



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 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, December 7, 2021

9:00 AM

Commission Chambers

1. CALL TO ORDER

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

Commissioner Peter D. O'Bryan, Chairman

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Added: Item 7.C. MPO 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: 5 - Chairman O'Bryan, Vice Chairman Earman, Commissioner Adams, Commissioner Flescher, and Commissioner Moss

5. PROCLAMATIONS and PRESENTATIONS

6. APPROVAL OF MINUTES

A motion was made by Commissioner Flescher, seconded by Vice Chairman Earman, to approve the Regular Meeting Minutes of September 14, 2021 and September 21, 2021 as written. The motion carried by the following vote:

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

6.A. Regular Meeting of September 14, 2021

Approved

6.B. Regular Meeting of September 21, 2021

Approved

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

7.A. Florida Public Service Commission Final Order PSC-2021-0442-FOF-EI approving expenditures and true-up amounts for fuel adjustment factors; GPIF targets, ranges, and rewards; and projected expenditures and true-up amounts for capacity cost recovery factors; docket to remain open, a copy is on file in the Clerk to the Board Office.

No Action Taken or Required

7.B. Municipalities Committee Assignments for 2022

No Action Taken or Required

7.C. MPO Meeting

Commissioner Moss informed that the County's Visioning Plan would be discussed at the Metropolitan Planning Organization (MPO) meeting on Wednesday, December 8, 2021, at 10 am in Building B.

No Action Taken or Required

8. CONSENT AGENDA

A motion was made by Commissioner Flescher, seconded by Vice Chairman Earman, to approve the Consent Agenda as presented. 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 October 22, 2021 to October 28, 2021

Approved

8.B. Checks and Electronic Payments October 29, 2021 to November 4, 2021

Approved

- 8.C.** Checks and Electronic Payments November 5, 2021 to November 11, 2021
Approved
- 8.D.** Checks and Electronic Payments November 12, 2021 to November 18, 2021
Approved
- 8.E.** Checks and Electronic Payments November 19, 2021 to November 25, 2021
Approved
- 8.F.** FY 2020-2021 Records Management Compliance Statements
Approved staff's recommendation
- 8.G.** Oyster Bar Marsh Conservation Area Public Use Improvements - Amendment Number 1 to Work Order Number 5 Continued Construction Administration Services - Coastal Waterways Design & Engineering, LLC
Approved staff's recommendation
- 8.H.** Final Pay to Summerlin's Marine Construction, Inc. for Oslo Riverfront Conservation Area
Approved staff's recommendation
- 8.I.** 2021/22 FIND Waterways Assistance Program Grant Award for the Environmental Learning Center Main Dock
Approved staff's recommendation
- 8.J.** 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
Approved Resolution 2021-079, 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. 2020-104 effective December 7, 2021; and providing an effective date.
- 8.K.** 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
Approved Resolution 2021-080, 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. 2020-105; and providing an effective date.

- 8.L.** Annual Resolution re Signatories
Approved Resolution 2021-081, 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. 2020-103 which speaks to authorized signatures on County checks, warrants, and other orders for payment; and providing an effective date.
- 8.M.** Indian River County - St. Lucie County Interlocal Agreement for Pre-Trial Services
Approved staff's recommendation
- 8.N.** Approval of Renewal of a Class "B" Certificate of Public Convenience and Necessity from MCT Express, Inc. DBA United Medical Transportation
Approved staff's recommendation
- 8.O.** Consideration of the Affordable Housing Advisory Committee (AHAC) 2021 Incentives Review and Recommendation Report
Approved Resolution 2021-082, approving the Indian River County Affordable Housing Advisory Committee (AHAC) 2021 report and directing staff to submit the County's Local Housing Assistance Plan to Florida Housing Finance Corporation (FHFC).
- 8.P.** Approval of a Public Transportation Grant Agreement (PTGA) with the Florida Department of Transportation (FDOT) for a Public Transportation Block Grant
Approved Resolution 2021-083, authorizing the execution of a Public Transportation Grant agreement with the Florida Department of Transportation.
- 8.Q.** Donation of Excess Lawn Equipment to the Gulf Stream Council of the Boy Scouts of America
Approved staff's recommendation
- 8.R.** Authorization to Provide 60-day Notice of Intent to Terminate Agreement for Custodial Services for County Buildings with High Sources, Inc.
Approved staff's recommendation
- 8.S.** First Amendment to Agreement with Florida Armature Works, Inc. for As Needed Motor and Pump Repair
Approved staff's recommendation
- 8.T.** Sole Source Designations
Approved staff's recommendation

