



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

Chairman, Joseph E. Flescher, District 2
Vice Chairman, Peter D. O'Bryan, District 4
Commissioner Susan Adams, District 1
Commissioner Joseph H. Earman, District 3
Commissioner 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 8, 2021

9:00 AM

Commission Chambers

1. CALL TO ORDER

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

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

2.B. INVOCATION

Leslie Rossway Swan, Supervisor of Elections

3. PLEDGE OF ALLEGIANCE

Commissioner Joseph H. Earman

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Prior to the meeting

Moved: Items 8.R. and 8.S. to be heard with Items 12.H. Departmental Matters, Utility Services

Deleted: Item 8.A.B., moved to the 6/15/2021 Agenda

Canceled: Item 10.B.1. Public Discussion Item

During the meeting

Deleted: Item 14.E.2. Tourist Tax

Moved: Item 13.C. to follow Item 15.A.1.

Moved: Item 15.A.1. to follow Item 8. Consent Agenda

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

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

Nay: 1 - Commissioner Moss

5. PROCLAMATIONS and PRESENTATIONS

5.A. [21-0558](#) Presentation of Proclamation Honoring the Heroism of Gage Kepley

Attachments: [Proclamation](#)

Commissioner Adams read and presented the Proclamation to nine (9) year old Gage Kepley, who appeared before the Board with his family. Commissioner Earman and Chairman Flescher commended the heroic effort by the young Mr. Kepley, who acted quickly and calmly when rescuing his mother and two (2) siblings after their vehicle came to rest in a pond.

Read and Presented

6. APPROVAL OF MINUTES

A motion was made by Commissioner Adams, seconded by Vice Chairman O'Bryan, to approve the Regular Meeting Minutes of March 16, 2021; Special Call Meeting Minutes of March 30, 2021; Regular Meeting Minutes of April 6, 2021; and Regular Meeting Minutes of April 13, 2021, as written. The motion carried by the following vote:

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

- 6.A. [21-0581](#) Regular Meeting of March 16, 2021

Attachments: [03162021BCC_Draft](#)

Approved

- 6.B. [21-0584](#) Special Call Meeting of March 30, 2021

Attachments: [03302021BCC_SpecialCall_Draft](#)

Approved

- 6.C. [21-0585](#) Regular Meeting of April 6, 2021

Attachments: [04062021BCC_Draft](#)

Approved

- 6.D. [21-0586](#) Regular Meeting of April 13, 2021

Attachments: [04132021BCC_Draft](#)

Approved

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

- 7.A. [21-0537](#) Proclamation Honoring Diane Grabenbauer on Her Retirement From Indian River County Board of County Commissioners Department of Emergency Services/Fire Rescue with Twenty-Three Years of Service

Attachments: [Proclamation](#)

Chairman Flescher congratulated Ms. Diane Grabenbauer on her retirement. Commissioner Earman spoke of a time when Ms. Grabenbauer was a member of his crew, making mention that she did her job very well.

No Action Taken or Required

- 7.B. [21-0542](#) Proclamation Honoring Terry L. Atwood on His Retirement From Indian River County Board of County Commissioners Department of General Services / Library Services Division with Twelve Years of Service

Attachments: [Proclamation](#)

Chairman Flescher thanked Mr. Terry L. Atwood for twelve years of service to the County.

No Action Taken or Required

- 7.C. [21-0540](#) Florida Public Service Commission Order PSC-2021-0169-PCO-EI suspending FPL's requested permanent rate schedules.

Attachments: [PSC-2021-0169-PCO-EI](#)

No Action Taken or Required

- 7.D. [21-0546](#) Update on Brightline Trains Expenses

Attachments: [Staff Report](#)
[Brightline Trains Expenses](#)

No Action Taken or Required

- 7.E. [21-0569](#) Indian River County Venue Event Calendar Review

Attachments: [IRC Venue Event Calendar](#)

No Action Taken or Required

- 7.F. [21-0577](#) Public Announcement for Hurricane Preparedness - Are You Ready?

Attachments: [Staff Report](#)
[Public Advertisement & Preparedness Guide](#)

Commissioner Adams reminded the community that it was time to prepare for hurricane season.

