



Indian River County Florida

Meeting Minutes 4

Board of County Commissioners

Indian River County
Administration Complex
1801 27th Street, Building
A
Vero Beach, Florida,
32960-3388
www.ircgov.com

Peter O'Bryan, Chairman, District 4
Joseph H. Earman, Vice Chairman, District 3
Susan Adams, District 1
Joseph Flescher, District 2
Laura Moss, District 5

Jason E. Brown, County Administrator
Dylan Reingold, County Attorney
Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller

Tuesday, March 8, 2022

9:00 AM

Commission Chambers

1. CALL TO ORDER

Present: 5 - Chairman Peter O'Bryan
Vice Chairman Joe Earman
Commissioner Susan Adams
Commissioner Joseph Flescher
Commissioner Laura Moss

2.A. A MOMENT OF SILENT REFLECTION FOR FIRST RESPONDERS AND MEMBERS OF THE ARMED FORCES

2.B. INVOCATION

Wesley Davis, IRC Property Appraiser

3. PLEDGE OF ALLEGIANCE

Commissioner Laura Moss

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Added: Item 5.B. STEAM Fest

Added: Item 5.C Carolyn K. Eggert Economic Development Award

A motion was made by Commissioner Flescher, seconded by Commissioner Moss, to approve the Agenda as amended. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

5. PROCLAMATIONS and PRESENTATIONS

5.A. Presentation of Proclamation Celebrating the 50th Anniversary of the Older Americans Act Nutrition Program

Karen Deigl, CEO, Senior Resource Association (SRA), stated during the month of March the SRA joins thousands of Meals on Wheels programs across America, raising awareness about senior hunger and isolation. Ms. Deigl showed a video highlighting the Older Americans Act Nutrition Program.

Read and Presented by Commissioner Moss

5.B. STEAM Fest

Chairman O'Bryan announced STEAM Fest (Science, Technology, Engineering, Art and Math), sponsored by the Vero Beach Academy, would be held Saturday, March 12th at the Intergenerational Recreation Center.

Presented

5.C. Carolyn K Eggert Economic Development Award

Chairman O'Bryan applauded County Administrator Jason Brown for receiving the Carolyn K. Eggert Economic Development Award. County Administrator Brown spoke on the tremendous honor it was to receive the award for the Small Business Assistance Program with Cares Act dollars. He thanked the Board, staff, and partners at the Chamber of Commerce and Indian River State College for helping him achieve this award.

Presented

6. APPROVAL OF MINUTES

7. INFORMATION ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION

8. CONSENT AGENDA

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to approve the Consent Agenda as amended, pulling Items 8.D. and 8.F. for discussion. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

8.A. First Extensions and Amendments to Disaster Debris Management Services Agreements

Approved staff's recommendation

8.B. First Renewals to Agreements for Custodial Services at County-Owned Facilities

Approved staff's recommendation

- 8.C.** Authorizing Resolution to Delegate Signature Authority for Grant Applications to Various Agencies

Approved Resolution 2022-014, authorizing the Board to delegate specific signature authority for various agency grant applications to the Indian River County Public Works Director and Assistant Public Works Director.

- 8.D.** FDOT Small County Outreach Program (SCOP) Agreement and Resolution for Construction (Milling and Resurfacing) and Construction Engineering Inspection (CEI) Services of CR-603/Indian River Boulevard from Merrill Barber Bridge to 53rd Street

Chairman O'Bryan sought and received confirmation from Public Works Director Richard Szyrka on the correct grant amount for the Florida Department of Transportation (FDOT) Small County Outreach Program (SCOP) agreement. Director Szyrka explained the funding received was a reimbursement of up to \$3.4 million. He acknowledged the typing error in the document of \$1,123,302, which should have read \$3,369,906.

A motion was made by Commissioner Adams, seconded by Commissioner Flescher, to approve Resolution 2022-015, authorizing the Chairman's execution of Small County Outreach Program (SCOP) agreement with the Florida Department of Transportation for Construction (milling and resurfacing); and Construction Engineering Inspection (CEI) Services of CR-603/Indian River Boulevard from Merrill Barber Bridge to 53rd Street. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

- 8.E.** Appointments to the Economic Opportunities Council of Indian River County, Inc.

Approved staff's recommendation

- 8.F.** Award of Bid 2022031 for Utilities Water/Wastewater Fire System Improvements

Commissioner Adams welcomed Sean Lieske, the new Director of Utility Services.

