



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

Board of County Commissioners

Joseph H. Earman, District 3, Chairman

Susan Adams, District 1, Vice Chairman

Joseph Flescher, District 2

Deryl Loar, District 4

Laura Moss, District 5

Jason E. Brown, County Administrator

Dylan Reingold, County Attorney

Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller

Tuesday, December 6, 2022

9:00 AM

Commission Chambers

1. CALL TO ORDER

Present: 5 - Chairman Joe Earman
Vice Chairman Susan Adams
Commissioner Joseph Flescher
Commissioner Deryl Loar
Commissioner Laura Moss

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

2.B. INVOCATION

Dr. Wayne Smith, Master's Academy Vero Beach

3. PLEDGE OF ALLEGIANCE

Commissioner Joseph E. Flescher

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Commissioner Laura Moss moved to have Item 11.A. deleted from the Agenda, stating the Sebastian annexation agreement had not yet been negotiated and it was too soon for public discussion. A brief discussion was had between the Commissioners as to the Item being on the Agenda as it had been sent as correspondence from the City of Sebastian for the purpose of discussion in anticipation of the December 2022 City Council meeting.

Vice Chairman Susan Adams had a procedural question and asked if there was a Secunder on the motion. Chairman Earman called for a Secunder, there being none the motion failed for lack of second.

A motion was made by Commissioner Flescher, seconded by Vice Chairman Adams, to approve the Agenda as presented. The motion carried by the following vote:

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

Nay: 1 - Commissioner Moss

5. PROCLAMATIONS and PRESENTATIONS

5.A. [22-1038](#) Presentation of Proclamation Honoring Teresa Hansen on her Retirement from the Indian River County Sheriff's Office

Recommended Action: Read and Present

Attachments: [Proclamation](#)

Ms. Teresa Hansen was joined by fellow coworkers as she accepted the Proclamation. She thanked the Board for the recognition. Sheriff Eric Flowers presented Ms. Hansen with a gift and thanked her for her service.

Presented by Commissioner Deryl Loar

6. APPROVAL OF MINUTES

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

7.A. [22-1017](#) Indian River County Venue Event Calendar Review

Recommended Action: This is informational only; No Board Action is required.

Attachments: [Event Calendar](#)

Chairman Joe Earman commented that the Recreation Department had a full calendar for the month of December and the information could be found on the County website.

No Action Taken or Required

7.B. [22-1033](#) 2023 Committee Assignments by Commissioner

Recommended Action: Informational only

Attachments: [Committee Assignments Memo](#)

There was no discussion on this Item.

No Action Taken or Required

8. CONSENT AGENDA

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

Aye: 5 - Chairman Earman, Vice Chairman Adams, Commissioner Flescher, Commissioner Loar, and Commissioner Moss

8.A. [22-0516](#) Central Wastewater Treatment Facility Odor Control Improvements, CCNA Work Order No. 8 With Atkins

Recommended Action: Staff recommends that the Board of County Commissioners approve Work Order No. 8 with Atkins, in the amount of \$129,149, for professional technical services associated with the design of an odor control facility for the Central Wastewater Treatment Facility sludge holding tank

Attachments: [Staff Report](#)
[Work Order No 8 CWWTF Odor Control Improvements](#)

Approved staff's recommendation

- 8.B. [22-0995](#) Review of the Affordable Housing Advisory Committee 2022 Incentives Review and Recommendation Report

Recommended Action: Staff and the Affordable Housing Advisory Committee recommend that the Board of County Commissioners approve the 2022 AHAC Incentives Review and Recommendation Report, and direct staff to submit a copy of the report to the FHFC for review by December 31, 2022.

Attachments: [Staff Report](#)
[DRAFT 2022 AHAC Report](#)

Approved staff's recommendation

- 8.C. [22-1006](#) Approval of a Public Transportation Grant Agreement (PTGA) with the Florida Department of Transportation (FDOT) for a Public Transportation Block Grant

Recommended Action: Staff recommends that the Board of County Commissioners approve the Public Transportation Grant Agreement and adopt the resolution authorizing the Chairman to sign the agreement.

Attachments: [Staff Report](#)
[Resolution](#)
[Block Grant - PTGA](#)
[Grant Budget Form](#)

Approved staff's recommendation and Resolution 2022-092 authorizing the execution of a public transportation grant agreement with the Florida Department of Transportation.