No Action Taken or Required

8. CONSENT AGENDA

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

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

- 8.A. [21-0491](#) Checks and Electronic Payments April 23, 2021 to April 29, 2021

Attachments: [Finance Department Staff Report](#)

Approved

- 8.B. [21-0512](#) Checks and Electronic Payments April 30, 2021 to May 6, 2021

Attachments: [Finance Department Staff Report](#)

Approved

8.C. [21-0538](#) Checks and Electronic Payments May 7, 2021 to May 13, 2021

Attachments: [Finance Department Staff Report](#)

Approved

8.D. [21-0552](#) Checks and Electronic Payments May 14, 2021 to May 20, 2021

Attachments: [Finance Department Staff Report](#)

Approved

8.E. [21-0566](#) Checks and Electronic Payments May 21, 2021 to May 27, 2021

Attachments: [Finance Department Staff Report](#)

Approved

8.F. [21-0553](#) Quarterly OPEB Trust Report for Quarter Ending 03/31/2021

Attachments: [Quarterly OPEB Report](#)

Accepted

8.G. [21-0554](#) Quarterly Investment Report for Quarter Ending 03/31/2021

Attachments: [Quarterly Investment Report](#)

Accepted

8.H. [21-0570](#) Quarterly Tourist Development Tax Report for Quarter Ending 03/31/2021

Attachments: [Finance Department Staff Report](#)

Vice Chairman O'Bryan pulled the item to discuss the rebound of tourist development tax dollars.

Clerk of the Circuit Court and Comptroller Jeffrey R. Smith pointed out that in February 2020, an agreement was entered into with VRBO for the collection of tourist development tax dollars. He felt that the agreement with VRBO and the increase to short term rental rates were relevant factors in the rebound for the quarter ending March 31, 2021. Mr. Smith also responded to an inquiry from the last quarterly update, confirming that some hotels had reduced their rates due to the COVID-19 pandemic.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to accept the Quarterly Tourist Development Tax Report for the quarter ending March 31, 2021. The motion carried by the following vote:

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

- 8.I. [21-0555](#) Dori Slosberg Driver Education Safety Act - Indian River County Traffic Education Program Trust Fund Report - Cumulative Reporting through 03/31/2021

Attachments: [Traffic Education Fund Report](#)

Accepted

8.J. [21-0557](#) Tourist Development Council 2021/2022 Budget Recommendations

Attachments: [Staff Report](#)

Commissioner Earman discussed the recent Tourist Development Council (TDC) meeting, noting his surprise that there were not more agencies or municipalities requesting funding. He stated that one particular agency had requested a funding increase of 21%, but was unable to answer questions being asked by a member of the TDC Board. He suggested that in the future, the TDC should look further into what the agencies were doing to promote tourism for the County. Vice Chairman O'Bryan suggested funding the Cultural Council of Indian River County (Cultural Council) at the level they had received the previous year. Chairman Flescher expounded on the recent transition at the Cultural Council, which could have led to the representative's inability to provide the information being requested.

Commissioner Adams, former Chairman of the TDC, clarified that the TDC made it a policy in 2018 that the municipalities would be responsible for collaborating with their non-profit tourism agencies rather than the TDC accepting direct applications from the municipal agencies. She stated that new agencies were encouraged to apply for funding. Commissioner Adams felt it was appropriate to let the TDC know that the Board expected more from the applicants, and to put the applicants on notice regarding future funding. She also informed Commissioner Earman of the TDC's vision that the different agencies would complement each other for the goal of getting heads on beds, which would generate additional tourist tax dollars for marketing campaigns to boost tourism in the County.

Commissioner Moss voiced her concerns about the tourist tax and the TDC. She discussed the requirements for membership of the TDC and of the agencies being funded, and also the timing of the Chamber of Commerce presentations to the TDC. She suggested revisiting these items at a future Commission meeting.

Commissioner Earman clarified that the transition mentioned by Chairman Flescher involved his son, Ben Earman, who had recently resigned from his position as the Executive Director of the Cultural Council; however, he stated that his son's resignation had nothing to do with him being dissatisfied with the presentation.

Ms. Dori Stone, President, Indian River County Chamber of Commerce (the Chamber), addressed the Board to clarify the role of the Chamber.

Mr. Miguel Davila addressed the Board with comments not relevant to the topic.

