



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, June 14, 2022

9:00 AM

Commission Chambers

1. CALL TO ORDER

Present: 4 - Chairman Peter O'Bryan
Vice Chairman Joe Earman
Commissioner Susan Adams
Commissioner Joseph Flescher

Excused: 1 - Commissioner Laura Moss

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

2.B. INVOCATION

Chaplain Chad Elberson, Indian River Estates West

3. PLEDGE OF ALLEGIANCE

Dylan Reingold, County Attorney

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Move: Consent Agenda Item 8.G. to County Administrator Matters Item 11.B.

Moved: Consent Agenda Item 8.G. to County Administrator Matters Item 11.B.

Added: Approval for Commissioner Moss to vote on agenda items via Zoom at June 14, 2022 Meeting

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

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

Excused: 1 - Commissioner Moss

Commissioner Moss appeared via Zoom, and the Chairman recalled at the June 7, 2022 meeting, the Board agreed to allow Commissioner Moss to participate and vote via video conference. The Chairman sought and received confirmation from Commissioner Moss that she would be present for the July 21, 2022 Board meeting.

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to approve Commissioner Moss to vote on Agenda items via video conference at the June 14, 2022 Board Meeting. The motion carried by the following vote:

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

Excused: 1 - Commissioner Moss

5. PROCLAMATIONS and PRESENTATIONS

5.A. Presentation of Proclamation Establishing June 16th, 2022 As National Dump the Pump Day

A Proclamation establishing June 16, 2022 as National Dump the Pump Day was presented to Karen Deigl, President and CEO, Senior Resource Association (SRA), Emily Snow, Business Development Director, and Chris Stephenson, Transportation Mobility Management Director. Ms. Deigl showed a training video used by SRA for individuals traveling on GoLine called, *GoLine - Getting you there!* She announced the Dump the Pump event taking place on June 16, 2022, inviting the Board and the community to experience bus ridership and encouraged individuals to ride public transportation. Mr. Stephenson, in response to a question by Chairman O'Bryan, stated that the GoLine was experiencing an increase in ridership with the rising gas prices. Commissioner Flescher stated he has taken some unannounced rides and from his personal experience, it has been nothing but positive.

Presented by Vice Chairman Earman

6. APPROVAL OF MINUTES

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

7.A. Proclamation Honoring Kenneth A. Houston on His Retirement From Indian River County Board of County Commissioners Department of Utility Services / Customer Service Division with Nineteen Years of Service

Chairman O'Bryan acknowledged Mr. Kenneth Houston for his nineteen years of service to the County.

No Action Taken or Required**8. CONSENT AGENDA**

A motion was made by Commissioner Flescher, seconded by Commissioner Adams to approve the Consent Agenda as amended, pulling items 8.J. and 8.K. 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. Authorization of Interstate Cooperation Contract (ICC) with the State of Texas

Approved staff's recommendation

8.B. First Extension and Modification to Agreements for Utilities Labor Contract (RFP 2020039)

Approved staff's recommendation

8.C. Second Extension and First Amendment to Agreement for Asphalt Paving and Resurfacing (2020042)

Approved staff's recommendation

8.D. Award of Annual Bid 2022048 for Mowing at Fire Rescue Stations

Approved staff's recommendation

8.E. Authorization to Terminate Agreement for Medical Services for Special Needs Shelter with Creative Solutions Companion Care Service, LLC

Approved staff's recommendation

8.F. Approval of Extension of Memorandum of Understanding between Humane Society Vero Beach & Indian River County Florida Inc., and the Indian River County Board of County Commissioners

Approved staff's recommendation

8.G. Automobile Allowance Adjustment

Moved to County Administrator Matters as Item 11.B.

8.H. Amendment No. 1 to Work Order No. 8, Kimley-Horn & Associates, Inc., 69th Street From 66th Avenue to SR5/US-1 Resurfacing (IRC-1639)

Approved staff's recommendation

8.I. FDOT Small County Outreach Program (SCOP) Supplemental Agreement No. 1 and Authorizing Resolution Construction and Construction and Engineering Inspection (CEI) Services for Milling and Resurfacing 6th Avenue from SR-5/US-1 to 21st

Street - Project No. IRC-1638, FM No. 438074-1-54-01

Approved staff's recommendation and Resolution 2022-031, authorizing the Chairman's execution of Small County Outreach program (SCOP) Supplemental Agreement No. 1 with the Florida Department of Transportation for construction (Milling and Resurfacing) and Construction Engineering Inspection (CEI) services for 6th Avenue from SR-5/US-1 to 21st Street.