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

- 8.G.** Change Order to All Webbs Enterprises, Inc., for the Well Field Feasibility Expansion Study

Approved staff's recommendation

- 8.H.** Authorizing the Purchase Order No. 92697-00, Increase for the Renovation of the Myrtha Skin Liner at the North County Aquatic Center by A and W Flooring Inc.
- Approved staff's recommendation**

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

10. PUBLIC ITEMS

A. PUBLIC HEARINGS

B. PUBLIC DISCUSSION ITEMS

C. PUBLIC NOTICE ITEMS

11. COUNTY ADMINISTRATOR MATTERS

11.A. Environmental Land Bond Referendum

County Administrator Jason Brown referred to his memorandum dated February 28, 2022, and gave a brief history of the process leading up to the Environmental Land Bond Referendum.

Commissioner Flescher made comments as to real estate prices being at their highest point in the history of the United States and doubted this was the time to be purchasing conservation land. He did not believe it was appropriate or fair to commit taxpayers for the next twenty years; he thought it would be more prudent to put tax dollars into services for the health, safety, and welfare of citizens of Indian River County and not for conservation land.

Vice Chairman Earman stated he did not want to miss the opportunity to purchase conservation land. He suggested the County would not have to spend the money right away, and the County would have twenty years to do so. He put forth some ideas on who would make up the working group.

Chairman O'Bryan sought and received confirmation from County Administrator Brown, the County would need to certify a plan to spend the tax-exempt municipal bond proceeds within three (3) years. The Board could potentially split the fifty million dollars (\$50,000,000) into two (2) issues. He offered an example of how that could be done. County Administrator Brown explained the projected millage for the entire fifty million dollars (\$50,000,000) was .175 mills. On a home with a \$250,000 taxable value, the annual tax impact would be forty-three dollars (\$43). Therefore, on a twenty-five million dollar (\$25,000,000) issue, it would be half that amount.

Commissioner Adams was of the opinion the focus should be on the goal of the bond, and what properties were going to help the County achieve that goal. She was supportive of a collaborative process between the stakeholders and the County, and felt the working group should not be comprised of official Commissioner appointees. She added, the County should not compete against other government or non-profits to preserve the same lands.

Commissioner Moss stated the referendum came not a moment too soon and referenced the Land Use Vision Study, which ranked preserving environmentally sensitive land as the highest priority. Commissioner Moss referred to an email from the current working group of Ken Grudens, David Cox, Dan Lamson, and George Glenn, dated March 5, 2022, of proposed changes to Section 13 of the Resolution, noting the language in the resolution did not match the referendum. Commissioner Moss put forth her ideas on who would make up the working group.

Commissioner Adams expanded on the downfalls of Commissioner appointed members for the working group. She added, the working group should have the knowledge and background to evaluate the property and would serve better when vetting and assessing properties.

Chairman O'Bryan recalled his meeting with Mr. Glenn on the proposed language change in Section 13 of the resolution. In the language, staff supported improvements, preservation, and restoration of the land. The word "Initial" was inserted to make clear there would not be ongoing maintenance, and he requested to strike out the following: "remediation and reclamation"; "or enhance"; and "restore such property to its natural state".

Chairman O'Bryan opened the discussion to the public.

Mr. Glenn spoke in support of the proposed language change to Section 13. He did state however, the working group did take issue with the language "Restoration of Natural Water Flows" as it was unknown what land might be purchased. He proposed adding the language "Removal of invasive exotic vegetation". He agreed with Chairman O'Bryan that the lands purchased would need improvements for the public to be able to access them, which could include boardwalks, trails, parking spaces, and restrooms.

Chairman O'Bryan received information from Assistant Director of Parks and Conservation Resources Beth Powell on what the County could do differently in future land purchases. Assistant Director Powell described in detail the fire maintenance required in pyrogenic communities, the current budget for mechanical work, and the cost of preserving large tracts of land. She added when looking at pristine lands or water quality sites, the County might be better served to consider the cost of restoration in the purchase price.

Additional comments were exchanged among the Board regarding the County's goal to conserve property, initial improvements, as well as maintenance of said property.