A motion was made by Commissioner Earman, seconded by Vice Chairman O'Bryan, to approve staff's recommendation with the following conditions regarding the Cultural Council of Indian River County: 1) the funding for Fiscal Year 2021-2022 will revert back to the Fiscal Year 2020-2021 amount of \$49,301; 2)

the proposed Fiscal Year 2021-2022 increase amount of \$10,699 will be placed in a reserve fund; and 3) the organization will be given the opportunity to reapply to the Tourist Development Council with a revised presentation. The motion carried by the following vote:

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

Nay: 1 - Commissioner Moss

8.K. [21-0559](#) American Rescue Plan Act of 2021 - Funding Agreements and Revised Non-Profit Eligibility List

Attachments: [Staff Report](#)

[U.S. Dept of Treasury Coronavirus State & Local Recovery Funds](#)

[United Way ARP Funding Agreement](#)

[IRC Chamber of Commerce ARP Funding Agreement](#)

[Non-Profit Assistance Grant Application](#)

[Additional Non-Profit Agencies Eligible for Funding](#)

Vice Chairman O'Bryan pointed out that he had received an email from Main Street Vero Beach, Inc. (Main Street Vero Beach), stating that they were not going to receive American Rescue Plan Act of 2021 funds from the City of Vero Beach. Due to Main Street Vero Beach's ongoing relationship with the City, the Vice Chairman recommended adding them to the County's list of eligible 501(c)(3) & (4) agencies.

County Administrator Jason Brown voiced his concern regarding expanding on the list that was included in staff's recommendation; however, he felt that Main Street Vero Beach met the criteria for funding, and he supported the recommendation.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve staff's recommendation with Main Street Vero Beach, Inc. being added to the list of eligible 501(c)(3) & (4) entities. The motion carried by the following vote:

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

8.L. [21-0560](#) Miscellaneous Budget Amendment 008

Attachments: [Staff Report](#)

[Resolution](#)

[Exhibit "A"](#)

Approved staff's recommendation and Resolution 2021-038, amending the Fiscal Year 2020-2021 Budget.

- 8.M.** [21-0561](#) Final Ranking of Firms and Award of RFP 2021034 for Main and North Library Meeting Room Audio/Video Upgrade
- Attachments: [Staff Report](#)
 [Attachment 1](#)
- Approved staff's recommendation with the final ranking as follows: 1) AVI-SPL, LLC; 2) IM Solutions, Inc.; and 3) Academic Technologies, Inc.**
- 8.N.** [21-0564](#) Approval of New License Agreement for Donald MacDonald Park Campground
- Attachments: [Staff Report](#)
 [Donald MacDonald Park License](#)
- Approved staff's recommendation**
- 8.O.** [21-0524](#) Work Order No. 41 for Kimley-Horn and Associates, Inc., Oslo Road Improvements 58th Avenue to 82nd Avenue Utility Relocations, FDOT Project 431521-1
- Attachments: [Staff Report](#)
 [Work Order No 41 Kimley-Horn and Associates Inc](#)
- Approved staff's recommendation**
- 8.P.** [21-0526](#) Work Order No. 17 for Kimley-Horn and Associates, Inc. - Amendment 1, 58th Avenue Relocations - 53rd Street to 57th Street
- Attachments: [Staff Report](#)
 [Work Order No 17 Amendment 1-KHA](#)
- Approved staff's recommendation**
- 8.Q.** [21-0567](#) Work Order No. 2 for Schulke, Bittle & Stoddard, LLC, Floravon Shores Septic to Sewer Design Services
- Attachments: [Staff Report](#)
 [Work Order No 2 Schulke Bittle & Stoddard LLC](#)
- Approved staff's recommendation**
- 8.T.** [21-0548](#) Resolution Cancelling Taxes on Property Purchased for Public Purpose: 66th Avenue Right-of-Way
- Attachments: [Staff Report](#)
 [Resolution](#)
- Approved staff's recommendation and Resolution 2021-039, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (Jeta Ranch, LLC)**

8.U. [21-0562](#) Authorization to Purchase Thermoplastic Pavement Marking Application System

Attachments: [Staff Report](#)

Approved staff's recommendation

8.V. [21-0541](#) Award of Bid No: 2021036 Indian River County Courthouse Roof Replacement IRC-1764

