

Minutes
Town of Indialantic
Regular Meeting of the Town Council
Council Chamber, 216 Fifth Avenue, Indialantic, FL 32903
Tuesday, April 5, 2022 at 7:00 p.m.

A. Call to Order:

A regular meeting of the Indialantic Town Council was called to order at 7:01 p.m. by Mayor Berkman followed by the Pledge of Allegiance. The following members were present:

Honorable Dave Berkman, Mayor
Honorable Stu Glass, Deputy Mayor
Honorable Simon Kemp, Councilmember
Honorable Julie McKnight, Councilmember

Also attending:

Michael Casey, Town Manager
Paul Gougelman, Town Attorney
Rebekah Raddon, Town Clerk
Tom Flamm, Fire Chief
Michael Connor, Chief of Police
Scott Holstine, Police Dept.

1. Proclamations and presentations: None
2. Mayor Berkman read the following Public Announcements:
 - There are openings on the following boards and committees: Board of Adjustment, Budget & Finance, Civil Service, and the General Employees' Pension Board
 - The Easter egg hunt will be on Saturday, April 9, at 9:00 a.m. in Orlando Park
 - Build Week for the Mikey Goodwin Playground at Nance Park will be Tuesday – Saturday, April 19 – 23. The Playground Advisory Committee is seeking volunteers to help build the playground; sign up at <https://www.nanceparkplayground.com/>

B. Consent Agenda:

1. Approve Council Meeting Minutes 3-9-2022
2. Approve/designate special event Turtle Krawl 5K on Sept. 10, 2022 and authorize FDOT road closure on SR A1A from 5:30 am – 11:00 a.m.
3. Approve the following Appointments/Reappointments:
 - a) Budget and Finance Committee – Reappoint Vincent Benevente
 - b) Heritage Committee – Reappoint Annette Joyner; reappoint Carol Andren
 - c) Parks, Recreation & Beautification Committee – Reappoint Lisa Esrock

Motion by Deputy Mayor Glass, seconded by Councilmember Kemp, and vote unanimous to approve the Consent Agenda as written. Motion carried 4-0.

C. Ordinances and Public Hearings:

1. Ordinance 2022-05 First Reading, *Relating To Accessory Structures And Utility Sheds:*

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA, RELATING TO THE ZONING CODE; MAKING FINDINGS; AMENDING SECTIONS 113-4, 113-225, 113-285, 113-331(2), 113-332(2), 113-333(2), 113-334(2), 113-335(17), TOWN CODE OF ORDINANCES TO PERMIT SHEDS IN CERTAIN AREAS OF A SIDE YARD, ALL IN THE R-1A, R-1B, R-2, R-3, AND R-P ZONING DISTRICTS; AMENDING PROVISIONS RELATING TO ACCESSORY STRUCTURES AND UTILITY SHEDS; PROVIDING A SEVERABILITY/ INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Gougelman read the ordinance title. Town Manager Casey advised that the ordinance defines sheds and accessory structures, allows two [utility sheds] per property, and allows installation in a side yard as long as the setback requirements are met. There are no requirements for a fence to be installed.

Motion by Councilmember Kemp, seconded by Deputy Mayor Glass to approve the ordinance on first reading.

Discussion ensued regarding what the maximum height for a shed should be, and, adding a fence requirement to provide a visual barrier. Mayor Berkman suggested the shed height maximum be 8 feet instead of 6' 4". Several members concurred that a fence should be required as a visual buffer for sheds installed in side yards. Mr. Gougelman noted that this ordinance could inadvertently result in more setback variance requests as side yards tend to be narrow.

Councilmember Kemp modified his motion, specifying that: utility sheds installed in side yards will require installation of a fence to provide a visual buffer; and, the maximum height for a utility shed will be 8 feet. Deputy Mayor Glass agreed with the modification.

Public Comments:

John Miceli, 128 Eighth Avenue, spoke. In summary, he advised that the majority of the variance application fee pays for the town's attorney's fees. He inquired if the ordinance will be applicable to the mayor's non-conforming shed, and shared his unfavorable opinion of the code enforcement hearing process and the town officials, noting that he is the only person required to remove a shed.