A motion was made by Commissioner Adams, seconded by Commissioner Moss, to approve Staff's recommendation as modified: 1) Approve Resolution 2022-016, calling a Bond Referendum Election for the issuance of general obligation bonds; providing the form of the ballot title and the Bond Referendum question; providing for places of voting, printing of ballots and Bond Referendum Election procedure; providing for effect of referendum results; providing for a general description of the projects to be funded by the bonds issued pursuant to the Bond Referendum; providing authorization for necessary action; providing for severability; and providing for an effective date; 2) the Chairman's proposed language changes to Section 13; 3) direct staff to update the Environmental Lands Program Guide; 4) direct staff to return with a proposal for a working group. The motion carried by the following vote:

Aye: 4 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, and Commissioner Moss

Nay: 1 - Commissioner Flescher

The Chairman called a recess at 10:40 a.m., and reconvened the meeting at 10:47 a.m., with all members present.

12. DEPARTMENTAL MATTERS

A. Community Development

B. Emergency Services

C. General Services

D. Human Resources

E. Information Technology

F. Office of Management and Budget

G. Public Works

12.G.1.

Sector 7 Beach and Dune Restoration Project Easement Status and Project

Director of Public Works Richard Szyrka, in a PowerPoint presentation, provided background on the Sector 7 Beach and Dune Restoration Project. He pointed out the project area contained 82 properties and indicated there was no public beach access within the Sector 7 project area. He provided the current status of easement agreements, noting since April 2021, the County had only gained three additional signed easements. Director Szyrka provided the Board with three (3) options for the Board to consider moving forward. He added, County staff had presented the Sector 7 options to the Beach and Shore Preservation Advisory Committee (BSPAC) on February 28, 2022. The BSPAC submitted a letter to the Board with a recommendation to pursue option two (2) of staff's recommendations.

Commissioner Flescher received clarification from County Attorney Dylan Reingold that beach accessibility in Sector 7 was for improvements only and that it did not provide provisions for any public access to the beach. Attorney Reingold pointed out that the public easements the County sought from the property owners had three (3) main components: 1) allow for the construction of the project; 2) allow for the survey of sea turtles within the project; 3) allow for the customary use of the beach by the public. Attorney Reingold reiterated the third component was an acknowledgment that the public could continue to use the beach as it had traditionally.

A discussion followed noting the BSPAC and staff's frustration with the process. Commissioner Susan Adams asked for information from Director Szyrka on whether funding would be available if the County sought another extension in order to obtain additional easements. Director Szyrka explained the funding had been allocated for the project, but he could not guarantee the funding would still be there as Federal Emergency Management Agency (FEMA) may not approve a third extension.

Commissioner Laura Moss thanked Director Szyrka for the huge effort made towards the project and was hopeful the project would be completed. Commissioner Moss was supportive of option 2.

Chairman Peter O'Bryan referred to staff's report in regard to the estimated cost of the project, and the cost the County would have to generate after the grant to put sand on a beach that has zero public access. Chairman O'Bryan found it incomprehensible the property owners could not see the benefit in protecting their homes and refused to sign the easement. Chairman O'Bryan was supportive of

option 3.

Chairman O'Bryan asked if there was anyone from the public that wished to comment.

The following people appeared before the board to voice their concerns on the Sector 7 Project options, and urged the Board to continue to move forward with the Sector 7 Project.

Jim Field
Laurie Barkhorn
Doug DeMuth

Following public input, Commissioner Flescher inquired about the impact of renegotiating the easements in Sector 7. Attorney Reingold stated it could be done, although it could create issues with those who have already signed the perpetual easements from other County beach projects.

A motion was made by Commissioner Flescher, seconded by Commissioner Moss, to approve Option 2: 1) Determine the project not be constructible this year; 2) Do not pursue pre-construction monitoring; 3) Potentially pursue construction in the 2023/2024 construction window; 4) Seek extensions on funding. The motion carried by the following vote:

Aye: 4 - Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

Nay: 1 - Chairman O'Bryan

H. Utilities Services

13. COUNTY ATTORNEY MATTERS

13.A.

Sale of 0.07 Acre Parcel of land on Old Dixie Highway to MJMC-2 LLC

Deputy County Attorney Bill DeBraal displayed an aerial photo to describe the County's 0.07 acre parcel of unimproved land located on the east side of Old Dixie Highway between 39th and 41st Street, which the County had acquired by tax deed. Attorney DeBraal informed the Board the County was approached by WHPG, Inc. and MJMC-2, LLC seeking to purchase the parcel for development with a nearby parcel for auto storage. MJMC-2, LLC also petitioned for abandonment of an adjacent right-of-way, so it may be combined with the other parcels. He noted a purchase price was negotiated with the contingency the Board would approve the right-of-way abandonment. Attorney DeBraal added that the abandonment petition would be brought back before the Board after the required public notice was given.