8.J.

FDOT Transportation Regional Incentive Program (TRIP) Agreement and Resolution Authorizing the Chairman's Signature for CEI and Construction of 66th Avenue from 69th Street to CR-510/85th Street (IRC-1505B) FM No. 436379-2-54-01

Chairman O'Bryan referred to the staff memorandum dated June 6, 2022, in regard to the Transportation Regional Incentive Program (TRIP) from the Florida Department of Transportation (FDOT) for construction engineering inspection services for 66th Avenue from 69th Street to CR-510/85th Street, and pointed out the cost of the project in the amount of \$15,708,271.04 does not include the purchase of right-of-ways. He conveyed his thoughts on keeping the costs down when the County starts purchasing the right-of-ways for the next phase of the widening of 66th Avenue.

A motion was made by Commissioner Adams, seconded by Chairman O'Bryan, to approve staff's recommendation and Resolution 2022-032, authorizing the Chairman's execution of a Transportation Regional Incentive Program Agreement with the Florida Department of Transportation for 66th Avenue Roadway widening from 69th Street to CR-510/85th Street and construction engineering inspection (CEI) services. The motion carried by the following vote:

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

8.K.

Work Order No. 9 - Kimley-Horn and Associates Upper Floridan Aquifer Modeling & Consumptive Use Permit Modification

Commissioner Moss detailed the Work Order for Kimley-Horn for the evaluation of wells and to identify new sources of water within the County to meet future needs. She recalled a discussion by the Board last year in regard to the US Geological Survey (USGS), and that it was the consensus of the Board to hold off and wait until the study by St. Johns River Water Management District was finalized and presented. She opined the USGS was an excellent source for this kind of information and would be a good partner in the endeavor, and she preferred to use USGS for the project.

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

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

Nay: 1 - Commissioner Moss

8.L.

Amended and Restated Interlocal Agreement with School Board of Indian River

County Public Shelter Buildings for Declared and Local Emergencies

Approved staff's recommendation

- 8.M.** Resolution Cancelling Taxes on Property Purchased by the City of Fellsmere for Public Purpose

Approved staff's recommendation and Resolution 2022-033, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

10. PUBLIC ITEMS

A. PUBLIC HEARINGS

B. PUBLIC DISCUSSION ITEMS

C. PUBLIC NOTICE ITEMS

- 10.C.1.** Notice of Public Hearing Scheduled for June 21, 2022 Board Meeting for Consideration of the Disposition of County Owned Surplus Properties for Affordable Housing.

County Attorney Reingold read the notice into the record.

No Action Taken or Required

11. COUNTY ADMINISTRATOR MATTERS

- 11.A.** Executive Session to Discuss Teamsters Negotiations

County Administrator Jason Brown announced that immediately following the Board meeting, an executive session would be held to discuss negotiations with Teamsters for wage increases for Fiscal Year 2022/2023, as allowed under F.S. 447.605.

Commissioner Flescher received confirmation from County Administrator Brown that Commissioner Moss, who was participating in the meeting via video conference, would be able to participate in the executive session telephonically or electronically.

No Action Taken or Required

- 11.B.** Automobile Allowance Adjustment

County Administrator Jason Brown stated there were currently 18 individuals receiving an automobile allowance who do not receive any mileage reimbursement for business related travel with the County. He proposed with the rising cost of fuel and the increased costs associated with vehicle maintenance, the automobile allowance be

returned to the pre-2012 rate of \$4,200.04 annually, and an additional allowance of \$50 per month would be provided to the Chairman of the Board for travel and expenses.