Scott Smith, 321 Seventh Avenue, spoke. In summary, he inquired about size requirements for sheds and advised that fencing can be cost-prohibitive. He hopes that a small, fold-over structure that stores dirt bikes won't require a fence.

Ann Vickers, 432 Melbourne Avenue, spoke about the town's stormwater projects; she was advised that the stormwater project would be discussed later in the meeting.

Motion carried 4-0.

D. Unfinished Business: None.

E. New Business:

- ~~1. **(Discussion)** Creighton Companies, LLC, request for Code Change, Sec. 113-336(4)(c) removing service stations from the list of additional prohibited uses in the C-1 Commercial zoning district~~ Note: this item was removed from the agenda by the requester on 4/4/2022.
2. Authorize purchase of fire engine from Sutphen Corporation to replace 1999 Pierce Fire Engine at a cost of \$581,426.09, using reserves and CSLFRF/ARPA funds

Motion by Deputy Mayor Glass, seconded by Councilmember McKnight to authorize the Town Manager to sign an agreement to purchase one fire engine from Sutphen Corporation at a total cost of \$581,426.09 to be paid upon delivery using \$400,000 in reserves and \$181,426.09 from the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF), a part of the American Rescue Plan Act (ARPA).

Fire Chief Tom Flamm spoke at length regarding the need to replace the 23-year old Engine 57, noting that it failed a recent pump test. Of the vendors he received quotes from, the Sutphen Corporation offered the lowest price. If ordered now, the town can expect delivery in about 24 months. Town Manager Michael Casey confirmed that this will not affect taxes as funds have been put into reserves since 2015 to pay for the new fire engine, and the remaining balance of \$181,426.09 can be paid for using CSLFRF/ARPA funds, with council's approval.

Mel Chang, 225 Wayne Avenue, commented that he cannot see where the money is earmarked in the budget and asked for proof; he feels that the reserves are a slush fund.

Mayor Berkman pointed at that the inability to understand something doesn't mean that something is wrong, or a slush fund. He reiterated that the replacement of the fire engine has been anticipated for several years and money was put into reserves for the purchase.

The motion carried unanimously, 4-0.

3. Authorize letter of interest to City of Indian Harbour Beach in support of researching a partnership to construct an Interlocal Public Safety Training Center

Mr. Casey advised that the City of Indian Harbour Beach is requesting the Town's support for considering a potential public training center. The center would be located in Indian Harbour beach and shared between several municipalities. Indialantic's estimated cost would be \$341,000. Mr. Casey does not support paying for a training center but he is in favor of writing a letter of support to allow more research to be done. Grant funding may be a possibility, and a letter of support would not obligate the town to anything. Chief Flamm described the firefighter training and associated costs to the town. Currently, firefighter training is conducted in Melbourne and Palm Bay.

Motion by Deputy Mayor Glass, seconded by Councilmember McKnight to authorize the Town Manager to send a letter to the City of Indian Harbour expressing interest in investigating the possibility of a partnership to construct an Interlocal Public Safety Training Center for shared use.

Mel Chang, 225 Wayne Ave, spoke regarding ground contamination at Patrick Space Force Base and asked if we wanted more of that beachside. He supports studying the project but does not want his taxes to pay for a training center.

Motion carried unanimously, 4-0.

4. MelBOOM Sponsorship for City of Melbourne 4th of July fireworks

Mr. Casey explained that prior to 2009, the Town used to make a nominal donation of \$200 to the city of Melbourne for their fireworks display, but discontinued the practice due to budget concerns. Brief discussion ensued; Police Chief Connor advised that many Indialantic residents attend the fireworks display.

Motion by Councilmember Kemp, seconded by Deputy Mayor Glass to donate \$500 to the City of Melbourne 4th of July fireworks display.

Mayor Berkman asked the audience for a show of hands who are in favor of the Town supporting the firework display with a donation of \$500; most hands were raised.

Mel Chang, 225 Wayne Avenue, offered to match the Town's donation up to \$10,000, noting that he understands budgets.

Motion carried unanimously, 4-0.

5. Approve contract with Atlantic Development of Cocoa, Inc., for stormwater pipe repair and replacement at the 400 block of 12th Avenue at a cost of \$49,981.60 using CSLFRF/ARPA funds

Mr. Casey described the pipe collapse and the urgent nature of repairs. He noted the project was designed to avoid disturbing trees planted in the right-of-way, at an additional cost to the Town.

