

AGENDA NO. 17-03

**TOWN OF INDIALANTIC
REGULAR MEETING OF THE TOWN COUNCIL
November 9, 2016**

A regular meeting of the Indialantic Town Council will be held at 7:00 p.m. on Wednesday, November 9, 2016, in Indialantic Town Hall, 216 Fifth Avenue, Indialantic, Florida.

I. CALL TO ORDER:

Honorable Dave Berkman, Mayor
Honorable Stuart Glass, Deputy Mayor
Honorable Dick Dunn, Councilmember
Honorable Randy Greer, Councilmember
Honorable Jill Hoffman, Councilmember

II. PLEDGE OF ALLEGIANCE:

III. PUBLIC:

In accordance with the Town Council's public participation policy, persons wishing to address the Town Council on a matter not listed on the agenda may speak under the public portion of the meeting agenda. A person must be recognized by the Mayor prior to arriving at the podium to speak.

Speakers must provide their name and address and must direct comments to the Mayor and not to the members of the audience. Please observe the time limit of **three (3) minutes** while speaking under the public portion of the meeting agenda.

IV. PUBLIC ANNOUNCEMENTS:

- A. There are currently openings, including reappointments, on the Code Enforcement Board; Heritage Committee; Parks, Recreation and Beautification Committee; and Zoning and Planning Board.
- B. There will be openings and reappointments on the Board of Adjustment; Code Enforcement Board; Heritage Committee; Parks, Recreation and Beautification Committee; and Zoning and Planning Board in December.
- C. Town Hall will be closed on Friday, November 11th, in observance of Veterans' Day, and on November 24th and 25th for Thanksgiving.

- D. The annual tree lighting will be held on Thursday, December 1st at 7:00 p.m. in Nance Park. A rain date of December 2nd has been scheduled.
- E. A Sidewalk Public Forum will be held on Thursday, December 8th at 6:00 p.m. in Council Chambers.
- F. Heritage Committee luminaria kits will be available for purchase in Town Hall after Thanksgiving - \$5 for 10 LED tea lights and 10 white paper bags.

V. CONSENT AGENDA:

- A. (a) Minutes No. 17-01 – Regular Meeting – October 12, 2016
(b) Minutes No. 17-02 – Special Meeting – October 25, 2016
- B. Appointments
 - a. Heritage Committee – 2 openings. Linda Glass and Linda Laibl Paige would like to be reappointed. Reappoint Ms. Glass and Ms. Laibl Paige.
 - b. Parks, Recreation and Beautification Committee – 2 openings. Jennifer McGill would like to be reappointed. Reappoint Ms. McGill.
 - c. Zoning and Planning Board – 1 opening. Edwin J. Mackiewicz would like to be reappointed. Reappoint Mr. Mackiewicz.
- C. Resolution No. 17-1: Supporting the “Safe Cities, Safe Florida” Initiative through the Florida League of Cities
- D. Resolution No. 17-2: Final Budget Adjustment (Budget Adjustment #4) for FY-16

VI. ORDINANCES AND RESOLUTIONS:

- A. Ordinance No. 17-1/Second Reading and Public Hearing: Amending Section 15-18.1(j)(E)(i) to allow for prorated amounts for parking meter use agreements under certain circumstances.

VII. UNFINISHED BUSINESS:

- A. Speed Humps – Consideration of an alternative rubber hump from that previously approved.
- B. Sexual Offender / Predator Regulations – Determine if revisions to the Town’s Sexual Offender/Predator Regulations should be considered.

VIII. NEW BUSINESS:

- A. Code Review Task Force Report – Accept the report of the Code Review Task Force.
- B. Town Manager’s Employment Agreement – Approve Amendment #22 to the Town Manager’s Employment Agreement, which provides a 2% annual salary increase.
- C. Green Effort Task Force – Consider creating a task force to explore ways that the Town might be more green.

IX. ADMINISTRATIVE MATTERS:

- A. Report from Town Manager
- B. Report from Town Attorney

X. REPORTS:

- A. Mayor Berkman
- B. Deputy Mayor Glass
- C. Councilmember Dunn
- D. Councilmember Greer
- E. Councilmember Hoffman

XII. ADJOURNMENT.

NOTICE TO THE PUBLIC: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, THE TOWN HEREBY ADVISES THE PUBLIC THAT: IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS BOARD, AGENCY, OR COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, AFFECTED PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION INTO EVIDENCE OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

MINUTES

**TOWN OF INDIALANTIC
REGULAR MEETING OF THE TOWN COUNCIL
October 12, 2016**

A regular meeting of the Indialantic Town Council was held on Wednesday, October 12, 2016, in Indialantic Town Hall, 216 Fifth Avenue, Indialantic, Florida, as publicly noticed.

I. CALL TO ORDER:

Mayor Berkman called the meeting to order at 7:30 p.m.

PRESENT:	Honorable David Berkman	Mayor
	Honorable Stuart Glass	Deputy Mayor
	Honorable Dick Dunn	Councilmember
	Honorable Randy Greer	Councilmember
	Honorable Jill Hoffman	Councilmember
	Paul Gougelman	Town Attorney
	Christopher W. Chinault	Town Manager
	Joan Clark	Town Clerk

II. PLEDGE OF ALLEGIANCE:

Mayor Berkman led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

III. PUBLIC:

Ms. Ann Bernick, 151 Miami Avenue, extended thanks to the Town Council and employees for their efforts following Hurricane Matthew. She also spoke of her attendance at the "Coffee With a Cop" event held on October 12, 2016.

IV. PUBLIC ANNOUNCEMENTS:

Mayor Berkman read the following public announcements:

- A. There are currently openings, including reappointments, on the Code Enforcement Board; General Employees Pension Board; and Parks, Recreation and Beautification Committee.
- B. There will be openings and reappointments on the Code Enforcement Board; Heritage Committee; Parks, Recreation and Beautification Committee; and Zoning and Planning Board in November.

- C. The Halloween Party will be held on Saturday, October 29, 2016, from 4 to 8 p.m.
- D. Mary Jo Kilcullen and Vinnie Taranto, Jr., are running for Indialantic Council Seat 2, and their names will be placed on the November 8, 2016, ballot.
- E. Town Hall will be closed on Friday, November 11th, in observance of Veterans' Day.

V. CONSENT AGENDA:

A. Minutes

- a. Minutes No. 16-12 – Regular Meeting of September 7, 2016
- b. Minutes No. 16-13 – Special Meeting of September 21, 2016

B. Appointments

- a. General Employees Pension Board – 1 opening. Lorraine Schulte would like to be reappointed. Reappoint Ms. Schulte.
- b. Melbourne Beach Library Board – 2 openings. Elfriede Raedler and Thomas Carnohan would like to be reappointed. Reappoint Ms. Raedler and Mr. Carnohan.

C. Disaster Debris Removal – Approve the Interlocal Agreement between the Town of Indialantic and Brevard County for storm debris removal.

D. Lily Drainage Improvements – Approve Amendment #1 to the agreement between the Town and the Florida Department of Environmental Protection (FDEP).

E. Ninth Annual Witch Way 5K Event – Approve the 9th Annual WW5K as a special event on Saturday, October 22, 2016.

* **MOTION By Deputy Mayor Glass; Seconded by Council Member Dunn, to approve the Consent Agenda.**

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

VI. ORDINANCES AND RESOLUTIONS:

- A. Ordinance No. 16-15/Second Reading and Public Hearing: Amending Chapter 17-106.4(7), relating to signs on buildings located on corner lots in the S-C, Shopping Center District.

Mr. Gougelman read the ordinance into the record by title only, as follows:

ORDINANCE NO. 16-15

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA, RELATING TO SIGNS IN SHOPPING CENTERS; AMENDING CHAPTER 17-106.4(7), *SHOPPING CENTER DISTRICTS*, INDIALANTIC TOWN CODE, BY ADDING SUBPARAGRAPH (F) RELATING TO SIGNS ON BUILDINGS LOCATED ON CORNER LOTS; PROVIDING A SEVERABILITY/INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

- * **MOTION By Council Member Hoffman; Seconded by Council Member Greer, to adopt Ordinance No. 16-15 on second reading.**

Deputy Mayor Glass noted that the property that brought this issue to light currently had three (3) signs. Mr. Chinault advised that if they make a request to move existing signs, staff would assess and look at all existing signs on the property.

Mayor Berkman opened the hearing to the public. There were no comments or questions from those in the assembly.

THE VOTE ON THE MOTION WAS:

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

- B. Ordinance No. 17-1/First Reading: Amending Section 15-18.1(j)(E)(i) to allow for prorated amounts for parking space use agreements under certain circumstances.

Mr. Gougelman read the ordinance into the record by title only, as follows:

ORDINANCE NO. 17-1

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA; AMENDING SECTION 15-18.1, METERED PARKING; AMENDING SECTION 15-18(J)(E)(I), ADDING LANGUAGE TO ALLOW FOR PRORATED AMOUNTS FOR PARKING METER USE AGREEMENTS UNDER CERTAIN CONDITIONS; PROVIDING A SEVERABILITY/INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

- * **MOTION By Council Member Greer; Seconded by Deputy Mayor Glass, to approve the Ordinance No. 17-1 on first reading.**

Mr. Chinault advised that the Town was trying to avoid short term parking meter use agreements of just one or two months, so a partial year may be prorated provided the partial year is added to the following calendar year.

Mayor Berkman opened the hearing to the public. There were no comments or questions from those in the assembly.

THE VOTE ON THE MOTION WAS:

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

VII. UNFINISHED BUSINESS:

- A. Prisoner Holding Area Security – Authorize engaging MAI Design Build of Melbourne to provide design services to improve security in the Town Hall prisoner holding area.

- * **MOTION By Council Member Dunn; Seconded by Council Member Hoffman, to allow the design phase of this to go forward.**

Mr. Keith Whitehead, 436 Third Avenue, questioned as to whether there was a budget for what this was going to cost. Mr. Chinault advised that the design would cost \$2,500.

Mr. Whitehead questioned as to whether this would lock the Town in with MAI after spending the \$2,500. Mr. Chinault explained this was a fairly straight forward design agreement; the Town could have any contractor build it following a bidding process. He noted that the Town may not want to move forward with the project if it was too expensive.

THE VOTE ON THE MOTION WAS:

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

- B. Speed Humps – Consider speed hump options in the 100 blocks of Second and Third Avenues and the 400 block of Third Avenue.

Mayor Berkman explained that the speed humps authorized by Council were not installed to specifications, and the contractor wanted nothing more to do with it. He advised that Council was presented with the following three (3) options:

- 1) accept the humps at their present height;
- 2) remove the humps and restore the pavement;
- 3) remove the humps, restore the pavement, and install a rubber hump
 - a) 7 feet long x 3 inches high; the Town's engineer notes that the shorter length should result in the 3 inch hump having more of an impact than the 12 foot long hump
 - b) 10.5 feet long x 3 inches high
 - c) 14 feet long x 4 inches high

Mr. Chinault advised that the standard for Brevard County was 3 inches and the engineer did not find any pavers that wished to exceed the County's standards (Orange County does have some 4 inch humps). He stated that what staff was proposing, if the residents were satisfied with the humps as they are, to leave it alone. If they're not satisfied, staff was proposing the contractor remove the humps and restore the pavement. Once that's done, the Town could walk away from it or to go with either a 14 foot long by 4 inch hump, a 10-1/2 foot long by 3 inch hump, or a 7 foot long by 3 inch hump; currently it is a 12 long by a supposed 3 inch hump.

He further explained that what the engineer was saying was that by shortening it from 12 feet to 7 feet, a more significant hump would be created.

Mayor Berkman clarified that the vendor would come back, remove the hump and mill it back the way it was, buy one hump and put down it by ABC to see what it's like, and if it works purchase two more.

- * **MOTION By Mayor Berkman to remove the existing humps and authorize the Town Manager to purchase one 7 foot by 3 inch hump to see how it works.**

Discussion was held with regard to the cost of the rubberized humps (7' x 3" humps were \$1,946 each), and hump sizes.

Deputy Mayor Glass seconded the motion.

Mr. Keith Whitehead, 436 Third Avenue, questioned as to why all the humps couldn't be installed. Mayor Berkman explained that installing one hump would allow residents to see what was going in. Mr. Whitehead expressed concern about the time it would take to get all humps installed.

Mayor Berkman AMENDED his motion to have the contractor remove the existing humps, authorize the Town Manager to purchase one 7 foot by 3

inch hump, and to purchase two more without further Council action if satisfactory. Deputy Mayor Glass accepted the amendment.

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

VIII. NEW BUSINESS:

- A. Authorize the Craft Festival for July 8 and 9, 2017, in Nance Park.

Council Member Hoffman questioned as to whether food vendor would be permitted. Mr. Chinault responded in the affirmative.

- * **MOTION By Mayor Berkman; Seconded by Council Member Dunn, to authorize the Craft Festival for July 8 and 9, 2017.**

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

- B. Sexual offender/predator regulations: Determine if revisions to the Town's Sexual Offender/Predator Regulations should be considered.

Mr. Gougelman provided details on a recent Court of Appeals Case against Miami-Dade County with regard to its residency restrictions whereby the Court found Dade's ordinance unconstitutional based on who was affected. He expressed concern about specific language in the Town's Sexual Predators & Offenders regulations.

Mr. Chinault advised staff was reporting to Council based on the Federal Court decision. He noted that the options were to do nothing, fix the ordinance, or repeal the ordinance and rely on Brevard County's ordinance. He pointed out that the County's ordinance was effective in Town but the Town's was more restrictive. He believed the County's ordinance had a better chance of surviving in Court since there was no place in Town a predator could reside, but the County's ordinance was County-wide and there were many places within the County where a predator could live.

Following discussion, Mr. Gougelman advised he believed the best option would be to repeal the ordinance and allow the Sheriff to enforce the Brevard County ordinance (Brevard County requires a 1000' radius, Indialantic a 2000', radius, and Dade County a 2500' radius). He noted that the Town could enforce the Brevard County ordinance if it chose to.

Mr. Chinault advised that if Council wished to follow the attorney's advice, a draft ordinance would be prepared for Council's consideration.

Deputy Mayor Glass stated he would like to see a map of the Town depicting the 1000' radius.

No action was taken on this item.

- C. Barrier Island Naming – determine which option Council desires to recommend with regard to the naming of the barrier island.

* **MOTION By Mayor Berkman; Seconded by Council Member Hoffman, to reject the proposed name of Brooks Island.**

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

- D. Comprehensive Plan – EAR – Approve the Evaluation and Appraisal Report (EAR) and related letter.

Mr. Chinault spoke of the Town's requirements under State law, and explained that sea level rise and storm surge issues would have to be addressed in the Comprehensive Plan within the next twelve months. He requested Council approve the Evaluation and Appraisal Report and related letter.

* **MOTION By Deputy Mayor Glass, Seconded by Council Member Hoffman, to approve the Evaluation and Appraisal Report (EAR) and related letter.**

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

- E. Town Manager Evaluation – Accept the performance evaluation for the Town Manager for the period of October 1, 2015, through September 30, 2016.

* **MOTON By Mayor Berkman; Seconded by Council Member Dunn to accept the performance evaluation for the Town Manager for the period of October 1, 2015 through September 30, 2016.**

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

Additional Agenda Items:

F. Hurricane Clean-Up and Repair Work – Authorize the Town Manager to sign any agreements with Career Source to utilize personnel for hurricane clean up and repair work.

- * **MOTION By Council Member Hoffman; Seconded by Council Member Dunn; to authorize the Town Manager to sign any agreement necessary with Career Source to utilize personnel for hurricane clean up and repair work.**

AYES: Berkman, Glass, Dunn, Greer, and Hoffman.

