

Indian River County Florida

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



Meeting Minutes - Final

Tuesday, January 17, 2017

9:00 AM

Commission Chambers

Board of County Commissioners

*Joseph E. Flescher, Chairman, District 2
Peter D. O'Bryan, Vice Chairman, District 4
Susan Adams, District 1
Bob Solari, District 5
Tim Zorc, District 3*

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

1. CALL TO ORDER

Present: 5 - Chairman Joseph Flescher
Vice Chairman Peter O'Bryan
Commissioner Susan Adams
Commissioner Bob Solari
Commissioner Tim Zorc

ROLL CALL

Present: 5 - Chairman Joseph Flescher
Vice Chairman Peter O'Bryan
Commissioner Susan Adams
Commissioner Bob Solari
Commissioner Tim Zorc

2. INVOCATION

Reverend Benny Rhyant, New Mount Sinai Baptist Church

3. PLEDGE OF ALLEGIANCE

Commissioner Susan Adams

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Item 14.E.1. to be heard with Item 10.B.1. Request to Speak from Phyllis Frey, the American Coalition 4 Property Rights, Regarding HUD's Affirmatively Furthering Fair Housing Rule.

A motion was made by Commissioner Solari, seconded by Vice Chairman O'Bryan, to approve the Agenda as amended. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

5. PROCLAMATIONS and PRESENTATIONS

5.A [17-0006](#) Presentation of Florida Commission for the Transportation Disadvantaged 2016 Urban Community Transportation Coordinator of the Year Award Recognizing the Senior Resource Association operating as the Indian River County Community Transportation Coordinator

Recommended Action: Presentation only - No action required

Karen Deigl, President of the Senior Resource Association (SRA), announced that the County's transit system was recognized as a Best Practice Transit System in the State of Florida. She provided an update on the GoLine and Community Coach transit systems and reported that the main transit hub will be opening in March 2017. She discussed various partnerships between the GoLine, Community Coach, and private

entities in the County. Ms. Deigl explained the decision to eliminate the GoLine Beachside Circulator route, and recognized Vero Beach Hotel and Spa for helping fund the initiative for two years. She also introduced Senior Resource Association's Transportation Operations Manager Chris Stephenson, Safety Training Supervisor George Colon, Paratransit Supervisor Grace Salemi, Operations Assistant Lora Spokes, Community Coach Driver Rosemary Miller, and GoLine Driver Richard Houston.

5.B [17-0056](#) Quarterly Recycling Update - January 2017

Recommended Action: No action needed.

Attachments: [Staff Report](#)

In her PowerPoint Presentation, Recycling Education and Marketing Coordinator Stephanie Fonvielle gave the recycling update for the first quarter of Fiscal Year 2016-2017, and discussed staff's educational outreach efforts. She announced that the Electronics and Household Hazardous Waste recycling event will take place on January 21, 2017 at the North County Aquatic Center, and a Paper Shredding Event will be held on April 8, 2017 at the Southeast Security Shredding Facility.

Himanshu Mehta, Managing Director of the Solid Waste Disposal District, commented on the success of the single-stream recycling program.

Chairman Flescher sought and received confirmation that staff is working towards making recycling available at the beach parks.

6. APPROVAL OF MINUTES

6.A [17-0054](#) Regular Meeting of December 13, 2016

Recommended Action: Approve

Attachments: [Minutes 12/13/2016](#)

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Zorc, to approve the minutes of the Regular Meeting of December 13, 2016. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

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

7.A [17-0050](#) Indian River County Hospital District Meeting Schedule 2017

Recommended Action: Informational only

Attachments: [Indian River County Hospital District Meeting Schedule 2017](#)

- 7.B** [17-0046](#) The next Wabasso community meeting for the Wabasso Corridor Plan Update has been scheduled for February 6, 2017, at 6:00 p.m. at the Allen Chapel AME church located in Wabasso at 6245 85th Street (SW corner of CR 510 and 64th Avenue).

Recommended Action: This meeting notice is provided for the Board's information. No action is needed.

Attachments: [Wabasso Community Meeting Notice](#)

Chairman Flescher announced that the third meeting for the Wabasso Corridor Plan Update would be held on February 6, 2017 at 6:00 p.m. at the AME Church.

- 7.C** [17-0058](#) Update All Aboard Florida/Vero Electric Expenses

Recommended Action: No Action Required

Attachments: [Staff Report](#)

[All Aboard FL Expenses](#)

[FP&L-Vero Beach-FMPA expenses](#)

- 7.D** [17-0062](#) Update on GoLine Beachside Circulator (Route 16)

Recommended Action: This is an informational item.