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

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

Nay: 1 - Commissioner Flescher

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

H. Utilities Services

13. COUNTY ATTORNEY MATTERS

13.A. Authorization to proceed with foreclosure on Code enforcement cases: 2016080073 (99th Street) (Almanza, Elias & Angel) and 201712011 (89th Street) (Almanza, Pablo)

Assistant County Attorney Susan Prado announced Case number 2016080073 (99th Street) (Almanza, Elias & Angel) has been cleaned up and brought into compliance. Through a PowerPoint presentation, Attorney Prado provided the history of Case number 2017120119 (12865 89th Street)(Almanza, Pablo), indicating the that property had been cleaned up; however, the owners would need to obtain an after-the-fact building permit for the structure on the property to be brought into compliance. She referred to Daphne Driskell with Code Enforcement to provide an update on the 89th Street property. Ms. Driskell confirmed the majority of the property on 89th Street had been cleaned up except for junk, trash, and debris under the shed. She was unaware if the owners had received an after-the-fact permit for the shed; but pointed out the owners would need to either get a permit for the shed or remove the shed along with the junk, trash, and debris under the shed.

Chairman O'Bryan received confirmation the same owners of the property at 12865 89th Street (Almanza, Pablo) came before the Board previously and inquired on the status of those cases. Ms. Driskell stated the owners were in the process of getting one of the properties into compliance. Attorney Prado brought to the Board's attention the property located at 305 S Lime Street had been annexed into the City of Fellsmere and was no longer within the County's jurisdiction. She indicated the fine accruing for 305 S Lime Street stopped the day the property was annexed into the City of Fellsmere's jurisdiction; however, the owners would need to come back before the County's Code Enforcement Board for a lien reduction. A discussion followed on whether the Board wanted to proceed with the foreclosure process for the property at 305 S Lime Street. Chairman O'Bryan suggested putting a hold on the foreclosure proceedings for the property at 305 S Lime Street since it was no longer in the County's jurisdiction. Commissioner Adams appreciated the owners' hard work to get their properties into compliance.

Attorney Prado sought and received clarification from the Board that the Attorney's office would come before the Board for authorization to proceed with foreclosure on the Code Enforcement Cases; but would not file for foreclosure if the properties come into compliance. County Attorney Dylan Reingold stated the Attorney's Office would provide the Board with an update on the cases through either an email or a memorandum.

A motion was made by Vice Chairman Earman, seconded by Commissioner Adams, to authorize staff to proceed with foreclosure on property at 12865 89th Street, and to put in abeyance any action on the property at 305 S Lime Street recently annexed into the City of Fellsmere. The motion carried by the following vote:

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

13.B.

City of Vero Beach Appeal of Tourist Development Council May 11, 2022, action to exclude City of Vero Beach proposal from consideration for Tourist Development Tax Dollars

County Attorney Dylan Reingold provided an update to the Board on the memorandum from the City of Vero Beach (City) dated June 7, 2022, appealing the May 11, 2022 Tourist Development Council's (TDC) action to exclude the City of Vero Beach's proposal from consideration for Tourist Development Tax Dollars (tourist tax dollars) to the Indian River County Board of County Commissioners (the Board). He added, the City's appeal does not meet the requirements of section 100.06 of the Indian River County Code of Ordinances (Code), as the appeal does not appear to have been filed with the TDC, and the action taken by the TDC was merely a recommendation. He felt the appropriate avenue for raising issues was at the

June 7, 2022 Board meeting as had other agencies who were also impacted by the TDC's recommendations. He addressed the allegations that the County would not accept the application from the City for funding. He also brought up the fact that the item was added to the City's meeting agenda with no notice to the County indicating the item would be discussed at the City Council's meeting.

Chairman O'Bryan sought and received confirmation from County Attorney Reingold on the list of items eligible to utilize tourist tax dollars, and the existence of an ordinance stating the TDC would make recommendations to the Board on future projects. He pointed out that at the March 15, 2022 meeting, the Board voted to codify the County's Outside Agency Policy; the revisions memorialized previously approved funding parameters set by the TDC, as well as a Board-authorized reallocation of tourist tax revenue. Commissioner Flescher added, as Chairman of the TDC, he could confirm the application from the City was on the May 11, 2022 TDC agenda and was explained clearly by staff that the request did not meet disbursement consideration as it was a municipality. County Attorney Reingold confirmed that Mayor Robert Brackett and the Assistant City Attorney Jenny Flanigan were in attendance at the May 11, 2022 TDC meeting.