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

G. Permit Fee Waiver for Damage Caused by Hurricane Matthew – Authorize the waiver of permit fees for damage caused by Hurricane Matthew until December, 2016.

- * **MOTION By Councilman Dunn; Seconded by Deputy Mayor Glass, to authorize the waiver of permit fees for damage caused by Hurricane Matthew until December 31, 2016, at the sole discretion of the Building Official.**

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

H. Adopt-A-Shore Agreements – Authorize the Town Manager to enter into Adopt-A-Shore Agreements as appropriate.

- * **MOTION By Mayor Berkman; Seconded by Council Member Greer, to authorize the Town Manager to enter into Adopt-A-Shore Agreements as appropriate.**

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

I. Sidewalk Master Plan – DEO Grant – Approve revising Deliverable Due dates.

Mr. Chinault explained that a change in deliverable due dates was required because there had been delays in receiving the agreement for signature.

- * **MOTON By Deputy Mayor Glass; Seconded by Council Member Dunn, to approve revising deliverable due dates that are acceptable to the Town Manager for the DEO Sidewalk Master Plan grant.**

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

- J. Traffic Signal Maintenance Extension – Approve the extension agreement for the Traffic Signal Maintenance Agreement between the Town and County for the maintenance of three signals.

- * **MOTION By Council Member Hoffman; Seconded by Council Member Dunn, to approve the extension agreement for the Traffic Signal Maintenance Agreement between the Town and County to provide for the maintenance of three signals.**

Mr. Keith Whitehead, 436 Third Avenue, asked why items were added to the published agenda. Mr. Chinault explained that the items were hurricane related, and he didn't believe they could wait until November.

Mayor Berkman pointed out that items were very rarely added to agendas.

THE VOTE ON THE MOTION WAS:

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

Mayor Berkman spoke of the amazing efforts of Town personnel before and after Hurricane Matthew.

- * **MOTION By Mayor Berkman; Seconded by Council Member Hoffman, to give a bonus of \$250 to each full-time employee and a bonus of \$100 to each part time employee.**

Deputy Mayor Glass requested a certificate of appreciation from Council be provided to each employee as a part of the motion. The amendment to the MOTION was accepted.

Council Member Dunn believed this was the right thing to do to show gratitude towards all that went above and beyond.

THE VOTE ON THE MOTION WAS:

AYES: Berkman, Glass, Dunn, Greer, and Hoffman

THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)

IX. ADMINISTRATIVE MATTERS:

No reports were given by the Town Manager or Town Attorney.

X. REPORTS:

Council Member Hoffman advised she only had one more meeting as a member of Council, and she spoke of her pride in the Town. Mayor Berkman expressed appreciation on behalf of Council for her service.

Deputy Mayor Glass reported on an upcoming forum for School Board candidates scheduled for October 20th at BCC.

XII. ADJOURNMENT.

The meeting adjourned at 8:50 p.m.

David Berkman, Mayor

ATTEST:

Joan Clark, MMC, Town Clerk

MINUTES

**TOWN OF INDIALANTIC
SPECIAL MEETING OF THE TOWN COUNCIL
October 25, 2016**

A special meeting of the Indialantic Town Council was held on Tuesday, October 25, 2016, in Indialantic Town Hall, 216 Fifth Avenue, Indialantic, Florida, as publicly noticed.

I. CALL TO ORDER:

Mayor Berkman called the meeting to order at 5:15 p.m.

PRESENT: Honorable Dave Berkman Mayor
 Honorable Stuart Glass Deputy Mayor
 Honorable Dick Dunn Councilmember
 Honorable Randy Greer Councilmember
 Christopher W. Chinault Town Manager

ABSENT: Honorable Jill Hoffman Councilmember

II. PLEDGE OF ALLEGIANCE:

Mayor Berkman led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

III. 2018 FRDAP APPLICATION FOR SUNRISE PARK:

Mayor Berkman questioned as to whether there was any public input or Council discussion on the application. There was none.

* **MOTION By Deputy Mayor Glass; Seconded by Council Member Dunn, to approve the Town making application for a grant in the amount of \$50,000 for the FY-18 FRDAP cycle for improvements to Sunrise Park.**

AYES: Berkman, Glass, Dunn, and Greer

THE MOTION CARRIED UNANIMOUSLY. (4 TO 0)

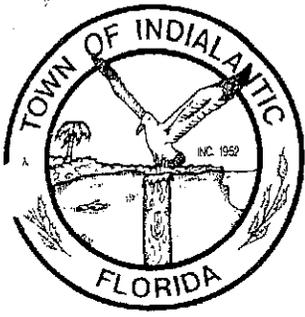
IV. ADJOURNMENT.

The meeting adjourned at 5:16 p.m.

David Berkman, Mayor

ATTEST:

Joan Clark, MMC, Town Clerk



TOWN OF INDIALANTIC
216 Fifth Avenue, Indialantic, Florida 32903
321-723-2242 Fax 321-984-3867

MAYOR
David Berkman
DEPUTY MAYOR
Stuart Glass
COUNCIL MEMBERS
Dick Dunn
Jill Hoffman
Randall Greer
Christopher W. Chinault, Town Manager
Joan Clark, MMC, Town Clerk

Linda Glass
132 Miami Avenue
Indialantic, Florida 32903

Agenda Item V. B(a)

Tuesday, September 13, 2016

Dear Ms. Glass:

On behalf of the Indialantic Town Council, we would like to thank you for your service on the *Heritage Committee*.

Your term will expire on November 12, 2016, but we hope you are willing to be reappointed to this very important Committee.

If you would like to continue serving, please sign below and return to Town Hall. Your reappointment will go before the Town Council on November 09, 2016.

Again, thank you for your past service.

Sincerely,

Joan Clark, MMC
Town Clerk

I would like to be reappointed to the Heritage Committee.

Signature

Date



TOWN OF INDIALANTIC
216 Fifth Avenue, Indialantic, Florida 32903
321-723-2242 Fax 321-984-3867

MAYOR
David Berkman
DEPUTY MAYOR
Stuart Glass
COUNCIL MEMBERS
Dick Dunn
Jill Hoffman
Randall Greer
Christopher W. Chinault, Town Manager
Joan Clark, MMC, Town Clerk

Linda Laibl Paige
1419 South Riverside Drive
Indialantic, Florida 32903

Tuesday, September 13, 2016

Dear Ms. Laibl Paige:

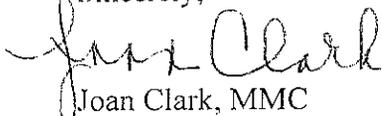
On behalf of the Indialantic Town Council, we would like to thank you for your service on the *Heritage Committee*.

Your term will expire on November 12, 2016, but we hope you are willing to be reappointed to this very important Committee.

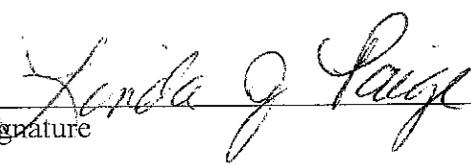
If you would like to continue serving, please sign below and return to Town Hall. Your reappointment will go before the Town Council on November 09, 2016.

Again, thank you for your past service.

Sincerely,


Joan Clark, MMC
Town Clerk

I would like to be reappointed to the Heritage Committee.


Signature

10-13-16
Date

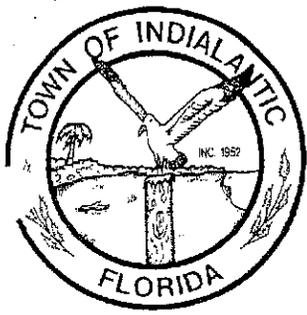
JC/vmtm

Heritage Committee

2016 x=present e= excused u=unexcused	January 19th	February 16th	March No quorum	April 19th	May 17th	June Not scheduled	July Not scheduled	August Not scheduled	September 20th	October 18th	November 15th	December 20th
	Carol Andren	x	x		x	e				x	x	
Denise Bozeman	x	x		e	x				e	x		
Linda Coleman	x	x		x	u				u	x		
Pam Dunn	x	x		x	x				x	x		
Cindy Earp	x	x		x	x				x	x		
Linda Glass	x	x		x	x				x	x		
Anne Kaylor	e	x		e	x				x	x		
Jenifer Marx	x	x		e	x				x	x		
Dian Milligan	x	e		x	u				u	x		
Linda Paige	x	x		u	x				u	x		
Joan Sherman	x	x		x	e	resignod						
2015 x=present e= excused u=unexcused	January 20th	February 17th	March No quorum	April 21st	May 19th	June Not scheduled	July Not scheduled	August 18th	September 15th	October 20th	November 17th	December No quorum
Carol Andren	x	x		x	x			x	x	x	x	
Denise Bozeman	x	x		x	e			e	x	x	e	
Linda Coleman	e	x		x	e			x	x	x	x	
Pam Dunn	x	x		x	x			x	x	x	x	
Cindy Earp	x	x		x	x			x	x	e	x	
Linda Glass	x	x		x	x			x	x	x	x	
Anne Kaylor	x	x		x	x			e	e	e	x	
Jenifer Marx	x	x		x	x			x	x	x	x	
Dian Milligan	x	x		x	e			x	x	e	e	
Linda Paige	e	x		e	e			e	x	x	e	
Joan Sherman	x	x		x	x			x	x	e	x	

Parks, Recreation and Beautification Committee

2016 x=present e=excused u=unexcused	January 25th	February 22nd	March 28th	April 25th	May 23rd	June No quorum	July Not scheduled	August 22nd	September 26th	October 24th	November 28th	December Not scheduled
	Bill Antonez	x	x	x	x	x			x	x	x	
Cathern Berkman	x	x	x	x	x			x	x	x		
Yvette Campbell	x	x	x	e	e			x	x	x		
Mindy Ford	u	u	u	u	u			u	u	u		
Bernie Gott	x	x	x	x	x			x	x	x		
Sarah Horschel								x	x	x		
Larry Michelson	x	x	x	x	x			resigned				
Jennifer McGill	e	e	x	u	x			x	x	x		
JoAnne Nadeau	x	x	x	e	e			e	e	x		
Lisa Peter	x	x	u	x	x			x	u	e		
2015 x=present e=excused u=unexcused	January 26th	February 23rd	March 23rd	April 27th	May 26th	June 22nd	July Not scheduled	August 24th	September 28th	October 26th	November 23rd	December Not scheduled
Bill Antonez	x	x	x	x	x	x		x	x	x	x	
Cathern Berkman	x	x	x	x	x	x		x	x	x	x	
Yvette Campbell	x	x	x	e	x	x		x	e	x	x	
Mindy Ford	guest		appointed	x	x	u		u	x	u	u	
Bernie Gott	x	x	x	x	x	e		x	x	x	e	
Larry Michelson	x	x	x	x	x	x		x	x	e	x	
Jennifer McGill											appointed	
JoAnne Nadeau	x	e	x	e	e	e		e	e	x	x	
Lisa Peter	x	x	e	e	x	x		e	e	x	e	
Marjorie Schwanbeck	x	x	x	x	e	e		e	x	x	e	



TOWN OF INDIALANTIC
216 Fifth Avenue, Indialantic, Florida 32903
321-723-2242 Fax 321-984-3867

MAYOR
David Berkman
DEPUTY MAYOR
Stuart Glass
COUNCIL MEMBERS
Dick Dunn
Jill Hoffman
Randall Greer
Christopher W. Chinault, Town Manager
Joan Clark, MMC, Town Clerk

Edwin J. Mackiewicz, III
801 South Palm Avenue
Indialantic, Florida 32903

Agenda Item V. B(c)

Tuesday, September 13, 2016

Dear Mr. Mackiewicz, III:

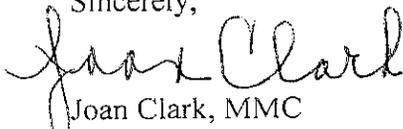
On behalf of the Indialantic Town Council, we would like to thank you for your service on the *Zoning and Planning Board*.

Your term will expire on November 12, 2016, but we hope you are willing to be reappointed to this very important Board.

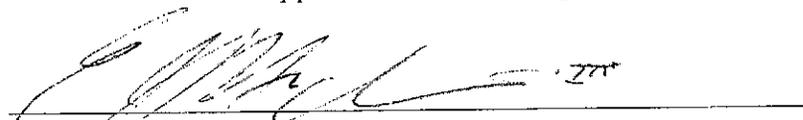
If you would like to continue serving, please sign below and return to Town Hall. Your reappointment will go before the Town Council on November 09, 2016.

Again, thank you for your past service.

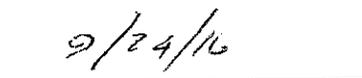
Sincerely,


Joan Clark, MMC
Town Clerk

I would like to be reappointed to the *Zoning and Planning Board*.



Signature



Date

JC/vmtm

Zoning and Planning Board

2016 x=present e=excused u=unexcused	January 26th	February 24th	March 22nd	April Not Scheduled	May 24th	June 28th	July Not Scheduled	August Not Scheduled	September 29th	October 25th	November 22nd	December 27th
	Rick Bertel	x	e	u		x	x			x		
John Estes	u	e	e		u	e			u			
Wendy Grice	x	e	x		x	x			x			
Thomas Kleving	x	e	x		x	x			e			
Ed Mackiewicz	e	x	x		x	e			x			
Mike McCabe	u	x	x		e	x			x			
Dan Sullivan	u	x	e		u	u			u			
2015												
x=present e=excused u=unexcused	January 27th	February 24th	March Not scheduled	April Not scheduled	May Not scheduled	June Not scheduled	July 28th	August 25th	September 22nd	October 27th	November Not scheduled	December Not scheduled
	Rick Bertel	x	x				x	x	x	x	x	
John Estes	e	x				e		x	u	u		
Wendy Grice									appointed/x	x		
Thomas Kleving	x	x				x	x	x	x	e		
Ed Mackiewicz	x	x				x	x	x	e	x		
Anne Mayer	x	e				resigned						
Mike McCabe	x	u				x	x	x	e	x		
Dan Sullivan	u	e				u	u	x	u	e		

SUBJECT: Resolution No. 17-1: Supporting the “Safe Cities, Safe Florida” Initiative through the Florida League of Cities, Inc., during the 2016/2017 Fiscal Year.

Staff Report – Town of Indialantic

Meeting Date: November 9, 2016

Summary:

Council is being requested by Deputy Mayor Glass to adopt a resolution in support of the “Safe Cities, Safe Florida” initiative through the Florida League of Cities, Inc.

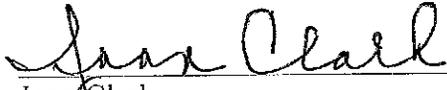
Proposed training opportunities include community risk assessment and response, active shooter workshops, community policing, consumer protection, Zika and other public health issues, playground safety, and more.

Recommendation:

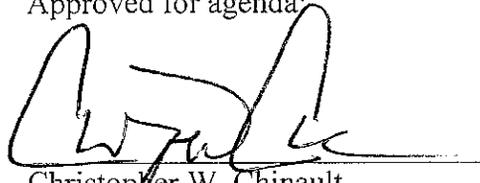
Adopt Resolution No. 17-1.

MOTION: Adopt Resolution No. 17-1.

Submitted by:


Joan Clark
Town Clerk

Approved for agenda:


Christopher W. Chinault
Town Manager

RESOLUTION NO. 17-1

A RESOLUTION OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA, IN SUPPORT OF THE "SAFE CITIES, SAFE FLORIDA" INITIATIVE THROUGH THE FLORIDA LEAGUE OF CITIES, INC., DURING THE FISCAL YEAR 2016-2017.