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

Approved staff's recommendation

8.W. [21-0543](#) Approval of Work Order No. MM-2 with Kimley-Horn and Associates, Inc. for Construction Related Structural Engineering Services for Construction of Moorhen Marsh Low Energy Aquatic Plant System

Attachments: [Staff Report](#)
[Work Order No. MM-2](#)

Approved staff's recommendation

8.X. [21-0544](#) Recommendation of Award of Construction Contract for Moorhen Marsh Low Energy Aquatic Plant System (Bid #2021038)

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

Approved staff's recommendation

8.Y. [21-0550](#) Approval of Amendment No. 2 to DEP Agreement No. S0839 for Construction of an Oyster Reef Along Foot Island in the Indian River Lagoon

Attachments: [Staff Report](#)
[Amendment No. 2 to DEP Agreement](#)

Approved staff's recommendation

8.Z. [21-0578](#) Revision to Administrative Policy AM-702.1 Sick Leave

Attachments: [Staff Report](#)
[702.1 Sick Leave 2021 final](#)
[702.1 Sick Leave 2021 markup](#)

Approved staff's recommendation

8.AA. [21-0579](#) Revision to Administrative Policy AM-202.1 Hiring and AM-207.1 Promotion

Attachments: [Staff Report](#)
[202.1 Hiring 2021 final](#)
[202.1 Hiring 2021 markup](#)
[207.1 Promotion 2021 final](#)
[207.1 Promotion 2021 markup](#)

Approved staff's recommendation

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

9.A. [21-0568](#) Indian River County Sheriff Eric Flowers re: Community Oriented Policing Services (C.O.P.S) Hiring Program Grant

Attachments: [Sheriff's Memorandum FY 21 COPS](#)

Indian River County Sheriff Eric Flowers referred to his memorandum dated May 27, 2021, to request the Board's approval to apply for a Federal grant, the Community Oriented Policing Services (COPS) Hiring Program Grant (the Grant). He clarified that the award would cover 75 percent of the entry-level salary and benefits for the needed nine (9) deputy positions, responsible for community outreach policing only, for a period of three (3) years. Sheriff Flowers made mention that the Grant would require a 25 percent cost share amount, and that the amount had not been included in their Fiscal Year 2021/2022 Budget request, which was submitted in May 2020.

Discussion among the Board brought concern from Vice Chairman O'Bryan regarding the responsibility for 100 percent of the funding after three (3) years if the Sheriff's Office was chosen to receive the Grant. Sheriff Flowers responded that there would be a possibility of renewing the Grant.

Mr. Freddie Woolfork, 4590 57th Avenue, spoke in support of the Sheriff's request.

A motion was made by Commissioner Moss, seconded by Chairman Flescher, to approve the Indian River County Sheriff's request to apply for the Community Oriented Policing Services (COPS) Hiring Program Grant. The motion carried by the following vote:

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

Chairman Flescher called for a recess at 10:52 a.m., and he reconvened the meeting at 11:08 a.m., with all members present.

10. PUBLIC ITEMS

A. PUBLIC HEARINGS

B. PUBLIC DISCUSSION ITEMS

C. PUBLIC NOTICE ITEMS

11. COUNTY ADMINISTRATOR MATTERS

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

12.H.1. 21-0571 Sole Source for Environmental Equipment Services (EES) and Permission to Increase Capital Funds

Attachments: Staff Report
ESS Proposal Quote #021821CPI-rev2
Sole Source Letter Smith & Loveless Inc
Equipment Pictures

Vincent Burke, Director of Utility Services, utilized staff's memorandum dated May 19, 2021, to update the Board on a price increase of \$219,900 for the replacement of the Smith & Loveless grit drives, grit classifiers and grit removal system electrical control panels at the Central Wastewater Treatment Facility. He stated that the increase was a result of escalations in material and labor costs, and replacing the 22-year-old electrical panels that were not included in the Fiscal Year 2020/2021 Capital Budget. Director Burke noted that a change in ownership of the former sole source vendor led to Environmental Equipment Services (EES) being designated as the new sole source vendor for Smith & Loveless. He recommended that the Board waive the requirement for bids and approve EES as the County's new sole source provider for all Smith & Loveless equipment and/or services.

The Board had no questions for Director Burke.

