



Indian River County Florida

Draft Meeting Minutes

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, October 4, 2022

9:00 AM

Commission Chambers

1. CALL TO ORDER

ROLLCALL

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

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

2.B. INVOCATION

Stan Boling, GraceSpring Covenant Church

3. PLEDGE OF ALLEGIANCE

Dylan Reingold, County Attorney

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

ADD: Item 11.A. Update Regarding Hurricane Ian

ADD: Item 13.C. Town of Indian River Shores v. City of Vero Beach Federal
Litigation Update

DELETED: Item 14.B.1. Discussion on Changes to Beach Renourishment Project
Easement

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

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

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

5. PROCLAMATIONS and PRESENTATIONS**5.A.** Presentation of Proclamation in Recognition of Fire Prevention Week 2022

A Proclamation in recognition of Fire Prevention Week 2022 was presented to members of the Fire Prevention Department with Vice Chairman Earman recognizing those present: Director of Emergency Services Dave Johnson, Fire Prevention Bureau Chief Richard Marini, and the following Fire Inspectors: Bob Burns, Vanessa Brooks, Jennifer MacKinnon, and Alex Norat. Chief Marini stressed the importance of having a working smoke detector in all homes, as well as an escape plan in case of a fire. He announced Fire Prevention's partnership with the American Red Cross to install smoke detectors in homes that need smoke detectors within the community.

Presented by Vice Chairman Earman

5.B. Proclamation Recognizing the Week of October 2-8, 2022 as National 4-H Week

Indian River County 4-H Extension Agent Kaitlyn McCarty thanked the Board for their support of the 4-H Programs and introduced 4-H Member and President of the HorseMasters Lindsay Dillahay who spoke on what 4-H has taught her.

Presented by Commissioner Adams

6. APPROVAL OF MINUTES**7. INFORMATION ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION****7.A.** Appointment of Michelle Morris to the Children's Services Advisory Committee Representing District 2

No Action Taken or Required

7.B. The Inaugural Peter D. O'Bryan Open Disc Golf Championship at Kiwanis-Hobart Park on October 15, 2022

Assistant County Administrator Michael Zito encouraged everyone to come out and participate in the Inaugural Peter D. O'Bryan Open Disc Golf Championship. Chairman O'Bryan thanked Mr. Zito and Recreation Director Beth Powell for the honor of naming the event after him and stated that he always supported the Recreation Department for all the things they do for the community.

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 Item 8.G. 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. Checks and Electronic Payments September 2, 2022 to September 8, 2022

Approved

8.B. Checks and Electronic Payments September 9, 2022 to September 15, 2022

Approved

8.C. Approval of Professional Surveying and Mapping Services Agreements (RFQ 2022064)

Approved staff's recommendation

8.D. Third Party Claims Administration Agreement with Johns Eastern Co. Funding Allocation for Fiscal Year 2022/23

Approved staff's recommendation

8.E. Approval of Renewal of the 800 MHz Communications System Infrastructure Maintenance Contract with Communications International, Inc.

Approved staff's recommendation

8.F. Approval of Renewal for a Class "A" Certificate of Public Convenience and Necessity for Indian River County Department of Emergency Services

Approved staff's recommendation

8.G. Release of Right of Entry and Reservation of Mineral Rights

Assistant County Attorney Susan Prado in response to an inquiry from Commissioner Moss clarified that Section 270.11 of the Florida Statutes gave the County an automatic retention of rights upon sale of a property the right, reservation, title, or interest to any phosphate, metal, mineral, and petroleum interest. She continued the current owner of the property Ocean Spray Cranberries, Inc. made a request to the County for the Release of Right of Entry and Reservation of Mineral Rights for the Transmission Line along 74th Avenue and it was determined there was no need to withhold the release of these rights on the 30 foot strip of land.

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

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

8.H. Resolutions Cancelling Taxes

Approved staff's recommendation and Resolutions 2022-068 (Vero Storage) and 2022-069 (Meritage Homes of Florida, Inc.), cancelling 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 Scheduled Public Hearing for October 11, 2022: Glendale Baptist Church/School Modified Conceptual Site Plan and Special Exception Use
County Attorney Dylan Reingold read the notice into record.