WHEREAS, Florida's municipalities provide extensive services to citizens, residents, and visitors each day, and these services cover many aspects of the public's health, safety, and welfare; and

WHEREAS, the members of this municipality share a vision for providing excellence in every service area, and are committed to proactive preparation for, and rapid response to, crisis, emergencies and concerns impacting that same health, safety and welfare across all sectors of our area; and

WHEREAS, the Florida League of Cities, Inc., will focus on aspects of safety across the service spectrum during the Fiscal Year 2016-2017 and this municipality joins with each FLC member government in this program; and

WHEREAS, local governments across the United States are similarly joined in this quest due to economic, societal, environmental and other demands; and in this initiative, FLC President Susan Haynie has challenged the League's leadership and membership to devote its resources to determine how we can best meet these demands, each one directly and with all energies; and

WHEREAS, we pledge to actively participate in this effort by sharing knowledge, joining collaboratively in learning and being catalysts for communicating our findings so that all of Florida is improved by this timely endeavor.

NOW THEREFORE, be it **RESOLVED** by the Town Council of the Town of Indialantic, Brevard County, Florida, that the Town of Indialantic does hereby:

SECTION 1. Pledge its support for "Safe Cities, Safe Florida" to President Haynie and the FLC Board of Directors, and commit to active participation in this initiative.

SECTION 2. Commit to helping with shared knowledge, to include this topic and its activities within our scheduled events, and to the promotion of the initiative's findings throughout the year as a communications source and outreach catalyst.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF
INDIALANTIC, BREVARD COUNTY, FLORIDA, THIS 9TH DAY OF NOVEMBER,
2016.

TOWN OF INDIALANTIC

David Berkman
Mayor

ATTEST:

Joan Clark, MMC
Town Clerk

SUBJECT: Resolution No. 17-02

Staff Report – Town of Indialantic

Meeting Date: November 9, 2016

Summary:

Council is being requested to approve Resolution 17-2 adopting the final budget adjustments (budget adjustment #4) for FY-16.

Adjustments have been made to account for actual revenues and expenses.

Recommendation:

Approve Resolution No. 17-2 adopting the final budget adjustments for FY-16.

MOTION:

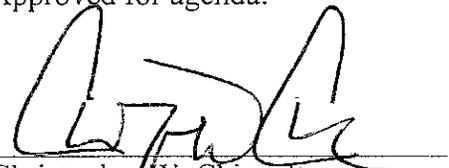
Approve Resolution No. 17-2 adopting the final budget adjustments for FY-16.

Submitted by:



Joan Clark
Town Clerk

Approved for agenda:



Christopher W. Chinault
Town Manager

TOWN OF INDIALANTIC

Brevard County, Florida 32903

RESOLUTION 17-02

A RESOLUTION AMENDING THE BUDGET FOR THE TOWN OF INDIALANTIC FOR FISCAL YEAR 2015-2016

WHEREAS, it is necessary to adjust certain line items of the FY 2015-2016 budget;

NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF INDIALANTIC, FLORIDA, AS FOLLOWS:

Section 1. That the revised budget for the General Fund in the amount of \$3,664,296 be amended to increase the General Fund portion by \$65,308 for a total General Fund budget of \$3,729,604.

Section 2. That the revenue budget line items are adjusted as listed in Attachment A.

Section 3. That the expense budget line items are adjusted as listed in Attachment B.

THIS RESOLUTION WILL BECOME EFFECTIVE IMMEDIATELY UPON ITS ADOPTION.

PASSED AND ADOPTED on the 9th day of November, 2016.

TOWN OF INDIALANTIC

David Berkman
Mayor

ATTEST: _____
Joan Clark, MMC
Town Clerk

FY 15/16 FINAL BUDGET ADJUSTMENT #4

GENERAL FUND REVENUE ADJUSTMENTS

Acct. No.	Name	Increase/ (Decrease)
311-1000	Ad valorem taxes	36,606
312-4000	Local option gas tax	2,675
312-5100	Fire insurance prem tax	(5,011)
312-5200	Casualty insurance prem tax	4,332
314-1000	Electric utility tax	2,986
314-3000	Water utility tax	9,322
314-4000	Gas utility tax	(1,829)
322-1000	Building permits	17,445
323-1000	Electric franchise fee	4,529
323-3200	Telecommunications	(9,427)
323-7000	Solid waste franchise fee	2,584
335-1800	Local government half cent	5,320
338-1100	County business tax	(1,361)
341-4000	Copying	1,845
351-1000	Judgement & fines	(4,350)
351-2000	Surplus property	1,837
351-3000	Police education fund	(704)
361-1000	Interest - investments	(1,091)
382-5000	Pavers	1,000
382-6000	Holiday lights	(1,400)
		65,308

GENERAL FUND EXPENSE ADJUSTMENTS

Acct. No.	Name	Increase/ (Decrease)
511-4000	Functions/travels	500
513-1200	Salaries	10,000
513-1400	Overtime	(500)
513-2100	Fica	1,153
513-2200	Retirement	818
513-2300	Life & health insurance	(7,654)
513-3210	Professional services	(550)
514-3100	Legal fees	23,700
552-3100	Professional services	(3,572)
519-2500	Unemployment compensation	(1,000)
519-4100	Postage	(885)
519-4930	Election expenses	(3,838)
519-4950	Legal notices	3,986
521-1200	Salaries	17,979
521-1210	Part-time salaries	5,398
521-1220	Holiday	(9,153)
521-1400	Overtime	13,082
521-2100	FICA	(504)
521-2210	Retirement-Police/Fire	4,598
521-2300	Life & health insurance	12,199
521-4900	Training	(925)
521-5201	Vehicle fuel	(6,296)
521-5210	Uniforms	(1,301)
521-5260	Other equipment	1,950
521-6420	Law enforcement grant	(2,000)
522-1200	Full Time Salaries	11,084
522-1400	Overtime/Holiday Pay	24,283
522-2100	Fica	2,003
522-2200	Retirement-Police/Fire	(13,992)
522-2300	Life & health insurance	(5,182)
522-3120	Physicals/Immunizations	(3,000)
522-3410	Volunteers	(1,318)
522-4900	Training	(2,057)
522-5201	Vehicle fuel	(3,647)
524-1200	Salaries	5,737
524-2100	FICA	524
524-2300	Life & health insurance	(1,122)
524-4910	Radon gas- state	1,588
524-5201	Vehicle fuel	(682)
541-1200	Salaries	10,635
541-1210	Part-time salaries	3,105
541-2100	Fica	549
541-2300	Life & health insurance	785
541-3100	Contractual services	2,083

541-3110	Engineering	4,755
541-4610	Equipment repairs	996
541-4615	Generator Maint	(963)
541-4630	Right-of-way maintenance	(1,288)
541-4640	Street drainage maintenance	(2,000)
541-4900	Training	(887)
541-5200	Operating supplies	1,427
541-5201	Gasoline & diesel fuel	415
541-7520	Riverside Park	(1,646)
541-7530	Lilly Park	(1,028)
541-7540	Gus Carey Park	770
541-7580	Town Hall Maint	(990)
541-7590	Causeway Maint	2,700
541-7610	Park mulching	(1,584)
541-7620	Tradewinds Park	830
541-7630	Fifth Avenue Median	1,176
572-4810	Halloween party	1,286
572-9200	Park projects	(6,985)
572-9400	Pavers	1,943
590-1000	Buildings and equipment	(22,180)
		65,308

Agenda Item VI. A

**SUBJECT: Ordinance No. 17-1/Second Reading and Public Hearing:
Amending Section 15-18.1(j)(E)(i) to allow for prorated amounts
for parking meter use agreements under certain circumstances.**

Staff Report – Town of Indialantic

Meeting Date: November 9, 2016

Summary:

Council is being asked to approve an amendment to the Code that would allow prorated amounts for parking space use agreements. There is currently no provision for prorated amounts covering partial years.

The proposed amendment to the Code would allow a prorated amount for use agreements covering partial years provided the partial year is added to the following calendar year (i.e. agreements commencing on October 1, 2016, would extend through December 31, 2017).

Council approved the Ordinance on first reading on October 12, 2016.

Recommendation:

Adopt Ordinance No. 17-1 on second reading.

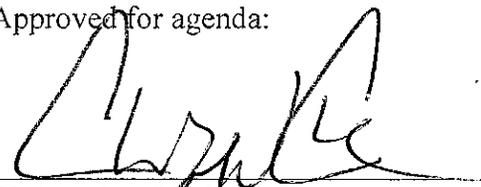
MOTION: Adopt Ordinance No. 17-1 on second reading.

Submitted by:



Joan Clark
Town Clerk

Approved for agenda:



Christopher W. Chinault
Town Manager

ORDINANCE NO. 17-1

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA; AMENDING SECTION 15-18.1, METERED PARKING; AMENDING SECTION 15-18.1(j)(E)(i), ADDING LANGUAGE TO ALLOW FOR PRORATED AMOUNTS FOR PARKING METER USE AGREEMENTS UNDER CERTAIN CONDITIONS; PROVIDING A SEVERABILITY/ INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town has need to update parking meter regulations periodically; and

WHEREAS, current regulations do allow prorated amounts for parking use agreements in Zone 3; and

WHEREAS, the Town Council of the Town of Indialantic, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Indialantic.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN OF INDIALANTIC, FLORIDA:

SECTION 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference.

SECTION 2. That Section 15-18.1(j)(E)(i) of the Code of Indialantic, Florida, is hereby amended as follows:

(E) Compensation. During the term of the parking space use agreement, compensation shall be paid by the licensee to the Town for each hour between 6:00 a.m. and 1:30 a.m. of each day that the meters are subject to the parking space use agreement. The rate of compensation shall be as follows:

(i) Zone 3: Individual parking spaces may be utilized at a rate of \$60 per parking space per calendar year. Said amount ~~shall not~~ may be prorated for use agreements covering partial years provided the partial year is added to the following calendar year.

SECTION 3. Severability Clause/Interpretation.

(a) In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) That in interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (* * * *) indicate a deletion from the Ordinance of text, which exists in the Code of Ordinances. It is intended that the

48 text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall
49 remain unchanged from the language existing prior to adoption of this Ordinance.

50
51 SECTION 4. Effective Date. This Ordinance shall become effective upon adoption of this
52 Ordinance.

53
54 PASSED by the Town Council of the Town of Indialantic on first reading on the 12th day
55 of October, 2016, and ADOPTED by the Town Council of the Town of Indialantic, Florida, on final
56 reading on the 9th day of November, 2016.

57
58 TOWN OF INDIALANTIC

59
60
61 _____
62 David Berkman
63 Mayor

64 ATTEST: _____
65 Joan Clark
66 Town Clerk

67 1st reading: October 12, 2016
68 2nd reading: November 9, 2016
69 Effective Date: November 9, 2016

Agenda Item VII. A

SUBJECT: Speed Humps

Staff Report – Town of Indian River

Meeting Date: November 9, 2016

Summary:

Council is being requested to determine, once the asphalt humps are removed from the 100 blocks of Second and Third Avenues and the 400 block of Third Avenue, if it desires to consider the use of speed cushions similar to those used on Indian River Drive in Sebastian. On October 12, 2016 (Agenda Item VII.B) Council agreed to have speed humps measuring eighteen feet wide by seven feet long with a three inch height installed.

Recommendation:

Direct staff if an alternative rubber hump from the previously approved 18' wide x 7' long x 3" high is desired.

MOTION: Direct staff if an alternative rubber hump from the previously approved 18' wide by 7' long x 3" high is desired.

Submitted by:



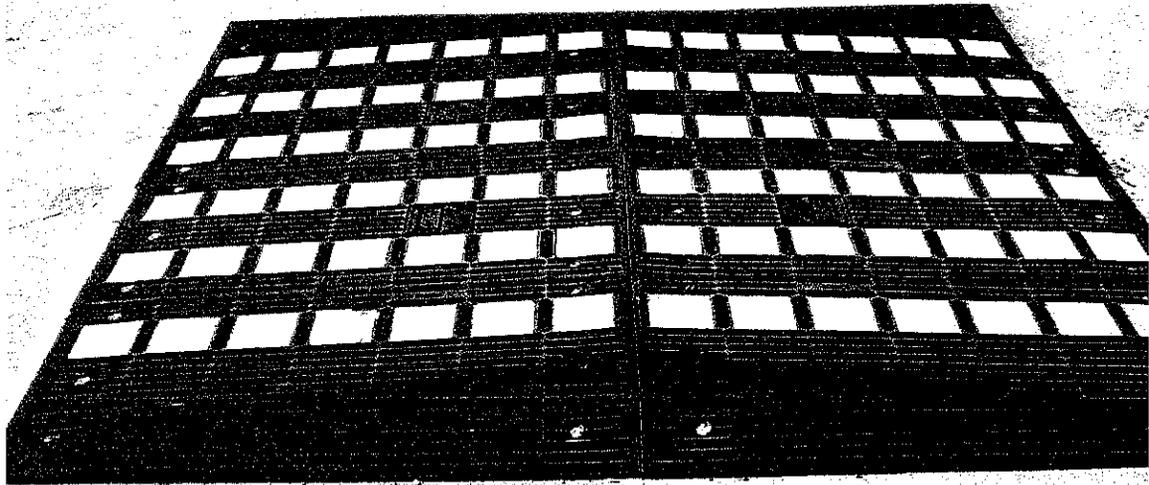
Joan Clark
Town Clerk

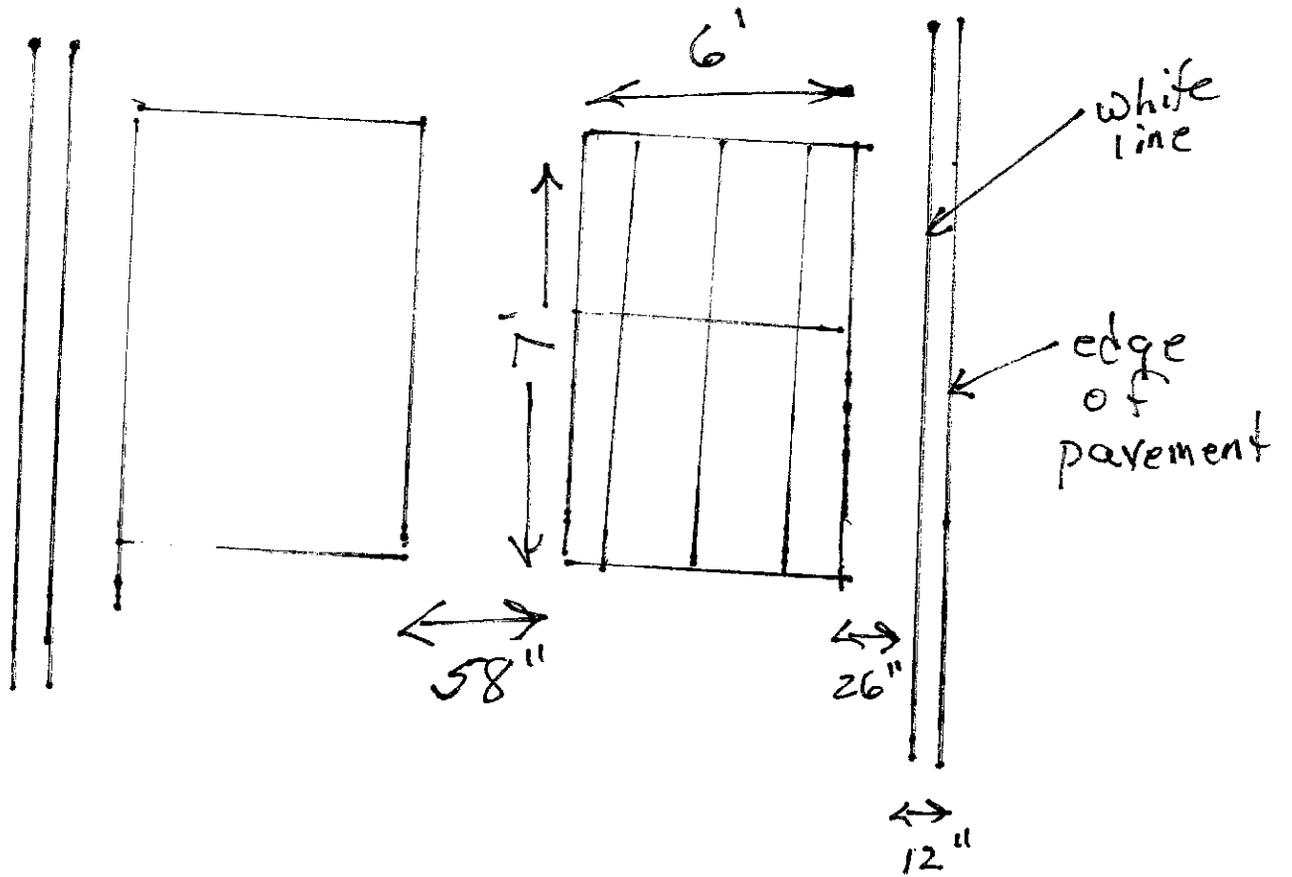
Approved for agenda:



Christopher W. Chinault
Town Manager







INDIAN RIVER DRIVE
SEBASTIAN

SUBJECT: Sexual Offender / Predator Regulations

Staff Report – Town of Indialantic

Meeting Date: November 9, 2016

Summary:

A recent U.S. Court of Appeals decision has caused the Town Attorney to raise some concerns with regard to specific language in the Town’s Sexual Predators & Offenders regulations. Mr. Gougelman intends to review these concerns with Council for direction as to possible adjustments to the Town’s regulations or repeal which would enable the Town to fall back on the County’s regulations.

