackey of Beachcomber Lane spoke about a request for assistance about people fishing for sharks which encourages large sharks to come to the area and the fisherman stay until 2:00 or 3:00 AM and tend to leave litter on the street and area. Mr. Mackey would like to know if there is an ability to stop shark fishing off that area. Chief Rosell indicated that there have been a few calls for service, but they are unable to find any criminal activity. He has contacted FWC who has indicated that there have not been any violations as the fisherman are using large bait. Chief Rosell indicated he has a continuous closed patrol in the area checking for shark fisherman.

The next speaker was David Christakes from Sunrise Terrace who brought items that had showed up in the water on Mother's Day weekend and discussed the issue of shark fishing, litter and debris left from the hooks and baits along with the individuals camping overnight who are disorderly. He went on to state that he has some suggestions about enforcing the new laws that would preclude this activity. Mayor Foley indicated that parking restrictions could help alleviate some of the issues and he is requesting the Town Manager, Chief and Town Attorney to research some options to address the problem.

Former Vice Mayor Ochsner spoke and indicated that when he was on the Council, they passed an ordinance prohibiting shark fishing. Town Manager Harpring indicated that he has reviewed the current ordinance that prohibits intentionally fishing for sharks by using chumming and blood bathing the water. The ordinance does not unilaterally preclude shark fishing, it prohibits those methods. Mr. Ochsner then discussed the water pressure issue indicated he only has pressure from midnight to 3:00 or 4:00 AM and it was previously discussed that there was an agreement in 2012 for a minimum of 50 PSI for the Town. Mayor Foley asked that the information be kept in the catalog that was previously discussed. Mr. Ochsner indicated

that he included Town Manager Harpring in that email to the City of Vero Beach. Town Manager Harpring indicated he had passed that information to Mr. Falls as well to attempt to secure a response. Councilmember Auwaerter asked that the email be forwarded to him as well.

Dr. Karen Hiltz wanted to introduce herself to the Town Council and the Community as she is running for the House of Representatives. Mayor Foley concluded the meeting by thanking Acting Clerk Scheidel for her assistance.

14. **Adjournment** (10:38 AM)

The meeting was adjourned at 10:38 AM.

Approved at the Regular Town Council Meeting