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

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

- 8.R. [21-0574](#) Groundwater Modeling and Impact Evaluations with CDM Smith, Amendment No. 2 to Work Order No. 5

Attachments: [Staff Report](#)
[Amendment No 2 to Work Order No 5 with CDM](#)

Director of Utility Services Vincent Burke referred to staff's memorandum dated June 8, 2021, to present an additional three (3) groundwater modeling efforts, as listed in Exhibit A of Amendment No. 2 to Work Order No. 5 with CDM Smith Inc.

Commissioner Moss inquired and received clarification from Director Burke on the analysis that led to further investigation by CDM Smith.

Mr. Miguel Davila provided his understanding of the topic.

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

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

- 8.S. [21-0576](#) Well Field and Alternative Water Supply Evaluation

Attachments: [Staff Report](#)
[Work Order No 5 with KHA](#)

Director of Utility Services Vincent Burke referred to staff's recommendation dated May 10, 2021, to present the Board with a request to hire the engineering firm of Kimley-Horn and Associates, Inc., for the purpose of achieving a desired increase in the Consumptive Use Permit (CUP) capacity, consistent with regulatory requirements, by providing an investigative analysis. He stated that staff would return to the Board, following the research and gathering of data, to provide the potential costs associated with expanding the County's water capacity to keep up with the growth over the next 30 years.

Vice Chairman O'Bryan raised concern that doubling the amount of treated water would double the amount of concentrate to be disposed. Director Burke acknowledged the concern and agreed to return to the Board with answers, facts, and costs.

Commissioner Earman applauded the efforts of staff for looking into the future of water.

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 Earman, and Commissioner Moss

12.H.2. [21-0580](#) Well Field Feasibility Expansion Study by All Webbs Enterprises, Inc.

Attachments: [Staff Report](#)

[Section 01000 Summary of Work](#)

[Section 01200 Measurement and Payment](#)

[Schedule of Values for Investigation for S1 and N7 Wells](#)

[Sample Agreement](#)

Director of Utility Services Vincent Burke referred to staff's memorandum dated June 1, 2021, to request an investigation for sufficient water quality and quantity at existing County well fields, making mention that it may be possible to dig deeper at the North County and South County Reverse Osmosis plants rather than to add additional infrastructure. Due to the responsible work on previous County well projects by All Webbs Enterprises, Inc. (AWE) and the need to repair wells S-1 and N-7, Director Burke requested that the Board waive the requirement for bids and approve the sample agreement with AWE.

Commissioner Earman emphasized the need for an adequate water supply.

Commissioner Moss added her concerns regarding digging deeper wells, the cost of the investigation, and waiving competitive bidding. Director Burke stated that exploring different depths was important, and noted that it was the responsibility of staff to explore any and all options, and to provide the Board with facts. He explained that Kimley Horn and Associates, Inc. would be analyzing all of the data received to assist the County with following the rules, and for planning for the conditions the County was facing. Regarding competitive bidding, Director Burke responded that he had solicited another company that was not able to perform the work. He was satisfied with prior work that was done by AWE, and time would be an issue if the Board opted to go out for bid.

Mr. Miguel Davila spoke in support of AWE and staff's recommendation.

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

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

Nay: 1 - Commissioner Moss

13. COUNTY ATTORNEY MATTERS

- 13.A. [21-0575](#) Request for Release of an Easement Located at 170 Seaspray Lane, Town of Orchid, FL

Attachments: [Staff Report](#)
[Resolution to Release Easement](#)

Assistant County Attorney Susan Prado and Environmental Planning and Code Enforcement Chief Andrew Sobczak referred to a PowerPoint presentation to discuss an easement release request by VRB Realty, LLC, the property owner at 170 Seaspray Lane. The request had been presented to the Town of Orchid's Town Council, who had confirmed that there were no objections from the adjacent property owners and voted in favor of releasing the portion of visual access easement at 170 Seaspray Lane. Attorney Prado confirmed that the visual access easement, located near the Jungle Trail, was dedicated to the County and the Town of Orchid in 1989.

Chief Sobczak referred to Exhibit "E" to discuss the location of the easement, noting that it went through the middle of the parcel where the property owner was interested in constructing a single-family home. He confirmed that he had reached out to County Historian Ruth Stanbridge, who had clarified that the purpose of the easement in 1989 was to protect the visual line of sight for the old Jungle Trail alignment; however, the trail had moved.

