

Meeting Minutes
Town of Indialantic
Regular Meeting of the Town Council
Council Chamber, 216 Fifth Avenue, Indialantic, FL 32903
Wednesday, March 8, 2023, at 7:00 p.m.

A. Call to Order:

A regular meeting of the Indialantic Town Council was called to order at 7:00 p.m. by Mayor McDermott with the following members present:

Honorable Mark McDermott, Mayor
Honorable Stu Glass, Deputy Mayor
Honorable Julie McKnight, Councilmember
Honorable Doug Wright, Councilmember
Honorable Loren Strand, Councilmember

Also attending:

Michael Casey, Town Manager
Paul Gougelman, Town Attorney
Rebekah Raddon, Town Clerk
Michael Connor, Chief of Police
Sgt. Weber, Police Dept.

1. Pledge of Allegiance was led by Mayor McDermott.
2. Changes to Agenda – None.
3. Presentations:
The Indialantic Parks, Recreation, and Beautification Committee presented a check to a representative of the Surfrider Foundation.
4. Public Comments, Non-Agenda Items:

Mark Blanchard, 1281 Stephanie Court, requested 30 minutes of the Public Works department's time to discuss compost and turf grass products. Mr. Blanchard works with several other local agencies. Town Manager Casey provided his contact information.

Helene Skarda, 444 Tenth Avenue, spoke regarding an issue she is having with a neighbor who parks his vehicle in the street, blocking the road. She advised that delivery vehicles are having trouble navigating the street. In addition, trashcans are being left in the street and bushes are growing into the street. Brief discussion ensued; Ms. Skarda was advised to call

the police department when parking violations occur and public works will address overgrown bushes.

5. Mayor McDermott read the following Public Announcements:

- There are openings on the following boards and committees:
Board of Adjustment; Budget and Finance; Civil Service; Code Enforcement; Sustainable Community and Resiliency Committee; and Pension Board – General Employees
- The annual Easter egg hunt will be held on Saturday, April 1st at 9:00 am in Orlando Park

B. Consent Agenda:

1. Approve town council meeting minutes Feb. 8, 2023
2. Approve/designate Pineappleman Triathlon Special Event on Sunday, June 4, 2023, 7am-11am
3. Approve/designate Turtle Krawl 5k Special Event and request FDOT to allow road closure on SR A1A, September 9, 2023, 7:30am – 11am
4. Approve the following Appointments/Reappointments:
 - a) Board of Adjustment – Appoint Guy Newman

Motion by Councilmember McKnight, seconded by Deputy Mayor Glass, and vote unanimous to approve the consent agenda. Motion carried 5-0.

Councilmember Strand noted there were two names misspelled in the council minutes; Town Clerk Raddon advised she would correct them.

C. Ordinances and Public Hearings:

1. Ordinance 2023-01, Second Reading/Final Public Hearing, *Changing regular council meeting dates/times:*
AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA, RELATING TO TOWN COUNCIL MEETINGS; MAKING FINDINGS; AMENDING AND PROVIDING FOR THE TIME, PLACE, AND LOCATION OF TOWN COUNCIL MEETINGS; AMENDING SECTION 2-31 AND 2-32, TOWN OF INDIALANTIC CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY/ INTERPRETATION; AND PROVIDING AN EFFECTIVE DATE.

Town Attorney Gougelman read the ordinance title.

Motion by Councilmember Wright, seconded by Councilmember Strand to adopt Ord. 2023-01 on second reading.

There were no public comments.

Motion carried unanimously, 5-0.

D. Unfinished Business:

1. Fifth Avenue Median Landscaping update

Susan Hall, 244 McLeod St., Merritt Island, Landscape Architect for the project, spoke. She advised that the memo in the agenda packet provides details regarding the variance request submitted to FDOT on March 1st. If FDOT approves keeping the Washingtonian Palms in the median (“Option A”), the town will need to resubmit the plans to FDOT. If FDOT denies the request to keep the Washingtonian Palms in place, the following options remain:

Option B – Propose Foxtail Palms

Option C – Propose Medjool Palms

Option D – Walk away from grant funds

Ms. Hall anticipates receiving an answer from FDOT by March 30. Discussion ensued; Mayor McDermott advised that ultimately, the decision regarding trees will be made at the April 12 meeting. He asked to table this discussion until that date.