Motion by Councilmember Kemp, seconded by Councilmember McKnight to authorize the Town Manager to sign a contract with Atlantic Development of Cocoa, INC. in the amount \$49,981.60 using funds from the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF), a part of the American Rescue plan Act (ARPA).

Discussion ensued regarding the project; in particular, the cost to avoid disturbing the vegetation in the right-of-way. Councilmember McKnight inquired if there was a reason the town would do this for one resident and not others. Mr. Casey explained that he works with all residents within reason, and some things are not avoidable. Councilmember Kemp pointed out that every situation is different, and some trees are very expensive. Councilmember McKnight encouraged the town to work with residents but she would like to see consistency from homeowner to homeowner. Mr. Casey noted that the code does not allow residents to plant in the Town's right-of-way but it is a constant battle as people frequently do so regardless. He added that the town council can opt to remove the trees in the right-of-way which would reduce the cost of the project by several thousand dollars. Councilmember Kemp inquired if the trees could be pulled out and replanted after repairs are made; Mr. Casey explained that cranes and labor would be very costly.

Ann Vickers, 432 Melbourne Avenue, spoke regarding the recent pedway and stormwater projects staged on her property. She was not happy that a huge load of dirt dumped on her property contained torpedo grass, clay and marl. Town staff later removed the dirt at her request. She is unhappy with the lack of attention from town officials and feels some communications with staff were inappropriate and she would like to schedule a meeting to address her concerns. Mayor Berkman offered to meet with her and the town manager. He asked if she would like the town to remove her plants from the right-of-way or leave them, at an additional cost to the Town, in order to repair the stormwater pipes. After further discussion, Ms. Vickers indicated she would like the town to not disturb her plants located in the right-of-way.

Pete Kohler, 435 Twelfth Avenue, spoke regarding his home which has flooded twice in the past 40 years. During the recent heavy rainfall event, he noted that water was not flowing into the drains, which appear to be too high. He wants to be sure the Town fixes drainage on Melbourne Avenue as much of the water seems to flow from there onto his property. He noted that the swale in his yard fills with water but a nearby swale does not.

Brief discussion ensued; Mr. Casey agreed that the drains may be too high. The town's engineer will be coming back to address any issues. Mr. Casey noted that the elevation of Mr. Kohler's home is lower than the elevation of the road.

Loren Strand, 121 Ormond Ave, spoke in support of the Hydraulic and Hydrologic study which was discussed a couple years ago. He feels that it would be a good tool to address stormwater issues and recommended that the council have the study done. Mr. Casey advised that he applied for state funding for the study and is awaiting final approval.

Ann Vickers, 432 Melbourne Avenue, spoke regarding conversations she has had with staff regarding who is responsible for the town's drainage. She is concerned that a flume near her home is too high as water does not flow into it, and other areas in town seem to be having issues as well, which she took photos of. Mayor Berkman noted two areas of concern he observed while driving through town during the heavy rainstorm and advised that the town is working to correct those issues.

Motion carried unanimously, 4-0.

6. Authorize out-of-state travel for police chief to attend FBI National Command Course

Motion by Deputy Mayor Glass, seconded by Councilmember McKnight to authorize out-of-state travel for the police chief to attend the training course.

Mayor Berkman congratulated Police Chief Michael Connor for the prestigious honor of being one of only 50 people nationwide chosen to attend the training.

Mel Chang, 225 Wayne Avenue, asked what is included in out-of-state travel. He hopes tax money isn't wasted on per diems, travel expenses, or for family members to come along.

Mr. Casey confirmed that both the course and travel will be paid for by the FBI, and explained that the town's code requires council approval for any out-of-state travel [regardless how it is paid for].

Motion carried unanimously, 4-0.

7. Advisory Committee for 5th Avenue Business District Improvement

Mayor Berkman explained that the town had a committee a decade ago to look for ways to improve Fifth Avenue and create a town center but there wasn't a lot of support at that time and the committee's ideas weren't implemented. He indicated that several residents recently expressed interest in forming another advisory committee comprised of residents and business owners to help encourage businesses to beautify their buildings.