- 8.D. [22-1016](#) Acceptance and Approval of Modification #1 of Emergency Management Program Grant (EMPG) Federally-Funded Subgrant Agreement; Agreement Number G0371

Recommended Action: Staff recommends approval of Modification #1 for the Federally-Funded Subgrant Agreement (G0371) between Indian River County Emergency Management and the State of Florida, Division of Emergency Management.

Attachments: [Staff Report](#)
[Modification #1-EMPG](#)

Approved staff's recommendation

- 8.E. [22-1021](#) Annual Resolution Delegating the Authority to the County Administrator or his designee, to execute Resolutions Calling Letters of Credit as Necessary during a Declared State of Local Emergency or Declared State of Florida Emergency Affecting Indian River County

Recommended Action: Adopt the resolution delegating authority to the County Administrator, or his designee, to execute resolutions calling letters of credit as necessary during a declared state of local emergency or declared State of Florida emergency affecting Indian River County from December 6, 2022 through December 31, 2023.

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

Approved staff's recommendation and Resolution 2022-093, delegating the authority to the County Administrator or his designee, to execute resolutions calling letters of credit as necessary during a declared State of Local Emergency or declared State of Florida Emergency affecting Indian River County; rescinding Resolution No. 2021-80 effective December 6, 2022; and providing an effective date.

- 8.F. [22-1022](#) Annual Resolution re Delegation of Authority Concerning Declarations of State of Local Emergencies and to Act in a State Declared Emergency Affecting Indian River County

Recommended Action: Adopt the resolution delegating authority to the County Administrator, or his designee, to declare states of local emergencies and to act in a state declared emergency affecting Indian River County effective from December 6, 2022 through December 31, 2023.

Attachments: [Staff Report](#)
[Delegation of authority for declaration of emergencies](#)

Approved staff's recommendation and Resolution 2022-094, delegating authority to the County Administrator to declare States of Local Emergencies and to act in a State of Florida declared emergency affecting Indian River County; rescinding Resolution No. 2021-79 effective December 6, 2022; and providing an effective date.

8.G. [22-1023](#) Appointment to the Economic Opportunities Council of Indian River County, Inc.

Recommended Action: The County Attorney recommends that the Board appoint Nancy McCurry to the the Economic Opportunities Council of Indian River County, Inc.

Attachments: [Staff Report](#)
[N. McCurry Approval Letter](#)

Approved staff's recommendation

8.H. [22-1024](#) Annual Resolution re Signatories

Recommended Action: Adopt the resolution and authorize the newly selected Chairman as well as the Clerk to sign the resolution and the respective Certificate of Facsimile Signature; and to instruct the Clerk to the Board of County Commissioners to transmit to the Department of State each original Certificate of Facsimile Signature which bears the original manual signatures of those Indian River County officers authorized to use facsimile signatures in lieu of manual signatures

Attachments: [Staff Report](#)
[2022 RESO annual signatories](#)
[Certificate For Facsimile Signature - Chairman Earman](#)
[Certificate For Facsimile Signature - Clerk JSmith](#)

Approved staff's recommendation and Resolution 2022-095 directing depositories of County funds to honor certain authorized signatures on County checks, warrants, and other orders for payment; providing for Board of County Commissioners and Clerk of the Circuit Court signatories; rescinding Resolution no. 2021-081 which speaks to authorized signatures on County checks, warrants, and other orders for payment; and providing an effective date.

8.I. [22-1025](#) Unincorporated Indian River County Lagoon ArcGIS Nitrogen Load Estimation Tool (ArcNLET) Model, Tetra Tech, Inc., Work Order No. 12

Recommended Action: Staff recommends the Board of County Commissioners (BCC) approve Tetra Tech, Inc., Work Order No. 12 in the amount of \$45,867.00 for professional engineering support services associated with the development of an unincorporated Indian River County ArcNLET model. In addition, staff recommends that the BCC authorize the Chairman to execute Work Order No. 12

Attachments: [Staff Report](#)
[Tetra Tech Inc Work Order No 12](#)

Approved staff's recommendation

- 8.J. [22-1031](#) Acceptance of Land Trust and St. Johns River Water Management District Conservation Easements

Recommended Action: The County Attorney's Office recommends the Board approve the acceptance of the two attached Grant of Conservation Easements.

Attachments: [Staff Report](#)
[Ryall Sebastian SJRWM Conservation Easement](#)
[IRLT-IR County Conservation Easement](#)

Approved staff's recommendation

- 8.K. [22-1032](#) FY 2021-2022 Records Management Compliance Statements

Recommended Action: It is recommended that the Chairman be authorized to sign the Records Management Compliance Statements for Fiscal Year 2021-2022.