The following items are provided for Council review:

<u>Item</u>	<u>Page</u>
• Court of Appeals Decision	1
• Indialantic Regulations	16
• Indialantic Predator Ordinance Map - 2,000 Feet	23
• Brevard County Regulations	24
• Indialantic Predator Map – 1000 Feet	30

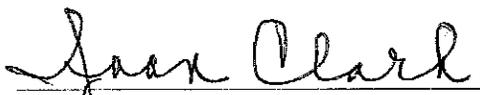
Council determined to continue the discussion of this matter at the November meeting after reviewing a 1000 ft. radius map.

Recommendation:

Determine if revisions to the Town’s Sexual Offender/Predator Regulations should be considered.

MOTION:

Submitted by:


Joan Clark
Town Clerk

Approved for agenda:


Christopher W. Chinault
Town Manager

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 15-14336
Non-Argument Calendar

D.C. Docket No. 1:14-cv-23933-PCH

JOHN DOE #1,
JOHN DOE #2,
JOHN DOE #3,
FLORIDA ACTION COMMITTEE, INC.,

Plaintiffs - Appellants,

versus

MIAMI-DADE COUNTY,
FLORIDA DEPARTMENT OF CORRECTIONS,
SUNNY UKENYE,
Circuit Administrator for the Miami Circuit Office,
Florida Department of Corrections, in his full official capacity,

Defendants - Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(September 23, 2016)

Before TJOFLAT, WILSON, and JILL PRYOR, Circuit Judges.

WILSON, Circuit Judge:

Plaintiffs-Appellants John Doe #1, John Doe #2, John Doe #3, and the Florida Action Committee, Inc. (FAC) (collectively, the Plaintiffs), appeal the district court's dismissal of their ex post facto challenges to the residency restriction in Miami-Dade County's Lauren Book Child Safety Ordinance (the Ordinance). On appeal, the Plaintiffs argue that they pleaded sufficient facts to state a claim that the residency restriction is so punitive in effect as to violate the ex post facto clauses of the federal and Florida Constitutions. At this stage, we conclude that Doe #1 and Doe #3 have alleged plausible ex post facto challenges to the residency restriction. Therefore, we affirm in part, reverse in part, and remand for proceedings consistent with this opinion.

I

On November 15, 2005, Miami-Dade County (the County) adopted the Ordinance, which imposes, *inter alia*, a residency restriction on "sexual offenders" and "sexual predators."¹ See Miami-Dade Cty., Fla., Code of Ordinances ch. 21, art. XVII. The Ordinance prohibits a person who has been convicted of any one of several enumerated sexual offenses involving a victim under sixteen years of age

¹ The present text of the Ordinance is reproduced in the Appendix in relevant part. Any differences between the 2005 version, which went into effect on November 25, 2005, and the present version of the Ordinance are immaterial to this appeal.

from “resid[ing] within 2,500 feet of any school.” *Id.* § 21-281(a). The 2,500-foot distance is “measured in a straight line from the outer boundary of the real property that comprises a sexual offender’s or sexual predator’s residence to the nearest boundary line of the real property that comprises a school,” rather than “by a pedestrian route or automobile route.” *Id.* § 21-281(b). There are three exceptions to the County’s residency restriction: (1) “[t]he sexual offender or sexual predator established a residence prior to the effective date of th[e] [O]rdinance”; (2) “[t]he sexual offender or sexual predator was a minor when he or she committed the sexual offense and was not convicted as an adult”; and (3) “[t]he school was opened after the sexual offender or sexual predator established the residence.” *Id.* § 21-282(1). Violations of the Ordinance are punishable by a fine up to \$1,000, imprisonment for up to 364 days, or both. *Id.* § 21-281(c).

On December 20, 2014, the Plaintiffs filed a complaint against the County, the Florida Department of Corrections, and the Florida Department of Corrections Miami Circuit Administrator, Sunny Ukenye, in his official capacity (collectively, the Defendants), challenging the constitutionality of the County’s residency restriction. Specifically, the Plaintiffs challenged the County’s residency restriction (1) as void for vagueness under the Fourteenth Amendment and the Florida Constitution; (2) as a violation of their substantive due process rights to personal security and to acquire residential property under the Fourteenth

Amendment and the Florida Constitution; and (3) as an unconstitutional ex post facto law under the federal and Florida Constitutions. The Defendants moved to dismiss, and the district court dismissed all the claims with prejudice under Federal Rule of Procedure 12(b)(6). The Plaintiffs properly appealed only the dismissal of their ex post facto challenges against the County.

II

“We review de novo the district court’s grant of a motion to dismiss under 12(b)(6) for failure to state a claim, accepting the allegations in the complaint as true and construing them in the light most favorable to the plaintiff.” *Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003) (per curiam).

III

Both the federal and Florida Constitutions prohibit the passage of ex post facto laws. *See* U.S. Const. art. I, § 9, cl. 3; *id.* art. I, § 10, cl. 1; Fla. Const. art. I, § 10. An ex post facto law is a law that “appl[ies] to events occurring before its enactment” and that “disadvantage[s] the offender affected by it, by altering the definition of criminal conduct or increasing the punishment for the crime.” *Lynce v. Mathis*, 519 U.S. 433, 441, 117 S. Ct. 891, 896 (1997) (internal quotation marks and citation omitted). In *Smith v. Doe*, the Supreme Court outlined a framework for determining whether Alaska’s sex offender registration and notification requirements violated the federal Ex Post Facto Clause. *See* 538 U.S. 84, 92–93,

97, 123 S. Ct. 1140, 1146–47, 1149 (2003). We join our sister circuits in applying the *Smith* framework to evaluate an ex post facto challenge to a residency restriction on sexual offenders.² See *Doe v. Snyder*, Nos. 15-1536, 15-2346, 15-2486, slip op. at 5–7 (6th Cir. Aug. 25, 2016) (consolidated); *Shaw v. Patton*, 823 F.3d 556, 561–62 (10th Cir. 2016); *Doe v. Miller*, 405 F.3d 700, 718 (8th Cir. 2005).

The *Smith* Court noted that Alaska’s statute was retroactive and applied the following framework to determine whether the statute violated the Ex Post Facto Clause:

We must ascertain whether the legislature meant the statute to establish civil proceedings. If the intention of the legislature was to impose punishment, that ends the inquiry. If, however, the intention was to enact a regulatory scheme that is civil and nonpunitive, we must further examine whether the statutory scheme is so punitive either in purpose or effect as to negate the State’s intention to deem it civil.

538 U.S. at 92, 123 S. Ct. at 1146–47 (alteration adopted) (internal quotation marks and citations omitted). After determining that the Alaska legislature intended to “create a civil, nonpunitive regime,” the Court explained that several factors guide the second part of the analysis:

whether, in its necessary operation, the regulatory scheme: [1] has been regarded in our history and

² We evaluate both the federal and state ex post facto challenges under *Smith*. See *Houston v. Williams*, 547 F.3d 1357, 1364 (11th Cir. 2008).

traditions as a punishment; [2] imposes an affirmative disability or restraint; [3] promotes the traditional aims of punishment; [4] has a rational connection to a nonpunitive purpose; or [5] is excessive with respect to this purpose.

See id. at 96–97, 123 S. Ct. at 1149.³ Ultimately, the Court concluded that the Alaska statute was not punitive and, therefore, did not violate the Ex Post Facto Clause. *See id.* at 105–06, 123 S. Ct. at 1154.

IV

The County does not contest that its residency restriction applies to individuals “convicted” of relevant sexual offenses before the passage of the Ordinance. *See* Ordinance § 21-281(a); *Lynce*, 519 U.S. at 441, 117 S. Ct. at 896 (a statute is only retroactive if it “appl[ies] to events occurring before its enactment” (internal quotation mark omitted)). Therefore, we accept for purposes of this appeal that the residency restriction applies retroactively. Additionally, the Plaintiffs do not contest the County’s assertion that the County intended the Ordinance to be civil and non-punitive. Therefore, we also accept for purposes of this appeal that the County intended to “create a civil, nonpunitive regime” under the first step of the *Smith* analysis. *See Smith*, 538 U.S. at 96, 123 S. Ct. at 1149.

³ None of the factors is dispositive and two other factors may be considered in the second step of the *Smith* framework: whether the regulatory scheme “comes into play only on a finding of scienter” and whether “the behavior to which it applies is already a crime.” *See Smith*, 538 U.S. at 97, 105, 123 S. Ct. at 1149, 1154. However, the Court explained, these two factors carried little weight in the Court’s analysis of the Alaska statute. *See id.* at 105, 123 S. Ct. at 1154.

Finally, only Doe #1 and Doe #3 have properly alleged that the County's residency restriction applied retroactively to them—that the restriction applied to their pre-enactment convictions for qualifying sexual offenses.⁴ Accordingly, we need only decide whether Doe #1 and Doe #3 alleged sufficient facts to state a plausible claim that the County's residency restriction is so punitive in effect as to violate the federal and Florida ex post facto clauses under *Smith*. See *Ashcroft v. Iqbal*, 556 U.S. 662, 677–79, 129 S. Ct. 1937, 1949–50 (2009). We conclude they have done so.

The complaint sufficiently alleged that the County's residency restriction imposes a direct restraint on Doe #1's and Doe #3's freedom to select or change residences. Under the “affirmative disability or restraint” factor, “we inquire how the effects of the [Ordinance] are felt by those subject to it.” See *Smith*, 538 U.S. at 99–100, 123 S. Ct. at 1151 (internal quotation marks omitted). The Plaintiffs alleged in their complaint that the County's residency restriction severely limits

⁴ Construing the complaint in the light most favorable to the Plaintiffs, Doe #1 was convicted of his relevant sexual offense in 1992, and Doe #3 was convicted of his relevant sexual offense in 1999—both before the County's residency restriction was enacted in 2005. See Amended Complaint at ¶¶ 17, 48, *Doe v. Miami-Dade Cty.*, No. 1:14-cv-23933-PCH (S.D. Fla. Apr. 3, 2015) [hereinafter Amended Complaint]. Both are also “sexual offenders” under the Ordinance because they are residents of Miami-Dade County and are registered as sexual offenders. *Id.* at ¶¶ 14, 45; see Ordinance § 21-280(10) (citing Fla. Stat. § 943.0435).

However, Doe #2 only alleged that he was convicted of his relevant sexual offense in 2006. See Amended Complaint at ¶ 32. Thus, Doe #2 failed to allege that the County's residency restriction retroactively increased his punishment. Similarly, FAC—a non-profit corporation that works to reform the sexual offender laws in Florida—failed to allege that any of its members were convicted of, or even committed, a relevant sexual offense before November 15, 2005. See *id.* at ¶¶ 55–63.

housing options for individuals subject to the restriction, “drastically exacerbat[ing] transience and homelessness.” *See* Amended Complaint at ¶ 74. Doe #1 and Doe #3 have specifically alleged that they are homeless and that their homelessness resulted directly from the County’s residency restriction “severely restricting available, affordable housing options.” *Id.* at ¶ 54; *accord id.* at ¶ 28. Doe #1 was twice instructed by probation officers to live at homeless encampments after the County’s residency restriction made him unable to live with his sister and he could not find other housing compliant with the restriction. *See id.* at ¶¶ 18–28. He currently lives at a makeshift homeless encampment near “an active railroad track” (the Encampment).⁵ *See id.* at ¶¶ 5, 25. Similarly, Doe #3 sleeps in his car at the Encampment because, “despite repeated attempts, he has been unable to obtain available, affordable rental housing in compliance with the Ordinance.” *See id.* at ¶¶ 52–53.

Doe #1 and Doe #3 also sufficiently alleged that the County’s residency restriction is excessive in comparison to its public safety goal of addressing recidivism.⁶ *See Smith*, 538 U.S. at 105, 123 S. Ct. at 1154 (regulation is excessive

⁵ There are no restroom facilities, sanitary water, or designated shelter at the Encampment, which is technically on private property. *See id.* at ¶¶ 120–23.

⁶ The stated intent of the Ordinance “is to serve the County’s compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the County, particularly children, by prohibiting sexual offenders and sexual predators from establishing temporary or permanent residence in certain areas where children are known to regularly congregate.” The County made findings that, *inter alia*, “[s]exual offenders are extremely likely to use physical violence and to repeat their offenses.” *See* Ordinance § 21-278.



if “[un]reasonable in light of [its] nonpunitive objective”). Accepting the facts alleged in the complaint as true, the County’s residency restriction is “among the strictest in the nation.” *See* Amended Complaint at ¶ 74. An individual becomes subject to the restriction based solely on the fact of his or her prior conviction for a listed sexual offense, without regard to his or her individual “risk of recidivism over time.” *See id.* at ¶¶ 72–73. This is so despite the fact that “[r]esearch has consistently shown that sexual offender recidivism rates are among the lowest for any category of offenses, and that this lower risk of sexual offense recidivism steadily declines over time.” *See id.* at ¶ 136. Nonetheless, the County’s residency restriction applies for life, even after an individual no longer has to register as a sexual offender under Florida law and is no longer subject to the state law 1,000-foot residency restriction. *See id.* at ¶ 72. The County’s residency restriction also applies “even if there is no viable route to reach the school within 2500 feet.” *Id.* at ¶ 141.

The Plaintiffs further argue that the County’s residency restriction not only fails to advance, but also directly undermines, the goal of public safety. The complaint stated that “[t]he only demonstrated means of effectively managing reentry and recidivism [of former sexual offenders] are targeted treatment, along with maintaining supportive, stable environments that provide access to housing, employment, and transportation,” rather than by “[making] categorical

assumptions about groups of former sexual offenders.” *See id.* at ¶¶ 137, 143. The complaint also alleged that the transience and homelessness that the residency restriction causes undermine sexual offenders’ abilities to successfully re-enter society and increase the risk of recidivism by “mak[ing] it more difficult for Plaintiffs and others to secure residences, receive treatment, and obtain and maintain employment.” *See id.* at ¶¶ 146, 149. In light of the foregoing, we conclude that Doe #1 and Doe #3 have stated a plausible claim that the County’s residency restriction is so punitive in effect as to violate the ex post facto clauses of the federal and Florida Constitutions.