Commissioner Adams commented that the Jungle Trail may continue to move in the future, and it would not be moving back to a place where the line of vision would be necessary.

Attorney Prado added that she had researched the National Register of Historic Places to verify that the visual access easement at 170 Seaspray Lane was not a part of the Jungle Trail.

A motion was made by Commissioner Adams, seconded by Chairman Flescher, to approve Resolution 2021-040, releasing a portion of an easement located at 170 Seaspray Lane in the Town of Orchid. The motion carried by the following vote:

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

13.B. [21-0549](#) Environmental Control Hearing Board Committee Vacancy

Attachments: [Staff Report](#)

County Attorney Dylan Reingold presented the item, which brought discussion among the Commissioners regarding individuals serving on one or more Committee/Board.

Commissioners Adams and Moss commented that they were familiar with Ms. Anna Kirkland and that she was dedicated to the community.

An online attendee inquired if Committee/Board members had to be County residents, and Chairman Flescher confirmed that it was a requirement.

A motion was made by Commissioner Adams, seconded by Chairman Flescher, to appoint Ms. Anna Kirkland to fill the unexpired term ending in January 2023 for the "Member-at-Large; Citizen not holding elective office" representative to the Environmental Control Hearing Board. The motion carried by the following vote:

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

13.C. [21-0582](#) Eviction Prevention & Diversion Mediation

Attachments: [Staff Report](#)
[Mediation Proposal 5-20-21](#)

County Attorney Dylan Reingold utilized staff's memorandum dated May 27, 2021, to introduce a voluntary program called Eviction Prevention & Diversion Mediation (the Program), designed to keep tenants in their current housing by adequately compensating the landlord. He clarified that neither party would be forced to enter into the Program.

The Honorable Judge Menz expressed to the Board her intent to benefit a large number of tenants who were going to be in need when the eviction moratorium ended. She stated that the Program would run with the assistance of pro-bono attorneys from the Indian River County Bar Association (IRCB), the Indian River County Clerk of the Court, and the Florida Rural Legal Services (FRLS), through its Housing Emergency Advocacy Response Team (HEART) program. Judge Menz proposed the use of up to \$2 million of CARES Act funds from the Mortgage and Rental Assistance Program to benefit the landlord and the tenant by paying back rent and up to three (3) months of future rent, with a proposed amount not to exceed \$7,500, or up to \$9,000 for cases approved by County Administrator Jason Brown.

Discussion among members of the Board, Administrator Brown, and Judge Menz included: 1) landlords who had previously received \$4,500 from the Mortgage and Rental Assistance Program; 2) the negative impact for a tenant with an eviction on their record; 3) landlords who participate in the mediation process and later evict the tenant or sell the property; and 4) the possibility that a landlord had not been paid since March 2020 when the eviction moratorium began.

Commissioner Adams suggested increasing the proposed per household maximum amount to \$10,000 regardless of the possibility that prior payments were made to the landlord, or allowing for a case-by-case determination of the amount of rental assistance to be dispersed to the landlord.

Vice Chairman O'Bryan recommended that the maximum amount of assistance per household be increased to \$10,500. He added that after the Program got started, if there was a need for changes, Judge Menz could return to the Board.

Chairman Flescher suggested an increase in rental assistance to a maximum of \$12,000 per household.

Administrator Brown acknowledged the desire of the Board to disregard that a landlord may have already received \$4,500 in funding; however, he added words of

caution regarding the increase in assistance due to the large number of households potentially in need.

Ellen Kendall, representing the John's Island Community Service League, thanked Judge Menz for her leadership and efforts in coordinating and collaborating to put the program together. She added her appreciation for the Board for recognizing the public need.

Jeffrey R. Smith, Clerk of the Circuit Court, remarked that he was honored to partner with Judge Menz, the FRLS, and the IRCBA to implement the Program.

Attorneys Paul Amos and Cynthia VanDeVoorde Hall, President and President-Elect of the Indian River County Bar Association, expressed their support for the Program and their willingness to offer pro-bono services for a potential solution to the eviction and housing issue, which would also ease the backlog for the court system.