Attachments: [Memo](#)
[BOCC Compliance Statement](#)
[EMS Compliance Statement](#)
[SWDD Compliance Statement](#)

Approved staff's recommendation

- 8.L. [22-1034](#) Resolutions Cancelling Taxes

Recommended Action: Authorize the Chairman of the Board of County Commissioners to execute the Resolutions to cancel certain taxes upon the properties purchased by or donated to Indian River County for a public purpose, and the Clerk to send a certified copy of the Resolutions to the Tax Collector and the Property Appraiser so that any delinquent or current taxes can be cancelled.

Attachments: [Staff Report](#)
[Resolution Cancelling Taxes - IRC Habitat for Humanity](#)
[Resolution Cancelling Taxes - 12th St - Sowell](#)

Approved staff's recommendation and Resolution 2022-096 canceling certain taxes upon publicly owned lands, pursuant to section 196.28, Florida Statutes and Resolution 2022-097 canceling certain taxes upon publicly owned lands, pursuant to section 196.28, Florida Statutes.

8.M. [22-1036](#) Central Wastewater Treatment Facility FDEP Permit Renewal

Recommended Action: It is staff’s recommendation that the Board of County Commissioners approve MBV Engineering, Inc.’s proposed Engineer’s Project Work Order #27 in the amount of \$36,750.00 to prepare and submit the Central Wastewater Treatment Facility permit renewal package, and authorize the Chairman to execute the work order

Attachments: [Staff Report](#)
 [MBV Proposal - Work Order #27](#)

Approved staff’s recommendation

8.N. [22-1037](#) Change Order 2 to TLC Diversified, Inc., for the South Water Treatment Plant Membrane and Retrofit Project

Recommended Action: Staff recommends that the Board of County Commissioners approve the change order in the amount of \$150,020.17, leaving a revised total agreement with TLC Diversified, Inc., in the amount of \$11,296,158.08 and authorize the Chairman to execute the change order on their behalf

Attachments: [Staff Report](#)
 [Change Order 2](#)

Approved staff’s recommendation

8.O. [22-1040](#) Tetra Tech Work Order No. 11 - Water Supply Facilities Work Plan

Recommended Action: Staff recommends that the Board of County Commissioners authorize Work Order Number 11 to Tetra Tech, Inc., to complete the study for the amount of \$43,469.00, and authorize the Chairman to sign on their behalf

Attachments: [Staff Report](#)
 [Work Order No 11 Tetra Tech Inc](#)

Approved staff’s recommendation

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

10. PUBLIC ITEMS

PROOF OF PUBLICATION FOR THIS HEARING IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD.

A. PUBLIC HEARINGS

10.A.1 [22-1012](#)

Consideration of Brattain Property of Indian River County LLC's Request for Land Development Regulation (LDR) Amendments to Sections 901.03, 911.10, and 971.13 to Allow Automobile Parking and Storage in the PRO, OCR, MED, CN, and CL Zoning Districts [LDRA-21-09-01 / 2003060269-90131] (Legislative)

Recommended Action: Staff recommends that the Board of County Commissioners adopt the proposed automobile parking ordinance.

Attachments: [Staff Report](#)
[Draft Ordinance](#)

Chief of Current Development Ryan Sweeney, using a PowerPoint presentation, provided a brief background on the Land Development Regulation (LDR) Amendment allowing automobile parking and storage in the PRO, OCR, MED, CN, and CL Zoning Districts. Mr. Sweeney stated the proposed Ordinance required Planning and Zoning Commission (PZC) approval, and he identified seven (7) specific land use criteria: 1) Required all parking and storage areas to be paved (asphalt or concrete), and must meet dimensional criteria; 2) Prohibits parking or storing commercial vehicles, boats, or RVs; 3) Prohibits commercial or "pay-to-park" facilities; 4) Required a lighting plan and appropriate shielding; 5) Required a Type "C" buffer and 3' tall opaque feature between the parking area and any residentially designated properties; 6) Required all standard perimeter buffers apply to all other project perimeters, and 7) Required a remote or freestanding site that serves an adjacent site to be connected via an existing or proposed sidewalk/pedestrian system. He informed the Board the PZC at their September 22, 2022 meeting voted (5-0) to recommend the Board of County Commissioners adopt the proposed Ordinance.