V

Our role in reviewing the grant of a 12(b)(6) motion merely is to determine whether the plaintiffs stated a plausible claim, such that they should be permitted to proceed to discovery. *See Chaparro v. Carnival Corp.*, 693 F.3d 1333, 1337 (11th Cir. 2012) (per curiam). Here, Doe #1 and Doe #3 alleged sufficient facts to raise plausible claims that the County’s residency restriction is so punitive in effect that it violates the ex post facto clauses of the federal and Florida Constitutions. Whether Doe #1 and Doe #3 ultimately prevail is a determination for a future stage of this litigation. Thus, we reverse the district court’s grant of the County’s motion to dismiss as to Doe #1 and Doe #3’s ex post facto challenges and remand for further proceedings.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

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Appendix

ARTICLE XVII. - THE LAUREN BOOK CHILD SAFETY ORDINANCE

Sec. 21-277. - Title.

Article XVII shall be known and may be cited as "The Lauren Book Child Safety Ordinance."

Sec. 21-278. - Findings and Intent.

- (a) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses. Most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.
- (b) The intent of this article is to serve the County's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the County, particularly children, by prohibiting sexual offenders and sexual predators from establishing temporary or permanent residence in certain areas where children are known to regularly congregate, to prohibit renting or leasing certain property to sexual offenders or sexual predators if such property is located where children are known to regularly congregate and to restrict sexual offenders' and sexual predators' access to parks and child care facilities.

....

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Sec. 21-280. - Definitions.

The following terms and phrases when used in this article shall have the meanings ascribed to them in this section unless the context otherwise requires:

....

- (4) "Convicted" or "conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to: a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

....

- (7) "Permanent residence" means a place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (8) "Reside" or "residence" means to have a place of permanent residence or temporary residence.
- (9) "School" means a public or private kindergarten, elementary, middle or secondary (high) school.
- (10) "Sexual offender" shall have the meaning ascribed to such term in Section 943.0435, Florida Statutes.

- (11) "Sexual offense" means a conviction under Section 794.011, 800.04, 827.071, 847.0135(5) or 847.0145, Florida Statutes, or a similar law of another jurisdiction in which the victim or apparent victim of the sexual offense was less than sixteen (16) years of age, excluding Section 794.011(10), Florida Statutes.
- (12) "Sexual predator" shall have the meaning ascribed to such term in Section 775.21, Florida Statutes.
- (13) "Temporary residence" means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 21-281. - Sexual Offender and Sexual Predator Residence Prohibition; Penalties.

- (a) It is unlawful for any person who has been convicted of a violation of Section 794.011 (sexual battery), 800.04 (lewd and lascivious acts on/in presence of persons under age 16), 827.071 (sexual performance by a child), 847.0135(5) (sexual acts transmitted over computer) or 847.0145 (selling or buying of minors for portrayal in sexually explicit conduct), Florida Statutes, or a similar law of another jurisdiction, in which the victim or apparent victim of the offense was less than sixteen (16) years of age, to reside within 2,500 feet of any school.
- (b) The 2,500-foot distance shall be measured in a straight line from the outer boundary of the real property that comprises a sexual offender's or sexual predator's residence to the nearest boundary line of

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the real property that comprises a school. The distance may not be measured by a pedestrian route or automobile route, but instead as the shortest straight line distance between the two points.

- (c) Penalties. A person who violates section 21-281(a) herein shall be punished by a fine not to exceed \$1,000.00 or imprisonment in the County jail for not more than 364 days or by both such fine and imprisonment.

Sec. 21-282. - Exceptions.

- (1) A sexual offender or sexual predator residing within 2,500 feet of any school does not commit a violation of this section if any of the following apply:
 - (a) The sexual offender or sexual predator established a residence prior to the effective date of this ordinance. The sexual offender or sexual predator shall not be deemed to have established a residence or registered said residence for purposes of this section, if the residence is an illegal multifamily apartment unit within a neighborhood zoned for single-family residential use.
 - (b) The sexual offender or sexual predator was a minor when he or she committed the sexual offense and was not convicted as an adult.
 - (c) The school was opened after the sexual offender or sexual predator established the residence.
- (2) Section 21-282(1)(a) and (1)(c) herein shall not apply to a sexual offender or sexual predator who is convicted of a subsequent sexual offense as an adult after residing at a registered residence within 2,500 feet of a school.

ARTICLE V. Sexual Predators and Offenders.**Sec. 10-80. Findings.**

(a) Repeat sexual offenders, sexual offenders who use physical violence, sexual offenders who prey on children, and sexual predators are sexual violators who present an extreme threat to the public safety. Sexual violators are extremely likely to use physical violence and to repeat their offenses, and many sexual violators commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual violator victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this article to serve the town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the town by creating areas around certain defined locations where children regularly congregate in concentrated numbers wherein certain sexual violators are prohibited from establishing temporary or permanent residence.

(c) The high level of threat that a sexual violator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the town with sufficient justification to implement a strategy that includes restricting sexual violators from residing near certain areas where children are most likely to congregate and to be exposed to the potential threats of sexual violators.

(d) The town has a compelling interest in protecting the public from sexual violators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual violators to live in areas other than where large numbers of children may congregate.
(Ord. 06-12, 1, 8-15-06)

Sec. 10-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Day care center” means and refers to any child care center or child care arrangement that provides care for more than five (5) children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The term includes child care centers, nursery schools, and kindergartens, when not accessory to an elementary school, but does not include the following: public schools and nonpublic schools which are in compliance with the compulsory school attendance law of the State of Florida; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods.

“Permanent residence” means a place where the person abides, lodges, or resides for 5 or more consecutive days.

“Sexual Violator” means any person who has been:

1. designated as a “sexual predator” pursuant to s. 775.21, Florida Statutes; or

2. is a "sexual offender" as defined in s. 943.0435, Florida Statutes.

"Temporary residence" means a place where the person abides, lodges, or resides for a period of 5 or fewer days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

"Temporary shelter" is defined as any public or private building or facility which is offered to individuals and families who are homeless or who evacuate their homes or a hotel, motel, or other place of temporary residence as a result of a storm, flood, hurricane, tornado, explosion, fire, or other incident of any nature as a place to reside, rest, sleep, or eat.
(Ord. 06-12, 2, 8-15-06)

Sec. 10-82. Sexual violator residence prohibition; penalties; exceptions.

(a) Prohibited location of residence. It is unlawful for any person who is a sexual violator to establish a permanent residence or temporary residence within 2,000 feet of any public school, day care center, or public park.

(b) Measurement of distance. For purposes of determining the minimum distance separation shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, day care center, or public park.

(c) Penalties. A person who violates this section shall be punished as provided in section 1-9, town code.

(d) Exceptions. A sexual violator residing within 2,000 feet of any school, day care center, or public park does not commit a violation of this section if any of the following apply:

(1) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to ss. 775.21, 943.0435 or 944.607, Florida Statutes, prior to October 1, 2006;

(2) The person was a minor when he/she committed the offense and was not convicted as an adult;

(3) The person is a minor; or

(4) The school, public park, or day care center within 2,000 feet of the sexual violator's permanent residence or temporary residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to ss. 775.21, 943.0435 or 944.607, Florida Statutes.

(Ord. 06-12, 3, 8-15-06)

Sec. 10-83. Property owners prohibited from renting real property to certain sexual violators; penalties.

(a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to section 10-82 of this code, if such place, structure, or part thereof, trailer or other conveyance, is located within 2,000 feet of any school, day care center, or public park.

(b) A property owner's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures as otherwise provided in this Code or chapter 162, Florida Statutes.

(Ord. 06-12, 4, 8-15-06)

Sec. 10-84. Temporary emergency shelters; Sexual predators, sexual offenders, and sexual violators notification requirements.

(a) Any person who is required by Florida law to register as a "sexual predator" or "sexual offender" pursuant to ss. 775.21, 943.0435, or 944.607, Florida Statutes, as revised from time to time, or is otherwise a sexual violator, and who utilizes or intends to utilize a temporary shelter provided by any public or private entity and established as a result of any emergency or incident or threatened emergency or incident shall, immediately upon entering the shelter, notify the individual or individuals operating the shelter that he or she is a registered "sexual predator," "sexual offender," or a sexual violator pursuant to this code. The "sexual predator," "sexual offender," or other sexual violator shall be assigned to a temporary shelter specifically designated for use by "sexual predators," "sexual offenders" and sexual violators.

(b) The town manager in cooperation with the chief of police may, but is not obligated to, designate a public building or jail or other facility as a temporary shelter to be utilized by sexual violators.

(c) Failure of a sexual predator, sexual offender, other sexual violator to make notification as required in sub-section (a) shall constitute a violation of a municipal ordinance punishable as provided in section 1-9, town code, unless the temporary shelter becomes the temporary residence or permanent residence of the sexual violator in which case the sexual violator shall comply with the registration requirements of section 10-85 of this code. During the time that the temporary shelter is not a permanent residence or temporary residence of the sexual violator, the sexual violator need not register this location with the chief of police, or the chief's designee.

(Ord. 06-12, 5, 8-15-06)

Sec. 10-85. Sexual violator registration.

(a) Registration.

(1) Except if a sexual violator is in the physical custody of the Florida Department of Corrections, a private correctional facility, a Federal correctional agency, or the sheriff of Brevard County, a sexual violator convicted of an act causing the sexual violator to be convicted as a sexual predator or sexual offender and classified as such which act occurred after August 15, 2006, and who is a permanent resident or a temporary resident within the town must register with the town's chief of police, or his designee, by providing the following information to the department:

a. Name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence and address of any current temporary residence, within the state or out of state, including an address and a post office box address (if any), date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the sexual violator. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual violator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, Florida Statutes, the sexual violator shall also provide to the chief of police, or the chief's designee, written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual violator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual violator shall also provide to the chief of police, or said chief's designee, written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual violator is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual violator shall also provide to the chief of police, or the chief's designee, the name, address, and county of each institution, including each campus attended, and the sexual violator's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the chief of police's office.

b. Any other information determined necessary by the town chief of police, including criminal and corrections records; non-privileged personnel and treatment records; and evidentiary genetic markers when available.

(2) Sexual violators required to register pursuant to this section shall register or re-register in person at the office of the town chief of the police, or the chief's designee, within 48 hours after establishing a permanent residence or temporary residence in this town. Any change in the sexual violator's permanent residence or temporary residence or name, after the sexual violator registers in person at the office of the chief of police, or the chief's designee, shall be accomplished in the manner provided herein. When a sexual violator registers with the town chief of police,

or the chief's designee, the chief of police shall take a photograph and a set of fingerprints of the sexual violator and compare them against records on file with the Florida Department of Law Enforcement to assure that the sexual violator's registration on file with the department is correctly registered. If the records of the Florida Department of Law Enforcement do not correspond with the registration filed with the chief of police, the chief of police shall immediately notify the department in writing.

(b) Time of registration.

(1) If a sexual violator's birth month is January, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of April and October. If a sexual violator's birth month is February, the sexual violator must register or reregister with the town chief of police during the months of May and November. If a sexual violator's birth month is March, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of June and December. If a sexual violator's birth month is April, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of July and January. If a sexual violator's birth month is May, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of August and February. If a sexual violator's birth month is June, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of September and March. If a sexual violator's birth month is July, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of October and April. If a sexual violator's birth month is August, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of November and May. If a sexual violator's birth month is September, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of December and June. If a sexual violator's birth month is October, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of January and July. If a sexual violator's birth month is November, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of February and August. If a sexual violator's birth month is December, the sexual violator must register or reregister with the town chief of police, or the chief's designee, during the months of March and September.

(2) Additional times of registration.

(A) Within 48 hours after any change of the sexual violator's permanent residence or temporary residence within the town or change in the sexual violator's name by reason of marriage or other legal process, the sexual violator shall report in person to the town chief of police, or the chief's designee, and shall register as set forth above.

(B) A sexual predator who vacates a permanent residence or temporary residence within the town and fails to establish or maintain another permanent residence or temporary residence within the town shall, within 5 days after vacating the permanent residence or temporary residence within the town, report in person to the town chief of police, or the chief's designee. The sexual violator shall specify the date upon which he or she intends to or did vacate

such permanent residence or temporary residence. The sexual violator must provide or update all of the registration information required under this section. The sexual violator must provide an address for the permanent residence, temporary residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent residence or temporary residence.

(C) A sexual violator who remains at a permanent residence or temporary residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such temporary residence or permanent residence, report in person to the town chief of police, or the chief's designee, for the purpose of reporting his or her address at such residence.

(3) A sexual violator who intends to establish residence in another municipality, state, or other jurisdiction shall report in person to the town chief of police, or the chief's designee, within 48 hours before the date he or she intends to leave this town to establish a permanent residence or temporary residence in another municipality, state, or other jurisdiction. The sexual predator must provide to the town chief of police, or the chief's designee, the address, municipality, county, and state or other location of intended residence. The chief of police shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in section 1-9 of this code.

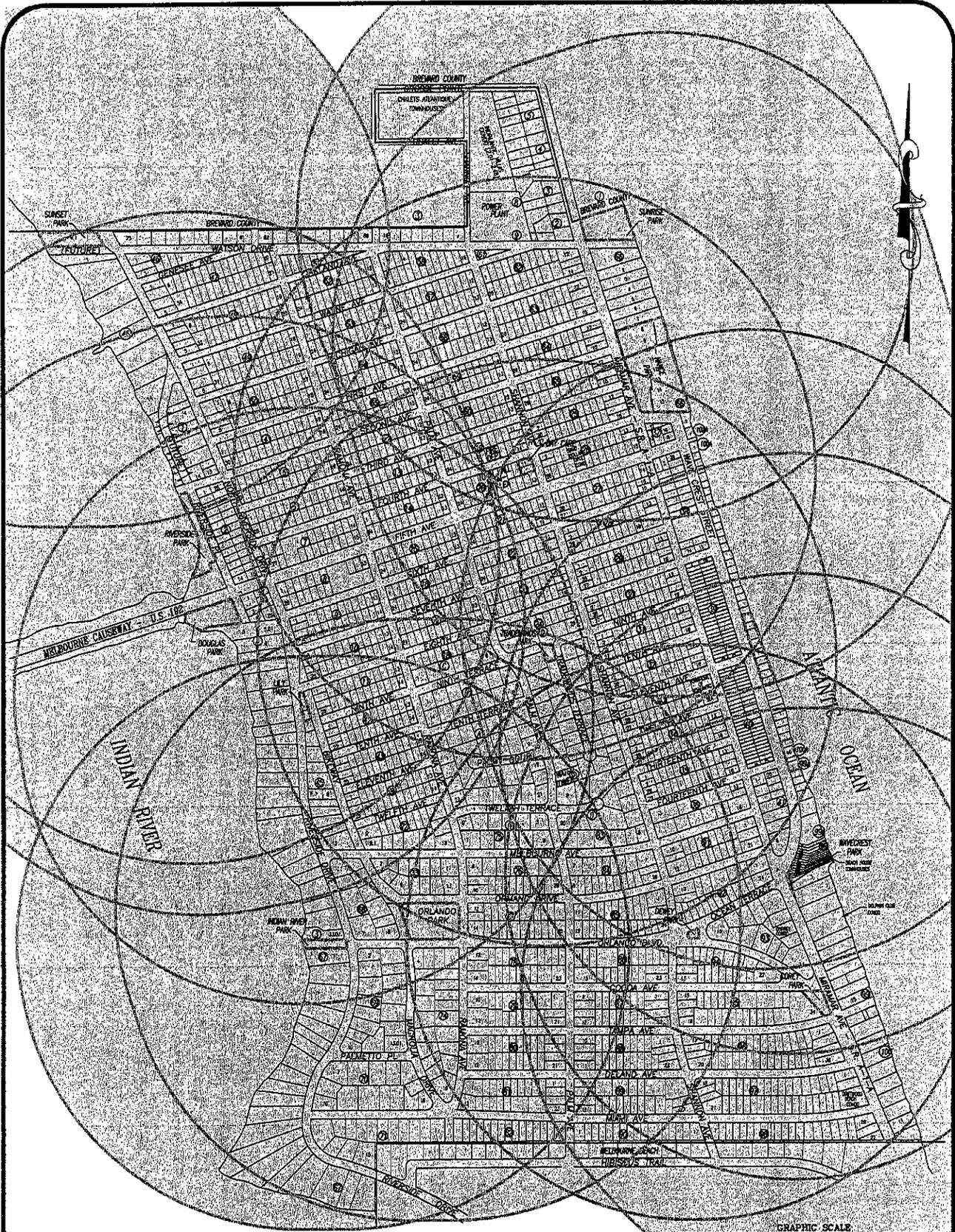
(4) A sexual violator who indicates his or her intent to reside in another municipality, state or other jurisdiction and later decides to remain in this town shall, within 48 hours after the date upon which the sexual violator indicated he or she would leave this town, report in person to the chief of police, or the chief's designee, of his or her intent to remain in this town. A sexual violator who reports his or her intent to reside in another municipality, state or other jurisdiction, but who remains in this town without reporting to the chief of police in the manner required by this code, commits a municipal ordinance violation punishable as provided by section 1-9, town code.