A motion was made by Commissioner Adams, seconded by Vice Chairman O'Bryan, to support the Eviction Prevention & Diversion Mediation Program, authorizing the use of up to \$2 million from the Mortgage and Rental assistance program under the County's CARES Act allocation, with a maximum of \$10,500 per case regardless of previously received aid, with the option to adjust the maximum allowance per case based on the findings after the program was implemented. The motion carried by the following vote:

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

13.D. [21-0507](#) Brightline Settlement Agreement

Attachments: [Staff Report](#)
[Settlement Agreement - With Exhibit Index - 05-04-21](#)
[Ex. A - Indian River Crossings](#)
[Ex. B - Planned Crossing Improvements](#)
[Ex. C - Additional Crossing Improvements - Corrected](#)
[Ex. D - Jt. Stip. of Dismissal](#)
[Ex. E - IRC Release Carve-Out Locations](#)

County Attorney Dylan Reingold recapped the details of the County's lawsuit against Brightline, and he pointed out the terms of the proposed Settlement Agreement (the Agreement) which included more than \$31 million in safety requirements to be completed at no expense to the County. Attorney Reingold advised of some minor changes to the Agreement including: 1) Exhibit A, Hawk's Nest Rd., Golf Club Entrance, the Municipality would be changed from Gifford to read "Private"; and 2) changes to the date where it read May 2021, would be changed to read June 2021. He concluded by offering thanks to the many individuals who had assisted him with the matter over the years.

Discussion ensued among the Board and County Administrator Jason Brown, with the majority pointing out that the County would benefit from the proposed settlement due to Brightline being responsible for installing and maintaining the necessary safety improvements.

Mr. Bob Auwaerter, Indian River Shores, was appreciative of the work done by the Board and County staff. He added comments regarding train stations and the areas of danger that would require fencing.

Mr. Miguel Davila spoke on benefits and concerns of the train traveling through the County.

Mr. Ted Robinson, 651 Broadway Street, cautioned the Board on why they should not approve the proposed settlement with Brightline. He inquired and received clarification from Attorney Reingold that Brightline was planning for 32 trains per day to travel through the County.

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, to approve staff's recommendation with minor wording changes to the Settlement Agreement, as noted in the County Attorney's presentation. The motion carried by the following vote:

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

Chairman Flescher called for a recess at 12:31 p.m., and he reconvened the meeting at 12:41 p.m., with all members present.

14. COMMISSIONERS MATTERS

- A. Commissioner Joseph E. Flescher, Chairman**
- B. Commissioner Peter D. O'Bryan, Vice Chairman**
- C. Commissioner Susan Adams**
- D. Commissioner Joseph H. Earman**
- E. Commissioner Laura Moss**

14.E.1. [21-0588](#) The Water of Indian River County**Attachments:** [Commissioner's Memorandum](#)[Atch 1 - Ltr from IRSWCD - USGS Study](#)[Atch 2 - Ltr from IRSWCD - Public Workshops Request](#)[Atch 3 - Commissioner's Memo on Geohydrology 04.14.21](#)[Atch 4 - IRC 2030 Comp Plan Chapter 3D](#)[Atch 5 - USGS Geohydrology of IRC 1988 Report 88-4073](#)

Commissioner Moss referred to the request by the Indian River Soil and Water Conservation District (IRSWCD) at the April 20, 2021 meeting to update the 1988 Geohydrology Study, conducted by the United States Geological Survey (USGS). She read Policy 2.6 from the Indian River County Comprehensive Plan Chapter 3D, Natural Groundwater Aquifer Recharge Sub-Element, and stated that she had been in contact with the USGS regarding the cost and timeline for the study. She announced that a representative from the USGS was available via Zoom to address the Board's concerns on the cost and timeline of the survey.

Chairman Flescher reminded Commissioner Moss that it was the consensus of the Board at their April meeting to await a report by the St. Johns River Water Management District (SJRWMD), and that it was not for her to gather the information. Commissioner Adams referred to Agenda Item 14.E.1 of the April 20, 2021 draft minutes and read an excerpt of the minutes, "Consensus reached to direct staff to: 1) wait for St. John's River Management District to release their study, then return to the Board to discuss; and 2) reach out to the U.S. Geological Survey to obtain the proposed cost and timing of a geohydrology study." She explained the meaning of "consensus" and she reiterated the Board direction, noting that it was an overreach for Commissioner Moss to contact the USGS directly.