The Chairman opened the public hearing.

Joseph Paladin, Black Swan Consulting, spoke before the Board as a representative of his client, Brattain Property of Indian River County, LLC, who had worked with staff and had agreed to all the required accommodations. He commented this project would be an asset to the community and he would be involved in the project to the very end.

There being no further comments, the Chairman closed the public hearing.

County Attorney Dylan Reingold clarified this was a change to the LDR and not one property owner, noting it would affect all five districts.

The Commissioners each weighed in on the proposal with Commissioner Laura Moss stating her objection stood as it had for previous requests.

Vice Chairman Susan Adams supported the project and received clarification from Community Development Director Phil Matson that the parking lots would not be dirt lots and would be paved parking lots requiring infrastructure, stormwater, landscaping, and striping.

Chairman Joe Earman and Commissioner Deryl Loar commented they were in favor of the project.

A motion was made by Commissioner Loar, seconded by Commissioner Flescher, to adopt Ordinance 2022-014, amending section 901.03 (Definitions in alphabetical order) of Chapter 901 (Definitions), Section 911.10 (Commercial Districts) of Chapter 911 (Zoning), and creating Section 971.13(6) (Automobile Parking and Storage) within Chapter 971 (regulations for specific land uses) of the Code of Indian River County; providing for conflict and severability; providing for codification; and providing for an effective date. The motion carried by the following vote:

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

Nay: 1 - Commissioner Moss

B. PUBLIC DISCUSSION ITEMS

10.B.1 [22-1019](#) Request to Speak from Bill Rigby re: First Amendment and Due Process

Recommended Action: No Action Required

Attachments: [Public Discussion Request B. Rigby 12.6.22](#)

Mr. Bill Rigby appeared before the Board on behalf of the West Wabasso Progressive Civic Club. He stated that he believed his first amendment rights to petition the Board had been violated by the Board and staff for interfering and suppressing his point of view in previous appearances. Mr. Rigby again expressed frustration that nothing was being done to improve the Wabasso community.

Chairman Joe Earman disagreed that any civil or first amendment rights had been violated due to the fact that Mr. Rigby was able to come to the meetings and express his concerns and opinions. Chairman Earman invited Mr. Rigby to come to his office anytime with any concerns he may have and would also make himself available to attend any meeting along with Mr. Rigby to find solutions for the Wabasso community.

No Action Taken or Required

10.B.2 [22-1042](#) Request to Speak from Gifford H. Hampton re: New Golf Course

Recommended Action: No action required

Attachments: [Public Discussion Request G. Hampton](#)

Mr. Gifford Hampton, came before the Board to request the County look into developing a new golf course facility, as he felt the Sandridge Golf Course was becoming very crowded. Mr. Hampton also stated he would like to see a stop light at 65th Street and US Hwy-1 to eliminate the traffic issues experienced at this intersection.

Assistant County Administrator Mike Zito responded to Mr. Hampton that there had not been any discussion or future plans for an additional golf course. He stated Sandridge Golf Course had managed the capacity well and was focused on internal expansion by adding a state-of-the-art clubhouse and managing the current volume of just over 100,000 rounds a year. He stated it would be worth the discussion, but there were no future plans to expand at this time.

Commissioner Joseph Flescher discussed traffic lights and addressed the fact that a warrant for traffic signals was not as simple as moving lights from one intersection to another. He added the Florida Department of Transportation (FDOT) requires a traffic analysis to consider placement along with a huge investment for installation.

No Action Taken or Required

C. PUBLIC NOTICE ITEMS**10.C.1.** [22-0996](#) Notice of Public Hearing Scheduled for December 13, 2022 Board Meeting for a County Initiated Request to Amend the 5 Year Capital Improvements Program and Supporting Data and Analysis of the Capital Improvements Element of the Comprehensive Plan. [Legislative]

Recommended Action: The above referenced public hearing item is provided for the Board's information. No action is needed at this time.

Attachments: [Staff Report](#)

County Attorney Dylan Reingold read the notice into the record.

No Action Taken or Required

- 10.C.2. [22-1015](#) Public Notice of Public Hearing for December 13, 2022, to Consider a Resolution Electing to Use the Uniform Method for the Levy, Collection and Enforcement of Non Ad Valorem Assessments for Street Paving in the Oslo Park Area

Attachments: [Staff Report](#)

County Attorney Dylan Reingold read the notice into the record.