(5) The chief of police is responsible for maintaining all information obtained from sexual violators concerning registration and re-registration of sexual violators within the town. The chief of police shall also be responsible for determining whether the aforesaid information is consistent with registration information of the on-line internet web-site maintained by the Florida Department of Law Enforcement. If current information on file with the chief of police is inconsistent with information on the on-line internet web-site maintained by the Florida Department of Law Enforcement, the chief of police shall advise the Brevard County sheriff and the Florida Department of Law Enforcement.

(c) The chief of police's sexual violator registration list, containing the information described above is a public record. The chief of police is authorized to disseminate this public information by any means deemed appropriate to assure the requirements of this code are complied with, unless the chief of police determines that the information is confidential or exempt from public disclosure pursuant to Florida or Federal law.

(d) A sexual violator must maintain and update, as provided herein, registration with the town for the duration of his or her residency within the town, unless the sexual violator is no longer required by law or court order to maintain registration with the state of Florida or, until such time as the sexual violator moves from the town and is no longer an occupant of housing or a resident within the town.

(Ord. No. 06-12, 6, 8-15-06)




 - 3000 FOOT RADIUS FROM HANG AND BAY DUNE TRAIL
 ALL DOW DRIVED FROM THE 1988 ZONING



PREDATOR ORDINANCE MAP

TOWN OF INDIALANTIC

DRAWING NO. 8800002200
 SHEET 1 of 1
 PROJECT NO. 1800002



B.S.E. CONSULTANTS, INC.
 CONSULTING - ENGINEERING - LAND SURVEYING
 372 SOUTH HARBOR CITY BOULEVARD, SUITE 4
 MELBOURNE, FLORIDA 32901 PHONE (321) 725-3574 FAX (321) 723-1159
 CERTIFICATE OF PROFESSIONAL LAND SURVEYING
 CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: L80004805



APPROVED	DATE 10/15/06
DRAWN	DATE 9/29/06
CHECKED	DATE

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ARTICLE VI. - SEXUAL OFFENDERS AND SEXUAL PREDATORS^[4]

Footnotes:

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Editor's note—Ord. No. 2006-31, §§ 2—6, adopted May 16, 2006, did not specify manner of inclusion; hence, inclusion as article VI, §§ 74-101—74-105 is at the discretion of the editor.

Sec. 74-101. - Definitions.

As used in this article, the following words and terms shall have the meaning ascribed thereto:

Day care center means any family or child care facility licensed by the state pursuant to F.S. ch. 402. For purposes of this article, a day care center includes the parking lot, curtilage, yards, landscaped areas, playgrounds, accessory buildings and all outdoor areas of the facility. It is the intent to include all areas reasonably included in and part of the facility.

Park means a publicly owned or operated area used or available for the public's use as a recreational facility, including, by way of example and not limitation, linear parks and the state, county and municipal recreational trails systems.

Permanent residence means a place where a person abides, lodges, or resides for 14 or more consecutive days.

Playground means an established or dedicated outdoor area for recreation and play, including, by way of example and not limitation, soccer fields, baseball diamonds, football fields and locations with outdoor equipment, such as, by way of example and not limitation, swing sets, climbing apparatus and slides.

Public shelter means any shelter specifically designated by the county or any municipality to house persons in times prior to, during and after the threat or occurrence of disaster.

School means any public or private school to include charter schools as defined in F.S. § 1000.04(1) and 1002.01 (2005) excluding facilities dedicated exclusively to the education of adults.

Sexual offender. As defined in F.S. § 944.606(1).

Sexual predator. As defined in F.S. § 775.21.

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Sexual predator and sexual offender shelter means any shelter officially designated by the county or any municipality that is designated to house sexual predators or sexual offenders in times prior to, during and after the threat or occurrence of disaster.

Temporary residence means any place where a person may abide, lodge or reside that is not that person's permanent residence.

(Ord. No. 2006-31, § 2, 5-16-06)

Sec. 74-102. - Sexual offenders and sexual predators.

(a) *Prohibited residences of sexual offenders and sexual predators.* It is prohibited and unlawful for any sexual offender or sexual predator to abide, lodge or reside in a permanent or temporary residence located within the county when such residence is located within 1,000 feet of any school, day care center, park or playground, regardless of whether the school, day care center, park or playground lies within the jurisdictional limits of the county. A sexual offender or sexual predator, having a permanent residence within 1,000 feet of any school, day care center, park or playground, does not commit a violation of this section if any of the following apply:

- (1) The sexual offender or sexual predator established the permanent residence in the specific dwelling in question prior to the effective date of this article.
- (2) The sexual offender or sexual predator was a minor when committing the offense causing the designation as a sexual predator or sexual offender and was not sentenced as an adult for that offense.
- (3) The school, day care center, park or playground was opened or established after the sexual offender or sexual predator established the permanent residence.

(b) *Restriction of certain activities of sexual offenders and sexual predators.* No sexual offender or sexual predator shall enter into or remain within the 1,000-foot buffer zone surrounding any school, daycare center, park or playground except to:

- (1) Attend a scheduled interview or meeting with a social service provider licensed by the state;
- (2) Comply with a request or court order from the judiciary, a correctional facility or a law enforcement entity;
- (3) Attend a scheduled meeting or interview with criminal justice personnel at a criminal justice facility;

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- (4) Attend a bona fide educational institution as a registered student;
- (5) Attend a scheduled or emergency health care visit with a licensed physician;
- (6) As a result of fulfilling legally allowable duties imposed by gainful employment;
- (7) Transport children within their legal custody to and from school or daycare without any undue delay or loitering on premises;
- (8) Seek refuge in a public shelter that has been officially designated by the county or any municipality to house sexual offenders or sexual predators during times of impending natural disasters or acts of terrorism;
- (9) Attend a scheduled legal consultation meeting with an attorney who is recognized as a licensed member of the Bar of the state;
- (10) Attend a church service or function;
- (11) Vote at a designated polling place within his or her district;
- (12) If the sexual offender or sexual predator is the parent or guardian of a person under 18 years of age, provided the sexual offender or sexual predator has declared his or her status as a sexual offender or sexual predator prior to entering the school property and has either scheduled a set time period to enter upon the property with the principal or designee or immediately notifies the principal or designee upon entering the school property:
 - a. Attend a scheduled conference at school with school personnel to discuss the progress of his or her child academically or socially;
 - b. Participate in scheduled child review conferences in which evaluation and placement decisions may be made or considered with respect to his or her child regarding special education services; or
 - c. Attend scheduled conferences to discuss other student issues concerning his or her child such as retention and promotion.
- (13) If the sexual offender or sexual predator lawfully resides within 1,000 feet of any school, day care center, park or playground, he or she may enter into or remain within 1,000 feet of such school, day care center, park or playground for the purposes of travel to and from his or her residence, and any other bona fide activity arising from the ordinary maintenance and activities associated with such residence.

However, this section shall not be construed as prohibiting any person from traveling on those public roads located within the county when traveling through the buffer zone without intentional delay. A law enforcement officer shall, prior to any arrest for an offense under this

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section afford the person an opportunity to explain his or her presence in the area and the purpose thereof. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have authorized the person to be in the area pursuant to one of the exceptions listed above.

- (c) *Measurement of distance requirement for residence.* For purposes of measuring separation of a residence from a school, day care center, park or playground, all distances shall be measured from the outermost property line of the parcel upon which the residence is located running in a direct line to the outermost property line of the school, day care center, park or playground. For example, if the residence were located in a generally southwesterly direction from a park, then the measurement would be from the northeast corner of the residential parcel to the southwest corner of the park. For all other purposes, measurements shall run from the outermost property line of the school, day care center, park or playground.
- (d) *Measurement of distance requirement for sexual offender or sexual predator.* For purposes of measuring separation of a person designated as a sexual offender or sexual predator from a school, day care center, park or playground, all distances shall be measured from the closest observed location of the sexual offender or sexual predator to the outermost property line of the school, day care center, park or playground using a direct line measurement.
- (e) *Required declaration of status as a sexual offender or sexual predator.*
- (1) During times of impending natural disasters or acts of terrorism, sexual offenders and sexual predators shall immediately identify themselves as a sexual offender or sexual predator, as the case may be, to the official in charge of any public shelter where they seek refuge. Sexual offenders or sexual predators will not be permitted to remain at general shelters not designated to house them. Sexual offenders and sexual predators will only be permitted housing at shelters specifically approved to house sexual offenders and sexual predators.
 - (2) A sexual offender or sexual predator attending any school or transporting children they have legal custody of to a school or day care center must declare his or her status as a sexual offender or sexual predator to the school or day care center principal or designee prior to entering the school or day care center property, and must also either schedule with the principal a set time period to enter upon the property or immediately notify the principal or designee upon entering school grounds or day care center property.
 - (3) All sexual offenders and sexual predators registered in the county shall carry their state

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driver's license or state identification card on their person at all times.

- (f) *Prohibition on rentals and leaseholds.* It is unlawful for a property owner to knowingly let or rent any place, structure, or part thereof, to a sexual offender or sexual predator, with the knowledge that it will be used as a permanent or temporary residence, if such place, structure, or part thereof, is located within 1,000 feet of any school, day care center, park or playground. In any prosecution for a violation of this section there shall be the following rebuttable presumptions:
- (1) That the property owner had knowledge that the person letting or renting the premises was a sexual offender or sexual predator, upon proof that the person was registered as same, either in the statewide or local registry; and
 - (2) That the place, structure or part thereof would be used as a permanent or temporary residence, upon proof that the property is located within a residential zoning classification.
- (g) *Unlawful residency.* It is unlawful for a sexual offender or sexual predator to establish residency, whether through ownership, rental or lease after the effective date of this article, if such place, structure, or part thereof, is located within 1,000 feet of any school, day care center, park or playground.

(Ord. No. 2006-31, § 3, 5-16-06)

Sec. 74-103. - Penalties.

Any person or entity that violates any provision of this article shall be subject to any and all remedies available at law, including but not limited to, the code enforcement provisions of F.S. ch. 162.

Any person violating any of the provisions of section 74-102 shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction, shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail, not to exceed 60 days or by both such fine and imprisonment, or if the offender is supervised by the department of corrections under conditional release, the offender may be charged with a violation of his or her supervision and be returned to state custody.

(Ord. No. 2006-31, § 4, 5-16-06)

Sec. 74-104. - Countywide application.

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This article shall apply in both the incorporated and unincorporated areas of the county; provided that any provision of this article in conflict with a municipal ordinance shall not be effective within that municipality to the extent of such conflict.

(Ord. No. 2006-31, § 5, 5-16-06)

Sec. 74-105. - Enforcement.

The county sheriffs office and all municipal police departments within may enforce the provisions of this article within their respective jurisdictions.

(Ord. No. 2006-31, § 6, 5-16-06)

Secs. 74-106—74-115. - Reserved.

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SUBJECT: Code Review Task Force Report

Staff Report – Town of Indialantic

Meeting Date: November 9, 2016

Summary:

Council is being requested to accept the report of the Code Review Task Force. Should Council accept the report, staff will pursue the recommendations of the Task Force for future Council consideration.

The charge for the Task Force was to review the existing Town Code, particularly provisions other than those recently addressed, and provide any recommendations for updates.

Recommendation:

Accept the report of the Code Review Task Force.

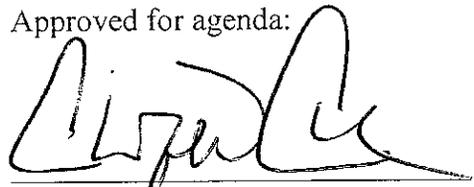
MOTION: Accept the report of the Code Review Task Force.

Submitted by:

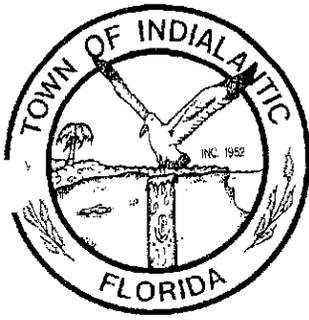


Joan Clark
Town Clerk

Approved for agenda:



Christopher W. Chinault
Town Manager



TOWN OF INDIALANTIC
216 Fifth Avenue, Indialantic, Florida 32903
321-723-2242 Fax 321-984-3867

MAYOR
David Berkman
DEPUTY MAYOR
Stuart Glass
COUNCIL MEMBERS
Dick Dunn
Randall Greer
Jill Hoffman
Christopher W. Chinault, Town Manager
Joan Clark, MMC, Town Clerk

CODE REVIEW TASK FORCE REPORT

The Indialantic Town Council, on October 7, 2015, created the Code Review Task Force to review the existing Town Code, particularly provisions other than those recently addressed, and provide any recommendations for updates. The following individuals were appointed: Vincent Benevente, Ann Bernick, Bruce Bogert, Jayne Jones, Tom Kleving, and Djon Pepaj. Ms. Jones resigned from the task force on March 15, 2016 due to a change in her work hours.

The members agreed to meet monthly on the third Monday of each month at 3:45 p.m., to select Bruce Bogert to chair the task force, and to select Vince Benevente to serve as vice-chair. The members reviewed how government in the sunshine governs the task force members.

The following Chapters were reviewed by the task force: 1, 2, 3, 4, 5, 5.5, 8, 10, 12, 13, 14, 15, 16, and 17. The following Chapters were not reviewed for reasons as noted: 6—which addresses building and construction was recently updated by Council; 6.5—which addresses floodplain management was recently updated by Council to meet Federal requirements; 7—which addresses fire protection and inspection was recently updated by Council; 9—which addresses business tax receipts was recently updated by Council; 11—which addresses meeting planning requirements and was recently updated by Council upon recommendation of the Town's planner; 16.5—which addresses water management and was recently updated by Council upon recommendation of the Town's engineer; 17—which addresses land use was reviewed in large part by the task force; however, the provisions addressing signs was not reviewed because Council has contracted with the Town Attorney to address any changes necessary to be consistent with the most recent Supreme Court decision; 18—which addresses environmental protection was reviewed by the Town's engineer and Council; and 19—which addresses cable television and was removed from the code by Council to be consistent with Florida Statutes.

The task force provides the following recommendations:

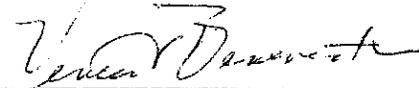
1. To have staff review the particular language of Code Section 17-4 (11) which reflects the definition of "club vendor" and determine if it should include any reference to bottle clubs and if bottle clubs should be a prohibited use in the commercial districts.
2. To have staff research how other jurisdictions are regulating portable on demand (POD) storage units as they relate to interest seasonally for delivery businesses and determine if section 17-116 should be modified.