Motion by Mayor Berkman, seconded by Councilmember McKnight, to authorize the town manager to draft a resolution to form a Fifth Avenue business district improvement committee and bring it back to the council next month.

Scott Smith, 321 Seventh Avenue, spoke against forming a committee.

After further discussion, the motion carried unanimously, 4-0.

F. Public Comments, Non-Agenda items:

Mayor Berkman advised that representatives of 7-Eleven removed their code amendment request from the agenda earlier in the week. They submitted a rezoning application which will be on the Zoning and Planning agenda in May.

John Newton, 1217 S Riverside Drive, commented regarding the lack of visual aids during the meeting and suggested ordinances and images be displayed so audience members can follow along.

Scott Smith, 321 Seventh Avenue, feels lowering the speed limit and adding a traffic light on Fifth Avenue will not improve safety, and he sees no reason for the proposed changes. He is also concerned about raised crosswalks affecting water flow. Mr. Casey indicated that FDOT will be attending the May council meeting to discuss the project. Councilmember Kemp advised that he spoke with FDOT regarding drainage.

Loren Goldfarb, 320 Deland Avenue, agreed with Mr. Newton that the town should modernize meetings and consider investing in technology such as live webcasting with transcription for the hearing impaired. He commented that it is hard for him to hear councilmembers and he urged them to speak into the microphones, and use the projector to display items. He suggested looking at neighboring municipalities. With regard to traffic safety, he suggested a parabolic mirror be installed at the intersection of Wayne and Watson near the Publix as it is hard to see due to the tight angle.

Mel Chang, 225 Wayne Ave, read the definition for anti-Semitism. He asserted that he is not anti-Semitic, and that Mayor Berkman has accused him of anti-Semitic rants. Mayor Berkman asked for the record to show that he is stopping the time to advise Mr. Chang that he is violating Ordinance [2022-04] which prohibits the use of obscene language, slanderous comments and personal attacks, and the use of impertinent language during council proceedings. Mayor Berkman asked Mr. Chang to continue speaking and noted that this is warning #1. Mr. Chang restated that a councilmember has accused him of being anti-Semitic and a Jew-hater, and that a councilmember signs his emails "Mayor Jew Berkman." Mayor Berkman reminded Mr. Chang to avoid personal attacks and advised him that this was warning #2. Mr. Chang advised the mayor to not violate his constitutional rights and explained that quoting a councilmember does not constitute a personal attack. He continued to speak regarding the mayor and other elected officials' religion, and accused the mayor of "weaponizing" religion. Mayor Berkman advised that this is warning #3. Mr. Chang spoke regarding an email about washing a car and video surveillance. Mayor Berkman advised that his three minutes are up and asked Mr. Chang to sit down.

Patsy Oliphant, 305 N. Riverside Drive, expressed disappointment that 7-Eleven didn't attend tonight's meeting. She believes they are attempting to railroad the community. She has major concerns about gas pumps as they can lower property values and she sees no benefit to the town or nearby property owners. Mayor Berkman noted that the response from the community so far has been overwhelmingly opposed to gas pumps.

G. Administrative Reports:

1. Town Attorney – None
2. Town Manager – Mr. Casey noted that F.S. 790.06 (12) prohibits weapons in municipal meetings and asked if the council would like to authorize spending up to \$10,000 of ARPA money to install metal detectors for additional security.

Motion by Councilmember McKnight, seconded by Deputy Mayor Glass to authorize spending up to \$10,000 in ARPA funding for metal detectors.

Councilmember Kemp acknowledged safety concerns, but he would rather use the funds for improving meeting technology. Councilmember McKnight would feel safer with additional security measures.

Motion carried 3-1; nay vote by Councilmember Kemp.

Town Manager Casey said there will be presentations by FDOT and Susan Hall Landscape Architect at next month's council meeting. He advised that webcasting the meetings would not only require equipment, it was also require additional staff. Currently, all technology issues are handled by him and other staff as the town does not have an in-house IT person.

H. Council Reports: None.

I. Adjournment:

There being no further discussion, the meeting was adjourned at 8:25 p.m.

Dave Berkman, Mayor. Signature on file.

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