No Action Taken or Required

- 10.C.3 [22-1020](#) Public Notice of Public Hearing for December 13, 2022, to Consider an Ordinance Authorizing an Extension of the Temporary Moratorium for an Additional 1 Year with regard to Class B Biosolids

Attachments: [Staff Report](#)

County Attorney Dylan Reingold read the notice into the record.

No Action Taken or Required

11. COUNTY ADMINISTRATOR MATTERS

11.A [22-1039](#) Update Regarding Proposed Sebastian Annexation Agreement

Recommended Action: Staff recommends that the Board discuss the proposed annexation agreement and provide direction to staff on the proposed Graves Brothers Annexation into the City of Sebastian

Attachments: [Staff Report - Annexation Agreement](#)
[DRAFT Graves Brothers Annexation Agreement](#)
[Annexation Agreement Comments](#)

Chairman Joe Earman opened the Item stating it would be for discussion only, due to contention from representatives of the City of Sebastian (City) who argued the draft agreement should not have been placed on the Agenda until after the Annexation Agreement had been negotiated at their City Council meeting on December 14, 2022.

County Administrator Jason Brown explained the City Attorney had provided a copy of the draft annexation agreement to County Attorney Dylan Reingold. This draft agreement was shared with staff with the understanding that the City was close to a final agreement. Administrator Brown stated the City had asked not to have this discussion, however, this would be the last opportunity to receive any direction from the County. He further stated this was not the County trying to interfere with the City, but regarded the County's interest in the provision of water, sewer, and transportation services to the area. Chairman Earman stated it was important for the City and the County to succeed with the infrastructure with regard to utilities, county roadways, and emergency services which would be affected by this agreement. Further conversation was had between the Board and staff regarding the draft agreement and the potential impact on the County.

The following speakers expressed their views on the Board's involvement in the process of placing the draft annexation agreement on the Agenda. Additional remarks were made by the Board and staff during each speaker's comments.

City Manager Paul Carlisle stated the document was still under review and in negotiation with the land owner. The City was more than willing to work with County staff, and that County Planners and Administration had not been adversarial and did not anticipate it going that way. He stated that he had asked for the Item to be pulled from the Agenda because it was not a final document and he did not want the Board to make a decision or making comments on a document that was not final.

City Council Member Ed Dodd contended the County was pulling a stunt by placing the item on the agenda at this time.

City Council Member Bob McPartlan made analogous comments to Mr. Carlisle and Mr. Dodd's remarks regarding the draft agreement being on the Agenda. He pointed out the hyperlink on the online Agenda did not refer to it as a "draft" document.

Administrator Brown apologized for the error and stated the document itself had a draft watermark all throughout the document and he would have the hyperlink corrected.

No Action Taken or Required

12. DEPARTMENTAL MATTERS

A. Community Development

12.A.1 [22-0978](#)

Request for Authorization to Secure a Pool Located at 560 Stoney Brook Farm Court, Vero Beach, FL 32968

Recommended Action: Staff recommends Alternative 2, that the Board of County Commissioners direct staff to seek a court order to allow staff access to the subject property to secure the pool, authorizing the County's employees, servants, agents, or contractors to enter upon the Suncor Vero Beach, LLC property located at 560 Stoney Brook Farm Court at all reasonable times, fill-in the pool, and erect a 4-foot high, black aluminum fence around the entirety of the pool.

Attachments: [Staff Report](#)
[Photos of the subject property and pool](#)
[Minutes from 10.24.22 CEB Meeting](#)

Rebecca Guerra, Chief of Code Enforcement and Environmental Planning, presented remediation on a long-standing issue regarding property located at 560 Stoney Brook Farm Court. Ms. Guerra used a PowerPoint presentation to show aerial photos taken in 2020 and 2021 of the swimming pool in violation. She stated as of October 2022, the property had not changed. On October 24, 2022, the Code Enforcement Board (CEB) authorized staff to proceed with foreclosure proceedings and to seek a solution for the unmaintained and unsecured nature of the pool. On November 8, 2022, the Board authorized staff to move forward with outside counsel to file foreclosure. Ms. Guerra referenced Florida Statute 162.091 which authorized the CEB to take action, and remediate as necessary the Florida Residential Swimming Pool Safety Act which requires pool safety measures for all pools built after October 1, 2000. Ms. Guerra sought direction to seek a court order to enter the property and resolve the swimming pool safety and maintenance issues by filling in the pool and erecting a fence. She anticipated an estimated cost of \$12,000, which would be available through a budget amendment from the MSTU/Reserve for Contingency account. Ms. Guerra stated the current Code Enforcement fines on the property were in the amount of \$120,670.