11. COUNTY ADMINISTRATOR MATTERS

- 11.A.** Addition 11.A. - Update Regarding Hurricane Ian

County Administrator Jason Brown provided an update on Hurricane Ian and he thanked all those who responded and helped prepare for this event. He mentioned the issues with the drainage, power loss, and in a PowerPoint Presentation, he displayed the extent of the beach and dune erosion within the County. He mentioned there was a fairly significant amount of debris from the storm, but significantly less than prior events and that staff was not recommending an additional debris pickup. He stated the County issued an emergency purchase order to bring in two claw trucks in addition to the Public Work's trucks to assist in picking up debris from the public rights-of-way. Although the County had been declared eligible for emergency measures by the Federal Emergency Management Agency (FEMA); the County was not declared eligible for debris clearing.

Commissioner Flescher turned to County Administrator Brown proposing to waive the tipping fees for vegetative waste by the commercial vehicles at the landfill for one month.

Managing Director of the Solid Waste Disposal District (SWDD) Himanshu Mehta agreed on waiving the tipping fees for vegetative waste and stated the County opened areas adjacent to the containers for the vegetative waste at each of the Convenience Centers, but emphasized the larger amounts of vegetative waste should be brought to the landfill. He stated in order to move the vehicles in and out of the landfill, SWDD had come up with the average ton of a smaller vehicle bypassing them at the scale

house and counted the number of vehicles coming into the landfill to quantify the amount of vegetative waste per ton in order to pay the contractor.

Chairman O'Bryan was in support of waiving the fees for two weeks with Commissioner Flescher in agreement starting October 5, 2022 and ending on October 19, 2022.

It was the consensus by the Board not to activate the emergency debris pickup and to get the word out through the County's website and social media that there would be no bulk debris pickup and a reminder of the 4 cubic yards size limit of vegetative waste for Waste Management customers.

Chairman O'Bryan commended Public Works, Road and Bridge Division, Republic Waste Services, and Waste Management Services for their response after the storm. He expressed his concern on the number of power outages from a small scale storm and wanted to know what Florida Power & Light planned to do to prevent this from happening in the future.

A motion was made by Commissioner Flescher, seconded by Chairman O'Bryan, to approve waiving landfill tip fees for debris, effective on October 5, 2022 and ending on October 19, 2022. The motion carried by the following vote:

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

12. DEPARTMENTAL MATTERS

A. Community Development

B. Emergency Services

C. General Services

D. Human Resources

E. Information Technology

F. Office of Management and Budget

G. Public Works

12.G.1. FDOT Supplemental Agreement No. 3 to Agreement FM No. 431759-2-54-01

and Resolution Authorizing the Chairman's Signature for the Construction of Intersection Improvements at SR-60 and 43rd Avenue, IRC-0853

Public Works Director Richard Szyrka provided an update on the Construction of Intersection Improvements at State Road (SR) 60 and 43rd Avenue. He stated during construction, it was discovered a drainage trunk line located under Eastbound SR60 was found to have leaks and the Supplemental Agreement provided compensation to the contractor for the repair work from the Florida Department of Transportation.

A motion was made by Adams, seconded by Chairman O'Bryan, to approve staff's recommendation and Resolution 2022-070, authorizing the Chairman's execution of Supplemental Agreement No.3 to the County Incentive Grant Program (CIGP) Agreement FM Number 431759-2-54-01 with the Florida Department of Transportation for Construction and Construction Engineering Inspection Services for intersection improvements at State Road 60 and 43rd Avenue. The motion carried by the following vote:

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

H. Utilities Services

12.H.1.

Utility Accounts Receivable Bad Debt Follow-Up and Potential Foreclosure Activity

Director of Utility Services Sean Lieske recognized the Utility workers who worked during the storm to keep both the water and wastewater flowing. He explained there were 90 lift stations that were down due to the power outages and the Utility crews used portable generators to pump them out.

Utility Finance Manager Cindy Corrente utilized a PowerPoint Presentation to follow-up on the Accounts Receivable Bad Debt and potential foreclosure activity. She stated with the modifications to County Code Section 201.2, staff was given authorization to waive some, or all, penalties and interest on certain past-due utility accounts and to make arrangements for settlement of said accounts. She displayed a summary of bad debts listing the numbers of settlements, total collected, the total penalties, and interest waived for the water and sewer, impact fee loans, and assessments.

Ms. Corrente brought up the accounts falling into the unenforceable lien category explaining liens over 20 years old were no longer legally enforceable; however, she stated a "notice of potential future connection charges" will be filed in the County Clerk's records. She continued before any service could be activated for those properties, any connection charges in effect at the time of connection including any impact fees would need to be paid.