Attachments: [Staff Report](#)

Metropolitan Planning Staff Director Phil Matson and Karen Deigl provided further analysis on the discontinuation of the GoLine Beachside Circulator. Heaton Companies, developer of Vero Beach Hotel and Spa, was acknowledged for their financial contribution.

Vice Chairman O'Bryan commended Director Matson and Ms. Deigl on their work, and remarked that he would like to see the program brought back at some point.

- 7.E** [17-0051](#) Continuation Certificate for Surety Bond - Jeffrey R. Smith

Attachments: [Informational Memo](#)

[Continuation Certificate - Jeffrey R. Smith](#)

- 7.F** [17-0060](#) Final TD Banking Contract Documents

Recommended Action: No action required. Informational item only.

Attachments: [BOCC Agenda Item - TD Banking Contract - Info Item Jan 2017](#)

[TD Bank - Indian River County - Final Executed Contract](#)

[Commercial Card Agreement](#)

8. CONSENT AGENDA

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, to approve the Consent Agenda, pulling Items 8.C., 8.E., and 8.F. for discussion. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

8.A [17-0048](#) Approval of Checks and Electronic Payments December 30, 2016 to January 5, 2017

Recommended Action: Approve list of checks and electronic payments issued by the Comptroller's office for the time period of December 30, 2016 to January 5, 2017

Attachments: [Approval of Checks and Electronic Payments December 30, 2016 to January 5, 2017](#)

Approved staff's recommendation.

8.B [17-0061](#) Application for Nomination to Serve on the Metropolitan Planning Organization Citizens Advisory Committee (MPO CAC)

Recommended Action: Approve recommendation

Attachments: [Memorandum](#)

Approved the appointment of Zaqary Sanders to fill the County Commission appointee position on the Metropolitan Planning Organization Citizens Advisory Committee.

8.C [17-0063](#) Miscellaneous Budget Amendment 005

Recommended Action: Staff recommends that the Board of Commissioners approve the budget resolution amending the fiscal year 2016/2017 budget.

Attachments: [Staff Report](#)
[2016 2017 Resolution](#)
[Exhibit "A"](#)

Vice Chairman O'Bryan directed the Board's attention to the Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant listed in Item 5 of Budget Amendment 005. He encouraged staff to pursue more of these types of grants to support the firefighters.

County Administrator Jason Brown advised that staff has applied for a number of FEMA grants and is looking into obtaining a Staffing for Adequate Fire & Emergency Response (SAFER) Grant for Fire Station No. 14.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve Resolution 2017-002, amending the Fiscal Year 2016-2017

Budget. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

8.D [17-0049](#) Recommendation of Award - Bid 2017014 - Self-Contained Breathing Apparatus

Recommended Action: Staff recommends the Board of County Commissioners award Bid 2017014 to Ten-8 Fire Equipment, Inc. and authorize the Chairman to execute the attached agreement after the County Attorney has reviewed it for form and legal sufficiency.

Attachments: [Staff Report](#)
 [Agreement](#)

Approved staff's recommendation.

8.E [17-0026](#) Award of Bid No: 2017013 43rd Avenue Sidewalk Improvements from Aviation Boulevard to Airport Drive West

Recommended Action: Staff recommends that the project be awarded to Timothy Rose Contracting, Inc., in the amount of \$497,113.24 and requests that the Board of County Commissioners approve the sample agreement and authorize the Chairman to execute said agreement after receipt and approval of the required Public Construction Bond and Certificate of Insurance and after the County Attorney has approved the agreement as to form and legal sufficiency.

Attachments: [Staff Report](#)
 [Sample Agreement](#)

Vice Chairman O'Bryan confirmed with Director of Public Works Richard Spryzka that the proposed contractor, Timothy Rose Contracting, Inc. would have time in his schedule to construct the sidewalk improvements.

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

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

8.F [17-0068](#) Private Community Requests to Use County Beach Park Access for Emergency Dune Repair Projects - Post Hurricane Matthew

Recommended Action: The recommendation of staff is for the Board to authorize the County Administrator or his designee to execute County beach park access agreements for the purposes of private emergency dune repair projects.

Attachments: [Staff Report](#)
 [Sample Beach Access License Agreement](#)
 [Beach Access backup](#)

County Attorney Dylan Reingold pointed out a change in the License Agreement amending the language under Proof of Insurance to state that the Licensee shall furnish the County, rather than the owner, a certificate of insurance.