County Attorney Dylan Reingold confirmed, in response to a question by Commissioner Flescher, the primary issue was not to recover the \$12,000, but to ensure no one gets injured on this property.

Tom Sullivan, a County resident, commented that this felt like déjà vu and that the issue should have been settled months ago when Joe Paladin had represented the owner of the property to have the issue resolved after the November 8, 2022 meeting. Mr. Paladin confirmed he was the representative for the property owner.

Responding to a series of questions posed by Mr. Sullivan, Commissioner Flescher explained that you cannot just go onto someone's property and build a fence. He agreed the property owner had a representative who was going to facilitate the process of having the situation fixed. This was not done, which resulted in a more delays and the reason why it was back on the agenda to be resolved.

A motion was made by Commissioner Flescher, seconded by Vice Chairman Adams, to direct staff to seek a court order to allow staff access to the subject property to secure the pool, authorizing the County's employees, servants, agents, or contractors to enter upon the Suncor Vero Beach, LLC property located at 560 Stoney Brook Farm Court, fill-in the pool, and erect a 4-foot high fence around the pool. The motion carried by the following vote:

Aye: 5 - Chairman Earman, Vice Chairman Adams, Commissioner Flescher, Commissioner Loar, and Commissioner Moss

B. Emergency Services

C. General Services

D. Human Resources

E. Information Technology

12.E.1 [22-1029](#) Website Publication of Legal Notices

Recommended Action: Staff recommends the Board continue to follow the established process of advertising legal notices via a local newspaper and continue posting those notices to the County's website. Staff does not recommend implementing a process to advertise legal notices exclusively via the County's website as this has the potential to drastically increase the costs of these advertisements given the provision in the new legislation that allows for residents to request that each notice be mailed to them individually.

Attachments: [Staff Report](#)

Information Technology Director Dan Russell presented a follow-up on the Board's request for additional information concerning publishing legal notices and or official advertisements via the County's website. His memo dated November 22, 2022, outlines the Florida House Bill 7049 which revises requirements for publishing legal notices. Mr. Russell detailed the cost of advertising legal notices in the newspaper versus the cost of mailing those same notices. The total cost for legal notices published in the newspaper during the last fiscal year was \$7,647.15, with an average cost of \$173.80 per advertisement. He stated the County's cost to mail each notice to just 1% of the county's population would escalate the cost to \$2,982.03 compared to the cost of \$173.80 for advertising the same notice in the newspaper. He then outlined the fee for publishing legal notices on the County's website at a cost of \$35.00 per page. Mr. Russell's recommendation was to continue the established process of advertising legal notices via the local newspaper and to continue posting those notices on the County website.

County Attorney Dylan Reingold commented he had attended the mid-year Florida Association of County Attorneys Continuing Education Seminar and stated most counties had done the same research and had reached the same conclusion.

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

Aye: 5 - Chairman Earman, Vice Chairman Adams, Commissioner Flescher, Commissioner Loar, and Commissioner Moss

The Chairman called for a recess at 10:52 a.m. and reconvened at 11:02 a.m. with all members present.

F. Office of Management and Budget

12.F.1. [22-0998](#) Local Assistance and Tribal Consistency Fund (LATCF)

Recommended Action: Staff recommends that the Board of County Commissioners approve allocating the \$100,000 in LATCF funding towards the addition of a Planner I in the Environmental Planning and Code Enforcement Division. After the LATCF funding is exhausted, the MSTU Fund will fund the ongoing cost of the additional position.

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

Management and Budget Director Kristin Daniels reported the American Rescue Plan was awarded two (2) billion dollars to provide for any expenses covering general government services to eligible revenue-sharing counties and tribal governments. Ms. Daniels stated under this new funding source, Indian River County's Local Assistance and Tribal Consistency Fund (LATCF) appropriation was \$100,000 dollars with \$50,000 already received and the remaining \$50,000 to be dispersed in 2023. Due to the increased need for staffing in the Environmental Planning and Code Enforcement Divisions, Ms. Daniels proposed these funds be used to hire one full-time Planner at the annual cost of \$88,096. After that, the position would be budgeted in the Municipal Service Taxing Unit (MSTU) which would be paid for by ad valorem tax proceeds.