Chairman O'Bryan sought and received confirmation from County Attorney

Reingold whether the notice of future connection charges would show up in the title search so the buyer would be aware of the additional costs.

Ms. Corrente advised the Board that 67 certified letters were sent out to notify property owners with past due accounts of potential foreclosure, giving the owners 60 days to arrive at a settlement agreement noting there had been six settlements to date. She stated that staff would work with either the County Attorney's Office or outside counsel on the accounts with enforceable liens over 24 months to pursue foreclosure, noting there was still ample opportunities for the individuals to settle on their past due accounts. The Board agreed it was not the County's intention to foreclose on an individual's home, but to work with the customer to settle.

Ms. Corrente provided a summary of bad debt for fiscal ending September 30, 2022 in the amount of \$632,604.08, action requested from staff, and what was being done moving forward to prevent the situation in the future. Chairman O'Bryan and Vice Chairman Earman sought and received information from Ms. Corrente whether sending foreclosure notices once the water and sewer accounts were 12 instead of 24 months in arrears and 24 instead of 48 months in arrears for loan or assessment accounts.

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

The Chairman called a recess at 10:29 a.m., and reconvened the meeting at 10:40 a.m., with all members present.

13. COUNTY ATTORNEY MATTERS

13.A. Website Publication of Legal Notices

County Attorney Dylan Reingold referred to his memorandum dated September 16, 2022 stating the Florida Legislature enacted House Bill 7049 in regard to the posting of notices for public hearings, the changes made to the legal notices and official advertisements provisions of the Florida Statutes that would go into effect on January 1, 2023. He outlined the key points of the new statutory requirements that impact Indian River County stating certain notices previously were required to be posted in the newspaper could be noticed on the County's website, and other government entities could use the County's website as their notification forum if the cost of printing on the website is less than the cost of publishing it in the newspaper. He opined the

County could charge other governmental entities to utilize the County's website for their notifications. He pointed out a county with a population of fewer than 160,000 may use a publicly accessible website to publish legally required advertisements and public notices only if it is determined that the residents have sufficient access to the internet by broadband service. He sought guidance from the Board on the use of the County's website for publication of notices for the County and other jurisdictions.

Commissioner Adams sought and received information from County Attorney Reingold on publishing notices on the County's website and allowing other jurisdictions use of the County's website for public notices. She was in favor of publishing notifications on the County's website noting that it would save the County some money and noted if the County chose to move forward there should be a policy in place as to when a notification should be submitted in order to publish a notice in a timely fashion. A discussion followed on the potential cost savings, fees, setting up the County's website for the publication of legal notices, schedule for submitting the notice, and moving forward with only publishing County notices at the beginning.

The Town of Indian River Shores Councilmember Bob Auwaerter spoke of the cost savings and better transparency by publishing notices on the County's website and the cost of a newspaper subscription.

It was the consensus of the Board to direct the County Attorney's Office to research the cost savings, potential fees, and how to set-it up the County's website for the publication of legal notices, and bring back the information to a future meeting.

13.B.

Donation of County Property to the Florida Department of Transportation to be Used as Right-of-Way for the Oslo Road/I-95 Interchange Project

Deputy County Attorney Bill Debraal stated the Florida Department of Transportation (FDOT) was in the process of acquiring the property needed for the Oslo Road/I-95 Interchange Project (project). He stated that construction is scheduled to begin in the Summer, 2023. The County has been assisting the FDOT by attending informational meetings and providing input with the redesign of County owned and maintained roads. He stated as a result of the construction of the project, certain easements and rights-of-way would be impacted. He reviewed the six County-owned properties to be convey to the FDOT without consideration for transportation purposes and reiterated there was no expenditure of County funds associated with this matter.

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

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

13.C.

Addition 13.C. -- Town of Indian River Shores v. City of Vero Beach Federal Litigation Update

County Attorney Dylan Reingold provided an update to the Board on Town of Indian River Shores (Town) v. City of Vero Beach (City) Federal Litigation. He stated that on August 23, 2022, the Federal Court determined Indian River County (County) did not need to be a party in this suit, the County's position from the beginning; however, he stated on September 20, 2022, the Counsel for the City reached out for dispositions from County Administrator Jason Brown, Utility Director Sean Lieske, Public Works Director Rich Szpyrka, and Chairman O'Bryan. He told of the dates for the dispositions and expressed his objection and concern on the disposition of an elected official, but was working to set a date for Chairman O'Bryan's disposition. He made the Board aware of a subpoena by the City for documents and communications between the County and the Town noting his objection to the City's request as being over broad and unduly burdensome without a time period provided.