A motion was made by Commissioner Solari, seconded by Commissioner Zorc, to approve staff's recommendation, amending the language under Proof of Insurance to specify that the Licensee shall furnish the County, rather than the owner, a certificate of insurance. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

8.G [17-0066](#) Irrigation System Pump Station Replacement at Sandridge Golf Club - Lakes Golf Course

Recommended Action: Staff recommends the Board waive the requirement for bids for replacement of the pump station and authorize the Purchasing Division to issue a Purchase Order to Watertronics in the amount of \$108,727.00.

Attachments: [Staff Report](#)

Approved staff's recommendation.

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

9.A [17-0011](#) Indian River County Sheriff Deryl Loar - Request for \$80,821.45 from the Law Enforcement Trust Fund to be used for the purchase of active shooter kits, SWAT armor, and tactical assault vests.

Recommended Action: It is recommended that the Board approve the use of \$80,821.45 from the Law Enforcement Trust Fund to purchase active shooter kits, SWAT armor, and tactical assault vests.

Attachments: [Letter Dated 12-19-16](#)
 [Equipment Quote](#)

Sheriff Deryl Loar, in response to questions from the Board, explained that a tactical assault vest is basically a bulletproof vest.

A motion was made by Commissioner Solari, seconded by Commissioner Adams, to authorize the use of \$80,821.45 from the Sheriff's Law Enforcement Trust Fund to purchase active shooter kits, Special Weapons and Tactics (SWAT) armor, and tactical assault vests for Corrections Officers. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

9.B [17-0064](#) Indian River County Sheriff Deryl Loar - Authorization for Proceeds from Auction of

Surplus Property in Amount of \$105,174.00 to be used in Current Fiscal Year for Purchase of like-kind Property

Recommended Action: Recommend the Board of County Commission Authorize the Proceeds from the Auction of Surplus Property in the Amount of \$105,174.00 to be used in Current Fiscal Year for Purchase of like-kind Property

Attachments: [Letter 01.10.17](#)
[Associate Auctions Settlement Statement](#)

Sheriff Deryl Loar appeared before the Board in support of his request.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Solari, to authorize the Sheriff's Office to use proceeds in the amount of \$105,174, from a public auction of surplus property and vehicles, to acquire new like-kind property within the current fiscal year. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

10. PUBLIC ITEMS

A. PUBLIC HEARINGS

B. PUBLIC DISCUSSION ITEMS

10.B.1 [17-0047](#) Request to Speak from Phyllis Frey, the American Coalition 4 Property Rights, Regarding HUD's Affirmatively Furthering Fair Housing Rule

Recommended Action: Public Discussion Item - No Action Required

Attachments: [Public Discussion Request Form](#)
[Additional Backup Provided At Meeting](#)

Phyllis Frey, 275 Date Palm Road, recalled that at the April 12, 2016 County Commission meeting, she had spoken on the Department of Housing and Urban Development's (HUD) Affirmatively Furthering Fair Housing Rule (AFFH). She explained that the AFFH Rule interferes with the Home Rule of Law, and is included in certain grants. She elaborated on the impacts of the AFFH and discussed the consequences of failing to comply with all of its obligations. Ms. Frey reported that Sedgwick County, Kansas, and other entities, have decided not to enter into grant agreements containing the AFFH Rule, and asked the Board to consider making a similar policy change.

(Clerk's Note: Please see Item 14.E.1. for Board action on this matter).

C. PUBLIC NOTICE ITEMS

- 10.C.1** [17-0045](#) Public Notice of Public Hearing Scheduled for January 24, 2017 to Consider Codifying the Code of Indian River County - LEGISLATIVE

Attachments: [Public Notice](#)

County Attorney Dylan Reingold read the notice into the record.

11. COUNTY ADMINISTRATOR MATTERS

12. DEPARTMENTAL MATTERS

A. Community Development

B. Emergency Services

C. General Services

1. Human Services

2. Sandridge Golf Club

3. Recreation

D. Human Resources

E. Office of Management and Budget

F. Public Works

G. Utilities Services

- 12.G.1** [17-0055](#) West Wabasso Phase II Sewer and the East Gifford Drainage Project - Bidding Status: Bid No. 2017021

Recommended Action: Staff recommends Option No. 1 as outlined, rejection of all bids submitted in response to Invitation to Bid No. 2017021 and table the project for a later date, and authorize staff and the chair to sign any documents necessary to effectuate the termination of the agreements associated with the West Wabasso Phase II Sewer project.