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

Aye: 5 - Chairman Earman, Vice Chairman Adams, Commissioner Flescher, Commissioner Loar, and Commissioner Moss

12.F.2 [22-1028](#) American Rescue Plan Act - Spending Plan Revisions

Recommended Action: Staff recommends that the Board consider the proposed spending plan revisions (see attachment) as further detailed above totalling \$2,506,413, consider any changes, and approve the attached plan, with any amendments as needed.

Attachments: [Staff Report](#)
[ARP Proposed Spending Plan](#)

Management and Budget Director Kristin Daniels stated the County had received \$31,063,168 from the American Rescue Plan (ARP) COVID-19 stimulus package. This funding was to be encumbered by the end of 2024 and fully exhausted by the end of 2026. Last year, the Board approved the Non-Profit Assistance Program as well as the Small Business Development Grant Program. She stated those two programs have sunset and all eligible applications have been funded leaving a remaining balance of \$883, 813. In addition, there was \$1,472,600 from the Fellsmere Inn project, which had been determined to be not viable. Ms. Daniels was requesting that the \$2,506,413 of unspent funds be allocated toward road resurfacing. The current funding source for road resurfacing was the gas tax, but with more electric cars on the road, the gas tax would no longer be able to support the road resurfacing needs.

Under discussion, Commissioner Moss stated she was in favor of the road resurfacing but inquired whether some of this funding could be used for the installation of traffic lights. Ms. Daniels responded that the County could use up to \$10,000,000 of the allocation to supplant lost revenue.

Public Works Director Rich Szpyrka stated the 4-legged intersection (a crossroad where two roads meet) recently installed on 66th Ave was around \$800,000. He stated the County could put a signal anywhere, but the question was whether would it help and was it warranted from an engineering standpoint. Director Szpyrka responded to Vice Chairman Adams question that approximately fifteen (15) miles of road could be resurfaced with \$2.9 million. He stated there was a process to vet which intersections needed streetlights and the County needed to move forward with the road resurfacing due to the time restrictions to allocate and expend the ARP funds.

Community Development Director Phil Matson stated the Metropolitan Planning Organization (MPO) receives federal money for comprehensive studies on intersection safety that could be combined with the data the Public Works Department collects.

A motion was made by Vice Chairman Adams, seconded by Commissioner

Moss, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman Earman, Vice Chairman Adams, Commissioner Flescher, Commissioner Loar, and Commissioner Moss

G. Public Works

H. Utilities Services

13. COUNTY ATTORNEY MATTERS

13.A [22-1013](#) Off Leash Beach Dog Park Update

Recommended Action: The County Attorney's Office recommends that the Board provide guidance on how to move forward on allowing dogs off leash at a County beach park.

Attachments: [Staff Report](#)

County Attorney Dylan Reingold stated on October 4, 2022, the Board directed staff to study the issue of turning Ocean Park into an off-leash dog park and to reach out to the Town of Indian River Shores (Town) since the parks on the list were located within the Town. Attorney Reingold stated in order to use a location within the unincorporated area of Indian River County, the Board would have to make a change to the Indian River County Code of Ordinance Section 302.05 allowing for dogs off leash or without restraint. Attorney Reingold sought guidance from the Board to continue to move forward with studying the issue. Commissioner Deryl Loar stated that from the information the Commissioners had received, the public had clearly spoken on this issue and to not have staff continue to study the issue. Additional discussion ensued with each Commissioner adding their comments either for or against staff continuing with the study.

Tuck Ferrell, a resident of Ambersands Beach, recounted his experience where he had to defend himself at least twice with off-leash/unrestrained dogs. Along with the concern about dog waste affecting sea turtles, he was not in favor of the proposed Ordinance.

Kim Salman, a resident, made comments in favor of an off-leash park as most residents were responsible dog owners and felt this had been blown out of proportion. Ms. Salman sought clarification for the Indian River Shores Beach being designated as a dog beach if you had a permit. She pointed out the only access to the beach was the boardwalk which clearly states no dogs were allowed. Attorney Reingold responded that within a County Park, no dogs were allowed, therefore you were not allowed to use the park as access to the beach.

Jeannie Sole, a resident, was not against dogs being on the beach, but expressed concerns for the sea turtle hatchlings and sea birds.