Commissioner Moss stated that the Board had received a second request by the IRSWCD to contact the USGS for an updated Countywide Geological Survey, and she felt that the 2030 Comprehensive Plan was being ignored. She requested that the Board allow the representative from the USGS to address their concerns, which brought additional comments regarding the direction given for staff to gather information and return to the Board. Commissioner Moss then abruptly announced that the County's Utilities Director would be leaving. County Administrator Jason Brown suggested that Commissioner Moss should apologize to his staff member; however, she declined.

Vice Chairman O'Bryan referred to the backup provided by Commissioner Moss, pointing to the Comprehensive Plan Objective 2: Preserving the Quantity of the Surficial Aquifer, and he confirmed that the Board was following the

Comprehensive Plan by waiting for the report from the SJRWMD.

Ms. Jean Catchpole, representing the Indian River Neighborhood Association, questioned how the item got on the Board's agenda. Vice Chairman O'Bryan explained the Board's policy and the process, and he issued an apology for not moving to delete the item at the beginning of the meeting. Commissioner Moss also apologized to the groups who were present to speak before the Board.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to dismiss Item 14.E.1. and proceed to Item 15.B.1. The motion carried by the following vote:

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

Nay: 1 - Commissioner Moss

14.E.2. [21-0590](#) Tourist Tax

Attachments: [Commissioner's Memorandum](#)

[Atch 1 - Florida Statute 125.0104 \(2020\)](#)

[Atch 2 - County Ordinance 87-11](#)

[Atch 3 - VB Lifeguard Assoc 2020 Report](#)

[Atch 4 - Farrow Construction Estimate 2018](#)

[Atch 5 - House of Refuge \(Humiston\) rendering](#)

[Atch 6 - 1987 Referendum Results - Tourist Dev Tax](#)

[Atch 7 - 1987 Proposed Expenditures - Tourist Dev Tax](#)

Deleted

15. SPECIAL DISTRICTS AND BOARDS

A. Emergency Services District

The Board of County Commissioners reconvened as the Board of Commissioners of the Emergency Services District. The minutes will be approved at an upcoming Emergency Services District meeting.

15.A.1. [21-0522](#) Approval to Purchase PulsePoint, a Sole Source Mobile Based Application

Attachments: [Staff Report](#)
[PulsePoint Sole Source](#)

(Clerk's Note: This item was moved to be heard following Item 8. Consent Agenda. The meeting then proceeded with Item 13.C. County Attorney Matters, Eviction Prevention & Diversion Mediation.)

There was no discussion on this item.

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

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

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. [21-0592](#) American Rescue Plan Funding for Leachate Treatment Project at the IRC Landfill

Attachments: [Staff Report](#)

Director of Utility Services Vincent Burke referred to staff's memorandum dated June 3, 2021, to update the Board on the leachate treatment project and to discuss the financial concerns and options for moving the project forward.

Commissioner Adams inquired with staff about using American Rescue Plan (ARP) funds, the cost share required with grant funding, and the timeline involved with following federal procurement procedures. She voiced her concern that delaying the process would not improve the leachate problem and could be very costly. She made mention of the successful pilot project that was done by Heartland Water Technology, Inc.

Commissioner Earman received confirmation from County Administrator Jason Brown of the requirement to go out for bid if the Board wanted to use ARP funds, and that the ARP funds could be used for other projects if the Board chose not to use the funds on the leachate treatment project due to the time restraint.

Vice Chairman O'Bryan and Administrator Brown discussed using ARP funds for septic-to-sewer projects, which would free up sales tax dollars to lessen the 9-10% increase per household that would be necessary to fund the leachate project. Administrator Brown pointed out that the County must own the infrastructure in order to use the ARP funds.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve Option A, to direct staff to continue to finalize a contract for a leachate treatment project between Indian River County SWDD and the developers, consisting of Heartland Water Technology, Inc., Proximo Energy, and Indian River Eco District, LLC, including the original 60 days for negotiations to be approved by the SWDD Board at a future meeting. The motion carried by the following vote:

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

C. Environmental Control Board

16. ADJOURNMENT

There being no further business, Chairman Flescher adjourned the meeting at 1:30 p.m.