Chairman O'Bryan sought and received further clarification from County Attorney Reingold on the federal courts ruling in regard to the litigation between the Town and the City.

14. COMMISSIONERS MATTERS

A. Commissioner Peter D. O'Bryan, Chairman

14.A.1. Off Leash Dog Park

Chairman O'Bryan proposed the idea of converting either Sea Turtle Trail or Seagrape Trail beach parks to be an off-leash dog park for the community.

Commissioner Adams stated she had been contacted by a constituent about the desire to work on an initiative for a dog friendly off-leash beach park. She stated there was definitely a need and want from her constituents for a dog friendly beach park and supported moving forward.

Commissioner Moss stated she had reached out to the Town of Indian River Shores (Town) and pointed out the Town's Resolution on the rules regarding dogs on the beach, noting the limited hours. She felt the Board needed to be careful in terms of the environment.

Chairman O'Bryan appreciated the comments and presented some ideas on the dog friendly beach park including the hours and working with the Town on how to regulate keeping the dogs contained only to the County part of the beach. He requested the Board's support to direct staff to look into the matter and to coordinate with the Town to get their input.

Commissioner Flescher supported staff looking into the matter further and expressed his concern for those individuals intimidated by big dogs and irresponsible dog owners.

A motion was made by Commissioner Adams, seconded by Chairman O'Bryan, directed staff to 1) further look into a dog friendly off-leashed dog park; 2) coordinate with the Town of Indian River Shores; and 3) bring the information back to the Board at a future meeting. The motion carried by the following vote:

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

Nay: 1 - Commissioner Moss

B. Commissioner Joseph H. Earman, Vice Chairman

14.B.1. Proposal for Revised Beach Renourishment Project Easement

This item was deleted from the agenda.

Deleted

C. Commissioner Susan Adams

14.C.1. Oslo Cemetery Rules and Regulations for Burial

Commissioner Adams recalled several years ago, the County re-acquired the Oslo Cemetery from private ownership; however, no rules and regulations were finalized. She stated at that time the County was open to the concept of allowing direct descendants to be buried within the cemetery adding there has been some interest from the community on burial plots. She requested approval from the Board to work with the Attorney's Office on a fee schedule, rules, and regulations stating there were some rules for the Winter Beach Cemetery that could transfer to the Oslo Cemetery. She also informed the Board there was a list and map of the descendants buried in the cemetery. She mentioned Mr. Meadows was in attendance and was one of the pioneer families interested in a burial plot.

Mr. Ron Meadows asked the Board for their consideration in proceeding with the rules and regulations for the cemetery as he was looking to settle his affairs and wanted to be buried in the Oslo Cemetery with his family.

A motion was made by Commissioner Adams, seconded by Commissioner Flescher, to direct Commissioner Adams to work with County Attorney Dylan Reingold on a fee schedule, rules, and regulations for burials of Pioneer family members at the Oslo Cemetery and bring back the information to a future meeting for the Board's consideration. The motion carried by the following vote:

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

D. Commissioner Joseph E. Flescher**E. Commissioner Laura Moss****15. SPECIAL DISTRICTS AND BOARDS****A. Emergency Services District**

(Clerk's Note: This item was heard following Item 8., but is placed here for continuity.)

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.

Approval of Public Medical Transportation Letter of Agreement between Indian River County Emergency Services District and the Agency for Health Care Administrations (Year Four)

Chairman O'Bryan received confirmation from Director of Emergency Services David Johnson that the Agency for Health Care Administration (AHCA) had changed their process to receive Public Emergency Medical Transportation (PEMT) payments and now required an upfront payment in the amount of \$335,068.78 from the County in order to receive the PEMT. Chief Johnson stated the anticipated funds that were provided to AHCA would be returned to the County, as well as the annual PEMT funds estimated to be \$503,651.56 for a total amount of \$838,720.34.

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

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

The Board of Commissioners adjourned the Emergency Services District meeting and reconvened as the Board of County Commissioners, resuming the meeting with Item 10.C. Public Items.

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. First Amendment and Renewal to the Biosolids Agreement between the Solid Waste Disposal District and the City of Vero Beach

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

C. Environmental Control Board

16. ADJOURNMENT

There being no further business, the Chairman adjourned the meeting at 11:46 a.m.