E. New Business:

1. Fifth Avenue Study Committee dissolution:

Motion by Mayor McDermott, seconded by Councilmember McKnight to dissolve the Fifth Avenue Study Committee.

Deputy Mayor Glass asked for the committee’s work to be preserved. Mayor McDermott advised it was difficult for the committee to get a quorum and the sunshine law impeded the committee’s progress. A private, non-profit entity may be better suited for the task.

Motion carried unanimously, 5-0.

2. Purchasing Policy

Councilmember Wright provided an overview of the policy and asked for feedback; lengthy discussion ensued.

Deputy Mayor Glass suggested that an urgency clause or statement be added that would address urgent matters such as a damaged fire truck or a road collapse.

Mr. Gougelman suggested adding a provision that prohibits dividing contracts to circumvent the threshold limits.

Councilmember McKnight advised that the Flock cameras cost was lower than the \$20,000 threshold in the policy. She inquired if there were other items that need to be taken into consideration. Councilmember Wright advised that procurement and surveillance are being

addressed by separate policies, and the Town's code requires binding contracts to be approved by the council.

Councilmember Strand inquired if the policy covers donations which do not appear in the budget. Councilmember Wright advised that regarding donations, the policy is silent and the source of funding is not specified. His intent is that any expenditure, regardless of the source, will be covered by the policy and the thresholds will apply. This is how many other municipalities handle procurement.

Councilmember Strand would like to see language added that addresses donations of equipment and nonmonetary items. He will not support a policy that allows donation of a good, or a solicitation of something that can be considered a donation, without council's knowledge. For example, an item could be donated that the town may want to review and approve or disapprove before acceptance, such as an armored police vehicle.

Mr. Gougelman advised donations could be handled by a separate policy at council's discretion. He described an in-kind contribution that the town might not want, which could result in costly disposal fees.

Further discussion ensued. Town Manager Casey advised that he could provide a regular monthly report to the council.

Discussion was held regarding adopting a policy, resolution, or an ordinance. Ms. Raddon advised that resolutions and policies can be uploaded to the Municode site which hosts the town's code and is searchable. In response to several questions, Mr. Gougelman advised that he tends to favor ordinances over resolutions as they are easier to find than resolutions, although resolutions typically are used for administrative items. Regarding enforceability, unlike resolutions, violating an ordinance can be punishable by fines and jail time.

Public Comments:

Brett Miller, 220 Cocoa Avenue, described the policy as simply a guide; if it's not adhered to, it doesn't matter. Under Purposes and Applicability, in paragraph 3, the town budget should apply to all of these, and in paragraph 5, the term 'emergency circumstances' needs to be defined to a term, and the term 'urgent' is subjective and should be used cautiously. He suggested starting with a policy to see how it works, and consider adopting an ordinance to make it easier to find the information, in particular with regard to contracts. Resolutions could be posted to the website.

Mayor McDermott advised that discussion on this topic will continue next month.

3. General Surveillance Policy

Councilmember Wright read excerpts from the surveillance policy draft; in summary, he advised that the town manager shall be required to request town council approval for any

new generalized surveillance capabilities prior to installation, and shall be required to get approval for any renewal, replacement, or expansion of existing capabilities.

Mr. Casey advised that security systems layout and video are exempt from public record by state statute.

Police Chief Connor advised that US Supreme Court recognizes that law enforcement can use surreptitious means to gather intel, use informants, use undercover officers, etc. He is concerned that this policy could require council approval before using an informant, purchasing binoculars, etc. He handed out copies of Florida Statute 119.071 (2) (d) noting that it states that any information revealing surveillance techniques that law enforcement uses are exempt from public record. This town surveillance policy is in response to the automated license plate readers (ALPRs), and he is not happy with the way it was handled. His intent was never to deceive or hide anything, and the decision to not bring the contract to council was not his to make. He distributed copies of an email he sent to the town manager regarding review of the Flock Safety contract. As the chief law enforcement official, his job is to keep residents and visitors safe, and that was his intent when implementing the technology. He urged the council to be cautious in curtailing surveillance.

Lengthy discussion ensued. Town attorney Gougelman advised that regulation of surveillance may be more suited for a higher level of government, but that is council's discretion.