A motion was made by Commissioner Loar, seconded by Commissioner Flescher, to have staff no longer investigate the issue. The motion carried by the following vote:

Aye: 3 - Commissioner Flescher, Commissioner Loar, and Commissioner Moss

Nay: 2 - Chairman Earman, and Vice Chairman Adams

13.B [22-1026](#) Government in the Sunshine Law Update**Attachments:** [Staff Report](#)

County Attorney Dylan Reingold presented the two different concepts with regard to the Sunshine Law that applies to the Board meetings and Public Records law which provides the rights of access to the public to be able to view what the government was doing. He went on to explain the Sunshine Law has three (3) basic requirements: 1) notice; 2) opportunity for the public to attend; and 3) minutes of the meeting. He then explained why all three were critical in order for a full, fair, and open opportunity for the public to be informed. The definition of public record was extremely broad and was defined under Florida Law as meaning any documents papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material regardless of physical form, characteristics of means, transmission, or metadata. He stated the Attorney General's office produces the Sunshine Law Manual every year which is available free online at the Attorney General's website.

Chairman Earman sought and received clarification of a public record request when the item was requested by someone outside of the organization or when it was created by the organization. Attorney Reingold clarified that public records law was a two-way issue. If it was made or received by the governmental entity, it was a public record.

No Action Taken or Required

- 13.C** [22-1035](#) Resolution for Adoption of Administrative Fee for Extensions/Modifications to Contracts for Required Roadway Improvements Under Section 312.11 Section 312.11 (Performance Security) of the Indian River Code of Ordinances

Recommended Action: County staff recommends that the Board approve the draft Resolution setting the administrative fee in the amount of \$660 for contract extensions/modification for required roadway improvements.

Attachments: [Staff Report](#)
[Proposed Resolution for Extension of Contracts](#)
[Resolution 2005-041](#)
[Resolution 2019-089](#)

Assistant County Attorney Susan Prado stated in the interest of consistency across all processes, staff had proposed a change to Section 312.11 (Performance Security) of Chapter 312 (Rights of Way) of the Indian River Code of Ordinances (the Code). She stated the proposed change would allow for the same administration fee of \$660 for contract extensions and/or modifications for required subdivision improvements to be applied to contract extensions and/or modifications for required roadway improvements. Pursuant to Resolution 2019-89, the County Administrator or his/her designee was delegated authority to execute extensions to the standard Contracts for the Construction of Required Roadway Improvements.

A motion was made by Vice Chairman Adams, seconded by Commissioner Flescher, to approve staff's recommendation and Resolution 2022-098, setting administration fees for extensions of required improvements and accompanying cash deposit escrow agreements, if applicable. The motion carried by the following vote:

Aye: 5 - Chairman Earman, Vice Chairman Adams, Commissioner Flescher, Commissioner Loar, and Commissioner Moss

13.D [22-1041](#) Designated Receiving System Transportation Plan

Recommended Action: The County Attorney's Office recommends that the Chair allow for public comment on this matter and then have the Board vote to approve the 2022 Indian River County Transportation Plan.

Attachments: [Staff Report](#)
[2017 Transportation Plan](#)
[Proposed SEFBHN Transportation Plan](#)

County Attorney Dylan Reingold stated that back in the year 2017 per Florida Statutes, the Board adopted a Transportation Plan in collaboration with the Southeast Florida Behavioral Health Network which set forth the facilities which people would be taken to under Baker Act or the Marchman Act situations. He added, these facilities were the Behavioral Health Center at what is now the Cleveland Clinic, and also the New Horizons of the Treasure Coast in Okeechobee. Attorney Reingold stated the Southeast Florida Behavioral Health Network had crafted an updated version of the plan to be consistent with recent statutory changes adopted by the legislature during the last session. At the November 18, 2022 Public Safety Coordinating Council meeting for Criminal Justice Mental Health and Substance Abuse there was discussion had about updating the plan to the 2022 plan. He stated he was bringing this item before the Board to approve the transportation plan to govern these types of issues.

Commissioner Deryl Loar stated this would be absorbed into the Sheriff's budget as the Sheriffs provide transportation for the Baker Act, and he was in favor of the transportation plan.

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

Aye: 5 - Chairman Earman, Vice Chairman Adams, Commissioner Flescher, Commissioner Loar, and Commissioner Moss

14. COMMISSIONERS MATTERS

A. Commissioner Joseph H. Earman, Chairman

B. Commissioner Susan Adams, Vice Chairman

C. Commissioner Joseph E. Flescher

D. Commissioner Deryl Loar

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 12:15 p.m.