A motion was made by Vice Chairman Earman, seconded by Commissioner Flescher, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

13.B. Authorization to Proceed with Foreclosures on Code Enforcement Case Numbers: 2018020108 (Yates); 2017080035 (Palmer, 14th Avenue); and 2017040072 (Family Dollar)

Assistant County Attorney Susan Prado asked the Board for their consideration to move forward with the foreclosure proceedings on the following Code Enforcement case number, 2018020108 (Yates). Assistant County Attorney Prado presented evidence on non-homestead properties of which there was a Code Enforcement lien recorded longer than three (3) months, and the required corrective action had not been taken as ordered. Assistant County Attorney Prado gave a brief history and noted the foreclosure was based on a Code Enforcement Board (CEB) order from 2018, including liens from a 2018 Environmental Control Hearing Board (ECHB) order.

Ms. Dallasteen Yates, the representative for the Estate of Dallas and Jane Yates, stated she had retained new probate counsel, Attorney Fran Ross, who was unable to attend. Ms. Yates told the Board that as of last week she had been able to bring the properties into compliance. All of the buildings were boarded up, and the grounds had been cleaned. She indicated she had sent pictures to the County showing the condition of the properties. Ms. Yates stated the structure on the property that burned in November 2021 was in the permitting process to be demolished. She also informed the board she was in a position to pay the liens and negotiate the fines on the Wabasso property. Ms. Yates mentioned the County had been approached by the Title Company in February 2022, to request a partial release of the lien in order to sell a separate piece of property in the estate. She stated the request was denied by Staff.

Chairman O'Bryan sought confirmation from Assistant County Attorney Prado that the property had come into compliance. Assistant County Attorney Prado responded she could not confirm the property was in compliance, stating that neither the Attorney's Office nor Code Enforcement had received any documentation from Ms. Yates. In response to a question by Chairman O'Bryan, Ms. Yates stated she was in the process of obtaining a permit to demolish the burned building.

County Attorney Dylan Reingold disclosed to Ms. Yates that Attorney Fran Ross had reached out to Assistant County Attorney Prado and asked to speak to the County Attorney; he confirmed he had left her a message on Tuesday, March 5th.

A discussion ensued between Commissioner Joe Earman and Assistant County Attorney Prado in regard to the three (3) properties in violation, including the septic tanks which had to be abandoned and the tenants who had to leave due to unsanitary conditions. Commissioner Earman commented he appreciated Ms. Yates' efforts to

clean up the property and was willing to give Ms. Yates a 30-day extension if it would help get the property in compliance.

Assistant County Attorney Prado spoke to clarify procedural items with regard to Ms. Yates' statement of staff denying the lien release, giving emphasis this was not a staff decision. Assistant County Attorney Prado confirmed the title company had requested a partial lien release on one of the estate properties. She informed the Title Agent the matter would have to be heard by the Code Enforcement Board (CEB). She indicated the partial lien release request was presented at the Code Enforcement Board (CEB) hearing on February 28, 2022, resulting in the request being denied.

Commissioner Susan Adams stated she would be willing to allow for a seven (7) day extension for the permit application process, to bring the property into compliance, and for staff to verify the property compliance status.

Building Official Scott McAdam advised the Board a permit application had not been submitted to his department for the address in question. Ms. Yates responded the person who was hired to do the clean-up, had told her he was going to pull the permit last week. Chairman O'Bryan informed Ms. Yates she had seven (7) days to bring the property into compliance, and to have the permit application in process.

A motion was made by Commissioner Adams, seconded by Commissioner Flescher, to approve a seven (7) day extension on the foreclosure on the estate of Dallas & Jane Yates C/O Dallasteen Yates and direct staff to verify the compliance status and confirm a permit had been submitted and processed. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

Assistant County Attorney Susan Prado provided background information on the following Code Enforcement case number, 2017080035 (Palmer, 14th Ave).

There were no speakers on behalf of case number: 2017080035 (Palmer, 14th Ave).

A motion was made by Commissioner Adams, seconded by Commissioner Flescher, to approve moving forward with foreclosure on Michael S. Palmer and Kelly Palmer (Palmer 14th Ave). The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

Assistant County Attorney Susan Prado brought forward the foreclosure proceedings on the Code Enforcement case number, 2017040072 (Family Dollar).

Attorney Kate Cooper, representing Family Dollar, stated she had first received notice from the property owner three (3) weeks ago. She reached out to the County and attended the Code Enforcement hearing to request a sixty (60) day extension to address the issues of trash and debris accumulating in the parking lot as well as landscaping that did not adhere to the site plan. Attorney Cooper summarized what had been done to the property to bring it into compliance and had pictures available on her phone. She stated the property owner was awaiting bids from contractors to get the landscaping in compliance with the site plan.