Councilmember McKnight advised that transparency is important and the public should be made aware of and have the opportunity to provide feedback on items such as ALPRs. If it is not addressed by a policy, how can this be prevented from happening again? She noted that Flock Safety's advertising material mentions transparency and council approval.

Deputy Mayor Glass feels that this is a police matter and he trusts the police department in handling it.

Councilmember Strand advised that while the records may not be public, cities are not preempted from writing policies regarding surveillance. He spoke at length regarding Community Control Over Police Surveillance (CCOPS) guidelines for surveillance, as well as CCOPS Model Legislation, and urge councilmembers to review them.

Mr. Gougelman spoke at length regarding public records and reiterated the exemption for surveillance techniques. He cautioned that speaking publicly or writing about surveillance techniques is treading in dangerous waters and can be helpful to criminals.

There was further lengthy debate and discussion.

Public Comments:

Loren Goldfarb, 320 Deland Avenue, advised that the purchase of systems is the issue, not public records. You don't legislate based on who sits in an office today; the decision should be made regarding the office itself as you don't know who will sit in that office in the future. He feels there is a big difference in buying surveillance systems and using surveillance as part

of an active investigation. The town and its elected officials don't need to know about surveillance in an active investigation, but general surveillance systems as a preventative measure should be discussed openly.

Brianne [last name unintelligible], 1145 N. Shannon Avenue, advised that it is important that these items are presented, discussed publicly, and voted on by the elected officials to avoid creating an adversarial feeling between townspeople and law enforcement, which destroys communities.

It was noted this item will be discussed again next month.

4. Data Breach of employee/elected officials' personally identifiable information
5. Status of data systems for police dispatch, patrol cars, and communications
6. CJIS audit compliance for Indialantic police systems April 12, 2022
7. Statement of work and recommendations for IT systems audit

Agenda items 4 through 7 were discussed together. In summary, Mr. Casey advised what actions are being taken to restore town systems and resolve the breach. Councilmember Strand spoke in favor of providing credit monitoring and counseling to affected employees. Chief Connor outlined the actions he took after the breach to inform employees and provide information regarding what steps to take to protect their credit. He expressed frustration about a lack of urgency and feels that to date, nothing has been done and employees are upset. He read aloud several excerpts from Florida Statute section 501.171 and advised that the town may be setting itself up for liability by not notifying affected parties as required. He arranged for the county sheriff economic crimes unit to come to town hall to take statements and do a criminal investigation, which is underway. He shared ideas for how the breach may have occurred, and spoke regarding how the police department operations have been limited due to the breach and subsequent investigation.

Lengthy discussion ensued; Mr. Gougelman advised that he is not the town's legal counsel regarding this matter, and the town should contact the assigned attorney for guidance. Mr. Casey advised he will have a conference call with Mayor McDermott, Mr. Gougelman, and the town's insurance and legal counsel.

Further lengthy discussion was held regarding updating the town's IT systems. In summary, Mr. Casey advised that Computer Experts will be remediating and experienced IT professionals from other cities will be doing an assessment and providing a report.

Public Comments:

Dick Dunn, 330 Tampa Avenue, suggested allowing a recess break during long meetings to allow people to stretch and get water. He also suggested that topics that are discussed multiple times at council meetings that can't be agreed upon may need another attorney's opinion to help with decision-making.

Greg Harrigan, 120 Orlando Avenue, shared his experience with identity theft and spoke in favor of providing identity theft protection to employees. He encouraged the town to make that happen today.

F. Administrative Reports:

1. Town Attorney – no report.
2. Town Manager – no report.

G. Council Reports:

Councilmember Strand thanked the Fifth Avenue Committee members for their efforts and work, and Susan Hall and Mr. Casey for the median landscaping options which were clear, concise, and helpful. He thanked Chief Connor for teaching him about how the police department promotes safety during special events and road closures.

Councilmember McKnight advised that there has not been a South Beach Coalition meeting since she was appointed. Meetings were either cancelled or didn't have a quorum.

Deputy Mayor Glass spoke regarding bills that will be discussed by the Florida legislature.

Mayor McDermott asked for chickens to be discussed on next month's council agenda.

H. Adjournment:

There being no further discussion, the meeting was adjourned at 10:00 p.m.

Mark McDermott, Mayor. Signature on file.

Attested by: Rebekah Raddon, CMC, Town Clerk. Signature on file.