Page two
Code Review Task Force Report

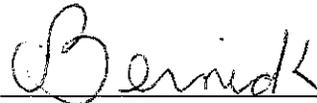
3. To update the list of permitted uses in the commercial districts which currently identifies ten cent stores to include language that references allowing dollar stores.
4. To amend section 8-12 to require residential trash, recycling, and yard waste receptacles provided by the collector to be placed behind the front structure line in zoning districts R-1-A and R-1-B except when placed at curbside in accordance with section 8-12.
5. Section 15-18.1 (j) 2 (E) (ii) should have the amount increased from \$0.75 to \$1.00—for parking meter agreements for the area of Wavcrest Avenue across from Bizzarro's.
6. Repeal sections 10-1, 10-3, 10-4, 10-6, 10-9, 10-10, 10-15, 10-18, 10-19, 10-20, and 10-24 through 10-28 which are addressed by State law.
7. Address the inconsistency between sections 10-5 (curfew) and 10-67 (rave clubs) as it relates to time (i.e. 12:00 p.m. vs. 12:01 p.m.).
8. Repeal sections 12-4 (police no longer authorized to accept cash bonds), and 12-32 through 12-41 (i.e. Article III)—this Article currently allows having an Auxiliary Police Force.
9. Repeal sections 15-45 through 15-49 (alcohol consumption regulations are covered by State law).
10. Include language in the Code enabling a construction fence be allowed once a permit has been issued for construction of a principal structure provided that it does not exceed six feet in height, is not placed in the street (i.e. town right-of-way), and not obstruct motorist or bicyclist visibility. The fence would be comprised of chain link and could have a cover to lessen the movement, by the wind, of dirt from the site.
11. Modify section 16.5 to prohibit the planting of invasive vegetation in town parks or street rights-of-way.
12. Code Section 3-2 should be amended to bring consistency to the hours that alcohol can be served/sold with the hours being the same for every day of the week—i.e. 8:00 a.m. to 2:00 a.m. the following day. Currently, the hours are different for Sunday sales/service. Brevard County, Cape Canaveral, Melbourne, and West Melbourne operate with consistent hours.

The Code Review Task Force does this 17th day of October, 2016 adopt this report to be presented to the Indianalantic Town Council.

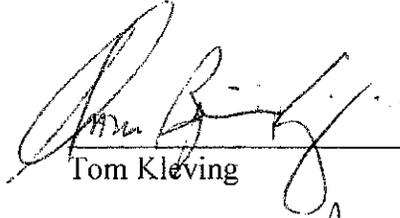
Bruce Bogert, Chair



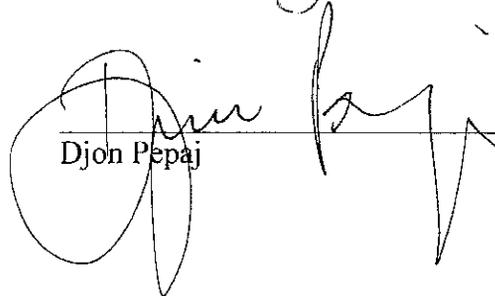
Vincent Benevente, Vice-Chair



Ann Bernick



Tom Kleving



Djon Pepaj

SUBJECT: Town Manager Employment Agreement

Staff Report – Town of Indialantic

Meeting Date: November 9, 2016

Summary:

Council is being requested to approve Amendment #22 to the Town Manager's Employment Agreement. This Amendment increases the incumbent's annual salary by 2% from \$98,266 to \$100,231.

The incumbent's annual salary was \$98,266 until October, 2010, when it was effectively reduced, at the incumbent Town Manager's request, to \$95,318. Council restored the salary to \$98,266 in April, 2014.

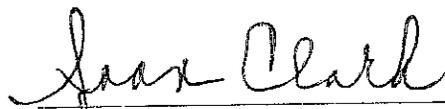
Merit pay increases of up to 3% have been provided to other employees in FY-11, FY-14, FY-15, and FY-16, but not to the Town Manager. A cost-of-living adjustment of 1.03% was provided in FY15 to employees other than the Town Manager.

Recommendation:

Approve Amendment #22 to the Town Manager's Employment Agreement, which provides a 2% annual salary increase.

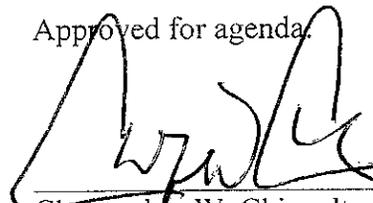
MOTION: Approve Amendment #22 to the Town Manager's Employment Agreement, which provides a 2% annual salary increase.

Submitted by:



Joan Clark
Town Clerk

Approved for agenda:



Christopher W. Chinault
Town Manager

AMENDMENT #22 TO EMPLOYMENT AGREEMENT

Amendment #22 is made and entered into this ____ day of _____, 2016, between the Town of Indialantic, Florida and Christopher W. Chinault. This document, effective upon Council approval, constitutes a modification to the Employment Agreement dated March 27, 2000, as amended.

1. Section 3, (a) is hereby amended such that the following sentence is removed.

Salary. The Town agrees to pay the Manager an annual base salary of \$98,266 as established by the Town Council, payable in partial, equal installments at the same time as other employees of the Town are paid (i.e.—once every two week pay period, approximately 1/26th of the yearly salary amount shall be paid).

And the following sentence shall be substituted in its place.

Salary. The Town agrees to pay the Manager an annual base salary of \$100,231 as established by the Town Council, payable in partial, equal installments at the same time as other employees of the Town are paid (i.e.—once every two week pay period, approximately 1/26th of the yearly salary amount shall be paid).

IN WITNESS WHEREOF, the Town of Indialantic has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its Clerk, and the Manager has signed and executed this Agreement, both in duplicate, the day and year above written.

MANAGER:

TOWN:

TOWN OF INDIALANTIC, FLORIDA

Christopher W. Chinault

By: _____
David Berkman, its Mayor

(TOWN SEAL)

ATTEST: _____
Joan Clark, Town Clerk

Brevard County Municipal Manager Salary Survey

City/Town	Manager's Salary	Population	Misc.
Cape Canaveral	\$144,373	10,084	
Cocoa	\$154,443.74	18,313	Effective October 1
Cocoa Beach	\$135,000	11,182	
Grant-Valkaria	\$95,900	3,949	
Indialantic	\$98,266	2,787	
Indian Harbour Beach	\$122,001.96	8,386	
Malabar	\$55,000 (no benefits)	2,796	Former manager received \$72,000 w/benefits
Melbourne	\$177,686.86	79,600	
Melbourne Beach	\$93,600	3,078	
Palm Bay	\$136,073	107,481	w/annual increases as provided to Group 1 General Employees
Rockledge	\$147,465 current \$115,000 to \$140,000 being negotiated	26,165	
Satellite Beach	\$122,500	10,403	
Titusville	\$142,813	45,325	
West Melbourne	\$127,712	20,250	

SUBJECT: Green Effort Task Force

Staff Report – Town of Indian River

Meeting Date: November 9, 2016

Summary:

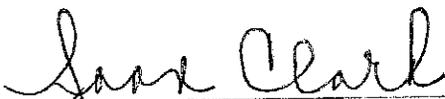
The Mayor is requesting that Council consider creating a task force to explore ways that the Town might be more green. The task could involve methods and efforts to improve the water quality of the Indian River Lagoon, addressing stormwater, and eliminating invasive plants. It may consider public facilities and a public awareness component.

Recommendation:

Consider creating a task force to explore ways that the Town might be more green.

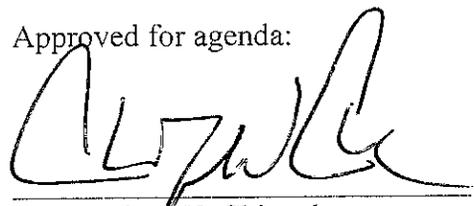
MOTION:

Submitted by:



Joan Clark
Town Clerk

Approved for agenda:



Christopher W. Chinault
Town Manager

1. Intergovernmental Activity:

- a. **NPDES:** The permit application for the upcoming five-year period has been submitted to the Florida Department of Environmental Protection. (07/17/12) Approval for the period 01/01/13 to 12/31/17 was issued. (11/20/15)
- b. **SR-A1A Resurfacing:** FDOT plans in FY-16 to resurface SR-A1A from US-192/SR-500 to south of the Pineda Causeway. (08/21/12) FDOT has agreed to also resurface those portions of the SR-A1A right-of-way that taper into the side streets. The finished product will consist of a 10 ½' inside travel lane on SR-A1A, an 11' outside lane, and a 4' bicycle lane. (02/19/13) Plans will be reviewed by FDOT by November, 2015. (08/12/15) Contract let July 20, 2016, pre-construction meeting on 8/10/16. (08/10/16) The project start date is 8/22/16 with milling and resurfacing starting after Labor Day beginning at 4th Avenue. The completion date is August, 2018. (09/07/16)
- c. **Water Franchise Agreement:** The current Water Franchise Agreement between the Town of Indialantic and the City of Melbourne expires in mid-2017. To avoid any last minute issues the City has been requested to review the document and forward a draft to the Town with changes that are needed. (05/20/14) The Town has engaged Anthony Garganese. (06/11/14)
- d. **SR-A1A Pedestrian Crossing at Watson Drive:** Council's request was submitted to FDOT. (02/11/15) FDOT to respond by April 3. (03/11/15) Council to receive FDOT response on 8/12/15. (08/12/15) The Engineer was consulted and Council will consider the proposal on 9/9/15. (09/09/15) FDOT was advised to proceed with plans to install the raised concrete median and crosswalk immediately north of Watson Drive. (10/07/15) FDOT has indicated that the SR-A1A resurfacing project has proceeded beyond where this project can be considered until after the resurfacing project advances. The crossing will be folded into a multimodal project. (12/09/15)
- e. **SR-A1A Pedestrian Crossing at Tampa Avenue:** FDOT is in receipt of the petition that was provided to Council requesting a pedestrian activated crossing light on SR-A1A at Tampa Avenue and expect to comment by October 1, 2016. (08/10/16) Informal information reflects a painted crossing is being proposed to FDOT with pedestrian activated signals approximately 50 feet south of Tampa Avenue. (11/09/16)
- f. **Tsunami Ready:** Chief Flamm reports that the County Emergency Management office is working with the County Tourism Development Office regarding implementation of consistent signage toward making the beachside tsunami ready. (09/16/14)
- g. **S. Riverside Drive:** Melbourne Water is proposing to replace the twelve inch water main along S. Riverside Drive from US-192/SR-500 to the Indialantic/Melbourne Beach town limits in FY-18 with Brevard County proposing to grout the abandoned sewer force main in FY-17. (06/08/16)

2. **Fiscal Activity:**

- a. **FDOH Grant:** Application submitted for 75/25 grant for replacement defibrillator. (03/09/16) Application not approved. (07/13/16)
- b. **FEMA Firefighter Assistance Grant:** An application was submitted for \$82,454 Federal monies with a \$4,340 local match to enable the fire department to meet P-25 radio requirements. (01/07/15). Application denied and re-submitted. (01/13/16)
- c. **Wavcrest Avenue Sidewalk Extension:** The County has authorized the expenditure of \$39,500 of TIFT monies to extend the sidewalk from dune crossover #16 (aka Fourteenth Avenue) to SR-A1A. An FDEP Field Permit has been secured. (07/08/15) Based on some local resident concerns the project has been abandoned. (09/09/15)
- d. **FDEO grant:** The state approved a \$15,000 FDEO Technical Assistance grant for a master sidewalk plan. (07/13/16)
- e. **Lily Drainage Project:** A grant application has been submitted to FDEP to advance this project. (11/12/15) Application has been approved. (02/10/16) Agreement with FDEP is being prepared. (03/09/16) Agreement will go to Council for approval. (09/07/16) Agreement was approved. Bids are due 11/10/16. (10/12/16)
- f. **FRDAP application to FDEP:** An application for \$50,000 was submitted for improvements to Sunrise Park. (11/09/16)

3. **Organizational Activity:**

- a. **Storm drainpipe failure:** The storm drainpipe under S. Ramona Avenue at 10th Avenue failed and was replaced at a cost of \$28,077. (06/10/15)
- b. **Drainage:** The use of drainage retention areas is being explored as an alternative to placing street drainage into the Indian River. (09/09/15)
- c. **Swale:** Staff is exploring replacing 2 parking spaces at the south end of the N. Riverside Place parking area with a dra to capture and disburse the street and parking space drainage. (01/13/16) The 20' x 20' dra has been installed. (04/13/16)
- d. **Swale:** Public Works has installed two swales along the south side of the 100 block of Fourteenth Avenue. (06/08/16)
- e. **Swale:** Public Works installed a swale along the south side of 2nd Avenue west of N. Riverside Drive. (08/10/16)
- f. **Swale:** Public Works installed a swale along N. Riverside Place across from Ernest Kouwen-Hoven Riverside Park. (08/10/16)
- g. **Swale:** Public Works installed a swale along the south side of Cocoa Avenue west of SR-A1A. (09/07/16)
- h. **Storm drainpipe:** The pipe under Tenth Terrace immediately east of S. Ramona Avenue has been replaced at a cost of \$34,856. (02/10/16)
- i. **Storm drainpipe:** The pipe under Cocoa Avenue immediately west of S. Palm Avenue is being replaced. (04/13/16) Completed. (05/16/16)

- j. **Storm drainpipe failure:** The storm drain pipe under along the south side of Orlando Boulevard, east of S. Riverside Drive, failed and a section was replaced for \$11,237. (05/16/16)
- k. **Tradewinds Terrace:** Numerous attempts have been made to clear the pipe from the southernmost throats; however, these efforts have met with limited success. The water backs up and clears over time after a heavy rain event. The engineer has prepared a by-pass installation costing about \$101,000. (11/09/16)
- l. **Scaevola:** Scaevola Taccada plants have been removed from a small area north of dune crossover #3 by a volunteer. Additional work of this nature is expected to progress. (11/12/15) Scaevola has been removed from the boardwalk area north of Access #8. (03/09/16) Beach elder and railroad vine have been planted north of Access #8. (04/13/16) Beach elder, railroad vine and beach daisy have been planted at Access #6. (06/08/16)
- m. **Code Review Task Force:** A meeting is being scheduled for mid January consistent with the meeting days/times as expressed by the newly appointed members. (12/09/15) The task force members have agreed to meet the 3rd Monday of each month at 3:45 p.m. (02/10/16) Final meeting held on October 17, 2016. (11/09/16)
- n. **Traffic Calming:** The Town's consulting engineer is preparing possible traffic calming options with any associated cost in response to speeding concerns along Third Avenue. (06/08/16) Information will be presented to Council on July 13, 2016. (07/13/16) A contractor has scheduled for the week of August 8, 2016 the installation of a speed hump between 120 and 123 Second Avenue, between 124 and 121-B Third Avenue, and between 430 and 431 Third Avenue. (08/10/16) Speed humps were installed; however, there is some concern about the height of 2 humps being 2.5" rather than the 3.0". (09/07/16) Town's engineer directed the contractor to remove the humps and restore the pavement. (11/09/16)
- o. **Boardwalk:** The top boards are being replaced between the emergency vehicle ramp and the restrooms. (08/10/16)
- p. **Personnel:** Troy Morris has noted that he will retire as Police Chief. His last day will be 10/11/16. Michael Casey will serve as the Acting Police Chief during the search for a new Police Chief. (10/12/16)
- q. **Hurricane Matthew Damage:** Roof damage to the Town Hall, Fire House, PW garage, Riverside Park observation deck roof, and the Nance Park medium pavilion is being coordinated with the Town's insurance carrier. Damage to the Douglas Park seawall and rock revetments at Riverside and Sunset parks is being addressed with FEMA. (11/9/16)
- r. **Nance Park:** A purchase order was issued to eliminate the extensive use of extension cords for providing power to the annual Holiday tree and arch by adding electrical outlets. (11/9/16)

TOWN OF INDIALANTIC
CLERK'S REPORT
 October 2016

I. NUMBER OF REGISTERED VOTERS 2,331

II. BUSINESS TAX RECEIPTS ISSUED FY16-17 74

New Business (NB)	01
Renewal (R)	72
Transfer of Ownership (TO)	00
Change of Location (CL)	00
Name Change (NC)	00
License in Existing Business (EB)	00
Home Office (HO)	01

<u>Name of Business</u>	<u>Address</u>	<u>Owner</u>	<u>Issued</u>	<u>License</u>	<u>Comment</u>
Be Well With Noelle	201 Sixth Avenue	Noelle Ann Cohen	10/26/16	16565	NB=dietitian & nutritionist
On-Line Video Design, Inc.	1411 South Riverside Drive	Cheryl Coleman	10/14/16	16555	HO=home office

III. MEETINGS HELD

Administration furnished support services for the following meetings:
 South Beach Coalition – October 10
 Town Council – October 12
 Code Review Task Force – October 17
 Heritage Committee – October 18
 Town Council – October 25
 Parks, Recreation and Beautification Committee – October 24

IV. MISCELLANEOUS

Nance Park Rental – October 22
 Ninth Annual WW5K – October 22
 Twenty-First Annual Halloween Party meeting – October 03, 10, 14, 17, 21, 24
 Twenty-First Annual Halloween Party – October 29

Indialantic Police Department

Monthly Activity Report

September 2016

OPERATIONS:

* The Department Responded to 609 Incidents.