Attachments: [Staff Report](#)
[Bid Comparison for Schedule A and B](#)

Director of Utilities Vincent Burke provided background on the West Wabasso

Phase II Sewer Project and the East Gifford Drainage Project, which would be partially funded by grants from the St. Johns River Water Management District and a Federally-Funded Sub-Grant Agreement. He advised the Board that two contractors have submitted bids on two separate occasions, and the bids continue to be \$1 million over the budgeted amount. Director Burke outlined the Board's options and relayed his recommendation to Table the West Wabasso Phase II Sewer Project and terminate the agreements associated with same, and to proceed with the East Gifford Drainage Project through a separate procurement process.

Discussion ensued about the cost variations in the two bids.

Director Burke, in response to questioning, stated that the sewer project has been designed and the permits are good for five years, so if the County gets funding or better pricing, it would be ready for construction.

Administrator Brown discussed prospective funding sources for the East Gifford Drainage Project.

Commissioner Zorc sought and received confirmation that staff would hire a consultant to review the design plans, with the intention of reducing project costs.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to: (1) approve staff's recommendation to reject all bids submitted in response to Invitation to Bid No. 2017021 and Table the West Wabasso Sewer Phase II project for a later date; (2) authorize staff and the Chairman to sign any documents necessary to effectuate the termination of the agreements associated with the West Wabasso Phase II Sewer project; and (3) direct staff to move forward with the proposed drainage improvements for the East Gifford area (the East Gifford Drainage Project) as designed and itemized in Schedule B through a separate procurement process utilizing other funding sources. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

13. COUNTY ATTORNEY MATTERS

14. COMMISSIONERS MATTERS

A. Commissioner Joseph E. Flescher, Chairman

B. Commissioner Peter D. O'Bryan, Vice Chairman

C. Commissioner Susan Adams

D. Commissioner Bob Solari**E. Commissioner Tim Zorc****14.E.1 [17-0067](#)** HUD and the Affirmatively Furthering Fair Housing (AFFH) Rule

Recommended Action: Discussion

Attachments: [Memorandum](#)

This item was discussed in conjunction with Item 10.B.1. [Request to Speak from Phyllis Frey, the American Coalition 4 Property Rights, Regarding HUD's Affirmatively Furthering Fair Housing Rule](#), and is placed here for continuity. Materials from Ms. Frey's presentation on April 12, 2016, and related items, were provided for the record (copy on file).

Commissioner Zorc suggested two policy changes that would help protect the County's Home Rule of Law: 1) make sure staff identifies and notifies the Board of grant applications containing AFFH or AFFH-related stipulations under another name; and 2) have the County Attorney's office review and report back to the Board on the feasibility of the County adopting a similar law to Sedgwick County, wherein the County would not enter into grant agreements with AFFH requirements.

Deliberations ensued regarding the vagueness of the AFFH Rule; protecting the Home Rule of Law; the financial impact on current programs if certain grants are rejected and the preservation of the County's existing affordable housing programs; the importance of grants to future projects; and the possibility that in the future, the new HUD Secretary, Ben Carson, may eliminate the AFFH Rule.

County Administrator Jason Brown and County Fair Housing Administrator Deputy County Attorney Bill DeBaal, provided input on the County's existing grants and fair housing programs.

It was the Board's consensus that future grant agreements should be thoroughly vetted, with well-defined requirements that are not open to interpretation.

A motion was made by Commissioner Zorc, seconded by Vice Chairman O'Bryan, to: (1) direct staff to continue performing due diligence on grants and implement a formal process to ensure that the County has investigated all of the AFFH or AFFH-related grants that the County has accepted or is considering; and (2) direct the County Attorney's Office to review and report back to the Board regarding a policy that would preserve the County's current programs but address future grants with AFFH or AFFH-related requirements. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

A motion was made by Commissioner Solari, seconded by Chairman Flescher, to direct the Community Development Department and the County Attorney's Office, to: (1) identify the problematic aspects, including vagueness issues, of the Affirmatively Furthering Fair Housing (AFFH) Rule; (2) return to the Board with recommendations on how best to change the AFFH Rule with the intent for the document to be reviewed by Congressman Bill Posey and subsequently submitted by the County to the Department of Housing and Urban Development (HUD), requesting those changes to be made to HUD's current AFFH Rule; and (3) coordinate with Phyllis Frey on moving forward with staff's review and recommendations. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

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 declared the meeting adjourned at 10:37 a.m.