Chairman O'Bryan offered a period of thirty (30) days to come back before the Board to show the progress, and the Board would revisit the issue at that time.

Commissioner Susan Adams stated nothing been done with the property for the last five (5) years and only since the foreclosure was filed was anything done to bring the property into compliance. She was disinclined to grant an extension.

Attorney Cooper asked the Board for an additional sixty (60) days to bring the property in compliance. Chairman O'Bryan responded staff could "slow walk" the process of filing the foreclosure to allow thirty (30) days for her to return to the Board with solid documentation on the progress.

Commissioner Moss sought and received clarification on the processing time to file the foreclosure paperwork and that it would not happen within the thirty-day window.

Mr. Terry Valek, District Manager for Family Dollar, informed the Board he started to correct the issues as soon as he received the letter three (3) weeks ago. Chairman O'Bryan rebuked the notion that Mr. Valek had only become aware of the property being non-compliant three (3) weeks ago when he received the foreclosure notice.

County Administrator Jason Brown urged the Board to move ahead with the foreclosure, and authorize staff to slow-walk it through the process. He agreed with Commissioner Adams that the only reason this was before the Board was due to the threat of foreclosure.

Chairman O'Bryan opened the item to public discussion

Linda Morgan spoke about how important this Family Dollar location was to the Gifford community. She urged the Board to work with Family Dollar to keep this

store open.

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to approve directing staff to move forward with the foreclosure, but to “slow-walk” the process to allow time for Family Dollar to come into compliance. He also requested that this item return before the Board with an update at their April 12, 2022 meeting. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

13.C. Chapter 164 Mediation Update

[Clerks Note: This Item was heard following Item 12.G.1.]

County Attorney Dylan Reingold briefed the Board on the status of the Chapter 164 mediation with the City of Vero Beach (City). County Attorney Reingold made it clear that after the release of the feasibility study, the Town of Indian River Shores (Town) was still interested in exploring all options, including being served by the County after its franchise agreement with the City expired.

The City of Vero Beach Mayor, Robbie Brackett, stated the City had been waiting for the release of the feasibility study before moving forward with putting together the conditions for the Town to be served by the County. Mayor Brackett confirmed what Attorney Reingold had stated to be correct.

No Action Taken or Required

14. COMMISSIONERS MATTERS

A. Commissioner Peter D. O'Bryan, Chairman

B. Commissioner Joseph H. Earman, Vice Chairman

14.B.1.

Request the Board consider directing the County Attorney to start the process of establishing an MSBU for the Pine Tree Park Subdivision

Vice Chairman Joe Earman brought forth discussion to request the Board, along with assistance from the County Attorney and the Public Works Department, to consider a Municipal Services Benefit Unit (MSBU) be established for Pine Tree Park subdivision primarily to improve drainage. He stated there were issues with elevation drainage that could not be cured due to the new building codes and requirements from the Health Department. Vice Chairman Earman applauded Aaron Sunderlin and the Pine Tree Park community for their efforts. He commented the majority of the residents would like to move ahead with establishing the MSBU, and asked the Commission to direct staff to explore this area.

Commissioner Susan Adams solicited information on the proposal from Vice Chairman Earman as to the process for establishing an MSBU for drainage. Vice Chairman Earman commented he would refer this question to the professionals and had a brief discussion as to the drainage issues.

Public Works Director Richard Szyrka stated the drainage issues were related to rear yard drainage, which was never constructed. He stated the Public Works Department was going ahead with an analysis, and voiced his concerns over the utilities, power poles, and trees located in the rear yards of the properties.

Commissioner Adams stated she would be happy to support Vice Chairman Earman's request. She also asked that at the community meetings for Pine Tree Park, for staff to make certain the residents clearly understood the possible impact on their property.

A motion was made by Vice Chairman Earman, seconded by Commissioner Flescher, to approve directing staff to explore establishing a MSBU for the Pine Tree Park Subdivision. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

C. Commissioner Susan Adams

D. Commissioner Joseph E. Flescher

E. Commissioner Laura Moss

15. SPECIAL DISTRICTS AND BOARDS

A. Emergency Services District

B. Solid Waste Disposal District

C. Environmental Control Board

16. ADJOURNMENT

There being no further business, the Chairman adjourned the meeting at 1:15 p.m.