* 43 Subpoenas were issued.

* Activity	44	Arrests
		14 Felony
		16 Misdemeanor
		14 Traffic
		2 DUI & 15 Drug
	139	Traffic Citations
	230	Traffic Stops
	105	Verbal Warnings
	4	Capias Filed

TRAINING:

Connor: General Instructor Refresher Course
Department-wide Ballistic Shield, Phazzer, Evidence training

Indialantic Police Department
 Monthly Crime Index
 September 2016

Part I	Reported	Cleared	Prior	Total	%
Murder	0				0%
Sexual Battery	0				0%
Robbery	1	1			100%
Agg Assault	0				0%
Burglary	2	0			0%
Larceny	4	1		1	25%
Veh Theft	0				0%
Assault/Battery	3	3		3	100%
Arson	0				0%
Total Part I	10				
Part II					
Kidnapping	0				
Fraud/Forgery	0				
Embezzlement	0				
Posses StIn Prop	0				
Criminal Mischief	0				
Weapons	0				
Sex Offenses	0				
Narcotics	1				
DUI	0				
Liquor Laws	0				
Disorderly	0				
Ordinance	11				
Other Viol	0				
Other Traffic	1				
Prostitution	0				
Total Part II	13				
Part III & IV					
Patrol Area	208				
911 Investigations	103				
Citizen Contact	3				
Juvenile	0				
Warrant	0				
Misc Traffic	48				
Traffic Accidents	17				
Sick/Injured	0				
Death	0				
Mentally Ill	1				
Suicide/Attempt	1				
Animal	2				
Information	15				
Alarm/Open Door	19				
Fire	2				
Lost/Found	7				
Disturbances	14				
Susp Incidents	83				
Assists	55				
Details	8				
Missing Persons	0				
Total III & IV	586				
Grand Total	609				

Indianlantic Police Department
YTD Information Report
September 2016

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Value Stolen	\$ 20	\$ 9,611	\$ 1,326	\$ 10,798	\$ 489	\$ 18,908	\$ 5,400	\$ 1,067	\$ 13,184				\$ 60,803
Value Recovered	\$ 150	\$ -	\$ 4,471	\$ 2,082	\$ 489	\$ 25	\$ 1,750	\$ 312	\$ 4,840				\$ 14,119
Traffic Warnings	2	4	13	1	6	1	1	1	2				31
Equip Warnings	2	2	1	7	3	1	0	3	0				19
Verbal Warnings	136	114	55	87	125	88	103	125	105				938
Field Interrogation	0	0	0	0	0	0	0	0	0				0
Parking Violations	3	3	5	14	14	13	45	33	5				135
Parking Fines	\$ 72	\$ 60	\$ 100	\$ 292	\$ 285	\$ 340	\$ 900	\$ 660	\$ 100				\$ 2,809
Traffic Citations	120	152	129	145	180	170	125	154	139				1314
Arrests	23	24	24	22	24	28	31	38	44				258
DUI Charges	0	1	1	2	3	2	2	1	2				14
Drug Charges	5	8	2	1	3	3	1	17	15				55
Wavecrest Activity	64	40	47	50	40	48	39	41	21				390

Indialantic Fire Rescue Monthly Report for October 2016

FIRES		
Structure Fires		2
Brush Fires		2
Vehicle Fires		
Trash Fires		
Other Fire Calls		
RESCUE & EMERGENCY MEDICAL		
Medical		16
Motor Vehicle/Pedestrian Accident with injuries		2
Motor Vehicle with no injuries		
Water Rescue		1
HAZARDOUS CONDITIONS (No Fire)		
Electrical Wiring/Equipment Problem		10
SERVICE CALL		
Public Service Calls		6
Assist Police or Other Government Agency		3
GOOD INTENT CALL		
Well Being Check		2
Dispatched and Cancelled Enroute		2
Dispatched and Cancelled on Scene		1
FALSE ALARM & FALSE CALLS		
False Alarm or False Call		3
Smoke Detector activation due to smoke or dust		1
SPECIAL INCIDENT TYPE		
Special Type of Incident		3
Fire Inspection/Business Tax Receipt (BTR)		3
Re-Inspection Fire/BTR		
Hydrant Inspections		
TOTAL CALLS		57
RUNNING TOTAL OF PREVIOUS MONTHS		736
TOTAL CALLS YEAR TO DATE		793
MUTUAL AIDE	GIVEN	4
	RECEIVED	1
AVERAGE RESPONSE TIME		
	INDIALANTIC FIRE	2.7
	BREVARD COUNTY	10.8
VOLUNTEER HOURS		263
	SAVINGS REALIZED BY THE TOWN	\$5,260
BURN PERMITS ISSUED FOR THE MONTH		NA
	Total Number of Burn Permits Issued Nov. 1st - Feb. 29th	49
VOLUNTEER F/F ACTIVITY	Monthly Business meeting was conducted on 10/12/16 and weekly training on 10/18/16 & 10/25/16. Training included emergency medical care, hose loads & tools and equipment . The Volunteers assisted at the Witch Way 5K race on 10/22/16 and popped/served popcorn to the citizens attending the Halloween Festival.	
CAREER F/F ACTIVITY	All hands were on deck in preparation for and response to Hurricane Matthew. The on-duty crews logged 163 hours of training during the month. Crews continue to conduct annual fire safety inspections and re-inspections on commercial and multi-family properties throughout the Town. Removed washed up debris, plastic containers of wine and other items that washed up onto the beach.	

TOWN OF INDIALANTIC BUILDING REPORT

October-16

	<u>CURRENT</u>	<u>YTD 17</u>	<u>YTD 16</u>
NO. OF PERMITS ISSUED	28	28	36
TOTAL PERMIT FEES	\$2,900.00	\$2,900.00	\$4,466.00
TOTAL CONSTRUCTION VALUE	\$255,847.00	\$255,847.00	\$454,596.00
PLAN REVIEW FEES	\$0.00	\$0.00	\$332.50
TOTAL SIGN FEES	\$90.00	\$90.00	\$75.00
NO. OF SIGN PERMITS ISSUED	2	2	1
NEW CONVENTIONAL HOMES	0	0	0
NEW MULTI FAMILY HOMES	0	0	0
NEW COMMERCIAL BUILDINGS	0	0	0
MISC. ADDITIONS/ALTERATIONS	2	2	2
CERTIFICATE OF OCCUPANCY	0	0	0
BUILDING CODE INSPECTIONS	36	36	75

Building Department Permits Issued

PermitNo	CompanyName	OwnerName/Address	Construction Value	Permit Fee	Plan Surcharge Fee
IND16_342		10/28/2016 NEW ATTACHED AND DETACHED SIGNS			
IND16_348		10/5/2016 ATTACHED SIGN FOR COASTAL BLOOM			
IND16_373		10/5/2016 HVAC			
IND16_376		10/3/2016 REPLACE WINDOWS (IMPACT) UNIT N			
IND16_377		10/3/2016 REPLACE DOORS WITH IMPACT UNIT			
IND16_380		10/5/2016 HVAC			
IND16_383		10/5/2016 REPLACE ENTRY DOOR			
IND16_403		10/3/2016 NEW POOL TAX ACCOUNT NO. 273144			
IND16_405		10/3/2016 HVAC			
IND16_408		10/3/2016 LEVEL I ALTERATION TO SFR			
IND16_409		10/14/2016 RE ROOF			
IND16_411		10/14/2016 RE ROOF			
IND17_001		10/5/2016 HVAC			
IND17_003		10/28/2016 LEVEL II ALTERATION TO SFR			
IND17_004		10/14/2016 RE-ROOF			
IND17_007		10/19/2016 HVAC			
IND17_008		10/26/2016 RE ROOF			
IND17_009		10/14/2016 REPLACE 5 WINDOWS (EXISTING SHUT			
IND17_010		10/20/2016 NEW POOL			
IND17_011		10/26/2016 POOL RESURFACE			
IND17_012		10/26/2016 REPAIR WEATHERHEAD			
IND17_013		10/28/2016 HVAC			
IND17_015		10/26/2016 HVAC			
IND17_018		10/26/2016 REPLACE 3 WINDOWS (LESS THAN 25%			
IND17_019		10/26/2016 RE ROOF			
IND17_020		10/28/2016 RE ROOF			
IND17_021		10/26/2016 FENCE-HURRICANE DAMAGE- NO FEE			
IND17_026		10/28/2016 CHANGEOUT SERVICE PANEL (FPE)			
Permits:	28				
Grand Total			\$255,847.00	\$2,900.00	\$120.95

Inspection Result Date Summary 10/01/2016 through 10/31/20

<i>InspResult</i>	<i>Total Inspections</i>
Approved	34
Approved With Conditions	1
Disapproved	1
<i>All Results:</i>	36

Code Enforcement Violations – October 2016

Number:	Direction	Street:	Type:	Date:	Code:	Description:	Status:
111		Thirteenth	Avenue	12/30/14	13-9	Building Numbering	Under Construction
404	South	Miramar	Avenue	12/02/15	17-124	Vacation rentals prohibited in R-3	In Process
210		Sixth	Avenue	04/28/16	9-6	\$62.50 BTR Delinquent FY 15-16	Outstanding
305	South	Ramona	Avenue	06/24/16	17-121	Single Family Residence Districts	In process
164		Deland	Avenue	07/21/16	5.5-68(d)	Natural growth	Outstanding
225		Fifth	Avenue	07/29/16	8-12.1	Dumpsters	Outstanding
1411	South	Riverside	Drive	08/16/16	5.5-68(a)	Landscaping	Outstanding
1411	South	Riverside	Drive	08/16/16	13-2	Damaging, removing materials from	Outstanding
904		Wavcrest	Avenue	08/26/16	6-220	Unsafe building	In process
116		Ninth	Avenue	08/30/16	5.5-68(b)	Landscaping	Outstanding
200	South	Palm	Avenue	09/02/16	13-7	Encroachments preventing traffic	Outstanding
303		Sixth	Avenue	09/02/16	13-7	Encroachments preventing traffic	Outstanding
110&112		Third	Avenue	09/08/16	9-1	Business Tax Receipt	Outstanding
115&117		Second	Avenue	09/08/16	9-1	Business Tax Receipt	Outstanding
427		Melbourne	Avenue	09/12/16	8-21	Construction debris on street	Complied
300	North	Shannon	Avenue	09/28/16	17-103	Camper/RV in front	Complied
301		Tenth	Terrace	09/28/16	17-103	Camper/RV in front	Complied
309	South	Shannon	Avenue	09/28/16	17-103	Boat on trailer	Outstanding
964	South	Shannon	Avenue	09/28/16	5.5-68	Landscaping	Complied
427		Melbourne	Avenue	09/12 & 9/30/16	8-21	Construction debris on street	Complied
103		Eighth	Avenue	10/04/16	17-106(5)(a)	Sign permit not obtained	Complied
107		Tradewinds	Terrace	10/04/16	17-116	Temporary portable storage unit	Complied
150		Deland	Avenue	10/04/16	18-18	Management of vegetative matter	Complied
331		Orlando	Blvd.	10/04/16	8-21	Construction debris on street	Complied
339		Cocoa	Avenue	10/04/16	18-18	Management of vegetative matter	Complied
1601	South	Shannon	Avenue	10/04/16	17-116	Temporary portable storage unit	Complied
309	South	Riverside	Drive	9/28 & 10/04/16	17-103(b)(3)(b)	Camper/RV in front	Complied
102		Ormond	Drive	10/05/16	18-18	Management of vegetative matter	Complied
		Melbourne Causeway Median		10/05/16	17-106.2(2)(a)	Sign not permitted	Removed
1304	South	Miramar	Avenue	10/10/16	BC-CoO 14-59	Animals on private property	
		Watson & N. Palm	Avenue	10/10/16	17-106.2(2)(a)	Sign not permitted	Removed
		Second Avenue & North Riverside Drive		10/18/16	17-106.2(2)(a)	Sign not permitted	Removed
		Fifth Avenue & North Riverside Place		10/18/16	17-106.2(2)(a)	Sign not permitted	Removed
		Fourth Avenue & North Riverside Drive		10/18/16	17-106.2(2)(a)	Sign not permitted	Removed
		Sixth Avenue ROW		10/19/16	17-106.2(2)(a)	Sign not permitted	Removed

		Melbourne Causeway		10/20/16	17-106.2(2)(a)	Sign not permitted	Removed
		Melbourne Causeway		10/20/16	17-106.2(2)(a)	Sign not permitted	Removed
		Melbourne Causeway		10/20/16	17-106.2(2)(a)	Sign not permitted	Removed
		Melbourne Causeway		10/20/16	17-106.2(2)(a)	Sign not permitted	Removed
427		Melbourne	Avenue	10/21/16	17-103(b)(3)(b)	Cargo trailer in front	Complied
228		Melbourne	Blvd.	10/21/16	17-103(b)(3)(b)	Boat on trailer in front	Complied
501		Fifth	Avenue	10/24/16	17-106.2(2)(a)	Sign not permitted	Removed
1101	South	Miramar	Avenue	10/24/16	17-106.2(2)(a)	Sign not permitted	Removed
		Melbourne Avenue & South Riverside Drive		10/24/16	17-106.2(2)(a)	Sign not permitted	Removed
		Eighth Avenue & South Riverside Drive		10/24/16	17-106.2(2)(a)	Sign not permitted	Removed
		Orlando Boulevard & South Ramona Ave.		10/24/16	17-106.2(2)(a)	Sign not permitted	Removed
		Fifth Avenue & South Ramona Avenue		10/24/16	17-106.2(2)(a)	Sign not permitted	Removed
		Thirteenth Avenue & South Miramar Ave.		10/25/16	17-106.2(2)(a)	Sign not permitted	Removed
707	North	Palm	Avenue	10/25/16	17-103(b)(3)(b)	Jet skis on trailer in front	Complied
		Melbourne Causeway		10/26/16	17-106.2(2)(a)	Sign no permitted	Removed