City Attorney John Turner addressed the County Attorney's memorandum in regard to the matter of procedure. He referred to section 100.06 of the Code, pointing out an appeal must be delivered to the Board within twenty (20) working days, and noted the appeal was delivered on June 7, 2022. He also stated the law does not require an item to be on the agenda to be considered. He continued, the tourist development tax was adopted by the County in 1987, through Ordinance 87-11 which outlined the tourist development plan, created the TDC, established the authorized uses for the taxes, and called for referendum approval. He pointed out the Florida Legislature through the years had made changes on how the tourist tax dollars could be used and in 2016, the Legislature broadened the authorized additional uses for the tourist tax dollars, explicitly allowing a county or municipality in some circumstances to use the tax to reimburse expenses incurred in providing public safety services and law enforcement services. City Attorney Turner named other counties within Florida who allow their municipalities to seek funding for projects through tourist tax dollars. He concluded by requesting the Board to 1) accept the City's application for funding for improvement of the Humiston Beach Lifeguard Tower and Pavilion; and 2) abandon its outside agency funding policy barring municipalities from receiving tourist tax funds, and allow for all uses authorized under Florida law.

County Administrator Jason Brown pointed out how the County took on and managed the Sector 5 beach renourishment project within the City limits and expressed his concern on the attempt to use tourist tax dollars for government infrastructure. Chairman O'Bryan agreed with County Administrator Brown and supported the County's policy. He did not want to see tourist tax dollars used for

capital projects. Commissioner Moss wanted to see the County partner with the City, suggesting a public meeting between the County and the City. Commissioner Adams felt if the City intended this to be a collaborative effort, the City Council members and the City Manager would be present, not solely the litigation arm of the City and a court reporter, which seemed to set the tone for litigation, not collaboration.

A discussion followed on the uses for the tourist development tax dollars and Vice Chairman Earman echoed County Administrator Brown words, stating there was only so much tourist tax dollars to go around and he believed the dollars should be used for the promotion of tourism and to put heads on beds. Commissioner Flescher added at the TDC meeting held on May 11, 2022, the City did not participate or speak concerning the TDC's decision to take the City's request for a lifeguard stand off the list. He noted the tourist tax dollars were being used for beach renourishment and marketing to promote tourism in the City of Vero Beach. Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller, stated his Internal Auditor ensures every tourist tax dollar spent is justified.

County Attorney Reingold read the City's Code of Ordinances, section 2.09, Referendum required and added for the record that TDC stood for the Tourist Development Council, and the TDC was a recommendation board with all decisions made final by the Board of County Commissioners. He stated he would be replying to the City in regard to their appeal accordingly.

Sebastian City Council Member Bob McPartlan felt it would be beneficial for the City of Vero Beach and the County to hold a workshop to discuss tourist tax dollars.

Joseph Paladin fully supported the Board's position with the tourist tax dollars.

Wilfred Hart told the Board that Tourism plays a major role in the schools and asked the Board to include the School District in any workshop.

No Action Taken or Required

14. COMMISSIONERS MATTERS

- A. Commissioner Peter D. O'Bryan, Chairman**
- B. Commissioner Joseph H. Earman, Vice Chairman**
- 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**

The Board of County Commissioners reconvened as the Board of Commissioners of the Solid Waste Disposal District. The minutes will be approved at an upcoming Solid Waste Disposal District meeting.

15.B.1. Final Pay to Geosyntec for Work Order No. 12 - One Year of Groundwater Monitoring/Reporting and Related Consulting Services at the Former South Gifford Road Landfill

There was no discussion on this Item.

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

15.B.2. Request by Waste Management to Modify Franchise Agreement

Managing Director Himanshu Mehta spoke on the request by Waste Management (WM) to modify the franchise agreement to remove Article 3.1(c) for the exclusive collection of Construction and Demolition (C & D) debris containers fifteen cubic yards and greater in size within unincorporated Indian River County. He explained the difference between exclusive and non-exclusive treatment of C&D debris was how the franchise fee was handled by the landfill.

Director Mehta stated staff would return with an amendment to the Franchise Agreement and a modification of the County Ordinance to effectuate the change through a duly noticed public hearing process for adoption by the Board.

A motion was made by Vice Chairman Earman, 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

15.B.3. Work Order No. 16 to Geosyntec for One Year of Groundwater Monitoring/Reporting and Related Consulting Services at the Former South Gifford Road Landfill

There was no discussion on this Item.

A motion was made by Commissioner Adams, 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

C. Environmental Control Board

16. ADJOURNMENT

There being no further business, the Chairman adjourned the meeting at 11:00 a.m.