- 8.U.** North County Reverse Osmosis Water Treatment Plant Supervisory Control and Data Acquisition System Upgrades, Kimley-Horn Work Order No. 7
Approved staff's recommendation
- 8.V.** Work Order No. 48 for Kimley-Horn and Associates, Inc., 43rd Avenue & South Relief Canal - 18" Water Main Relocation
Approved staff's recommendation
- 8.W.** Work Order No. 17 - Morgan & Eklund, Inc. 2022 Beach Profile Monitoring Surveys (WINTER)
Approved staff's recommendation
- 8.X.** Work Order No. 18 - Morgan & Eklund, Inc. 2022 Beach Profile Monitoring Surveys (SUMMER)
Approved staff's recommendation
- 8.Y.** Award of Bid No. 2022001 Sector 5 (IRC-2112) Additional Dune Planting Project
Approved staff's recommendation
- 8.Z.** Renewal and Amendment No. 1 to Agreement for Continuing Geotechnical Engineering Services RFQ# 2018042, IRC-1812
Approved staff's recommendation
- 8.AA.** Approval of the First Amendment to the Developers Agreement Between Indian River County and Florida Power & Light
Approved staff's recommendation
- 8.AB.** Administrative Complex Native Plant Garden Agreement
Approved staff's recommendation

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

10. PUBLIC ITEMS

A. PUBLIC HEARINGS

PROOF OF PUBLICATION FOR THESE HEARINGS IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD.

10.A.1.

Gaddis Properties, LLC's Request for Conceptual Planned Development (PD) Plan and Special Exception Approval for Sebastian Landing [PD-20-11-05 / 2004120183 -87715] - Quasi-Judicial

Chairman O'Bryan introduced the parties for the proceeding as being Indian River County and Gaddis Properties, LLC (Applicant). Each Commissioner, as requested by the Chairman, disclosed ex parte communications, site visits, or independent investigations. The Commissioners also affirmed that they have an open mind and can base their decisions on the evidence presented and the applicable law.

The Chairman opened the public hearing. The Deputy Clerk administered the Oath to all persons who wished to speak at the hearing.

Ryan Sweeney, Chief of Current Development, utilized a PowerPoint presentation to detail the Planned Development (PD) process, as well as the requirements needed to receive special exception approval for the Sebastian Landing PD. Chairman O'Bryan received information from staff regarding past wetland mitigation efforts.

Joseph Paladin, Black Swan Consulting, addressed the Board as the Applicant's representative. Mr. Paladin called upon the following associates to provide information to the Board regarding wetland mitigation banks, amenities development, and green spaces:

Craig Chown, Principal, CGW Mitigation Bank

David Ofstein, Consultant, Gaddis Properties LLC

Matthew Barns, Senior Project Manager, WGI Properties

The Chairman opened the hearing to public comments.

Joseph Braun, Sebastian, received information regarding residential development density

There being no further comments, the Chairman closed the Public Hearing.

A motion was made by Commissioner Flescher, seconded by Vice Chairman Earman, 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

10.A.2.

Public Hearing Re: Petition to Establish Lakeside at Indian River Community Development District - Legislative

County Administrator Jason Brown introduced the item which addressed a petition to establish a Lakeside at Indian River (Lakeside) Community Development District (CDD). Administrator Brown provided information on CDDs, and restated staff's recommendation that it was a vehicle more appropriate for larger projects with bigger infrastructure needs and public benefits. The Board discussed the history of CDDs, which have never before been used in the County.

The Chairman opened the public hearing.

The Petitioner's representatives, Joseph Paladin, for Meritage Homes of Florida, Inc., and Jere Earlywine, KE Law Group, presented information in favor of the establishment of a CDD. Lengthy discussion ensued throughout the speakers' comments as the Commissioners and staff posed questions and expressed opinions regarding the financial and legal ramifications of CDDs.

The Chairman called for a recess at 10:30 a.m., and reconvened the meeting at 10:43 a.m. with all members present.

The public hearing continued with input and comments from the following:

Andrew Kennedy, Representative for Liberty Park
Chuck Mechling, Developer
Karen Osborne
Tom Lowther

Discussion returned to the Petitioner's representatives for closing remarks. Wesley Mills, Mills, Short and Associates, discussed the density of the planned development. Mr. Earlywine returned to address legal concerns raised during discussion. Mr. Paladin closed the Petitioner's comments with a plea for the Board's approval of the petition.

Mr. Mechling accepted the Chairman's offer to rebut the speakers' comments.

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

Board discussion ensued with concern expressed for the use of CDDs as a financing tool. Commissioner Adams requested further discussion to establish an

official policy regarding CDDs rather deciding on a case-by-case basis.

Mr. Earlywine then requested to withdraw the petition on his client's behalf. Chairman O'Bryan noted that the public hearing had been closed, and he opted to continue the Board's discussion.

Board discussion resumed with Commissioners' concerns regarding adherence to the County's principle to have development pay for itself, approaches to managing growth, and concern for the ramifications of CDDs to home buyers. There was agreement among the Board that further discussion was needed to establish a broad policy regarding use of CDDs. Chairman O'Bryan received confirmation from Attorney Reingold that a withdrawal of this petition would not preclude the developers from filing again in the future.

Mr. Earlywine stated he would like to participate in the shaping of the County's CDD policy.

Chairman O'Bryan received consensus from the Board to allow the Petitioner to withdraw their petition and return with the item at a later date.

Board consensus was reached to allow the Petitioner to withdraw the petition, and re-start the process to bring the item back before the Board at a later date.

Discussion on this item continued among the Commissioners as they brainstormed the best way to move forward with establishing a CDD policy. Agreement was reached to create an ad-hoc committee of interested developers and community groups to establish parameters for a CDD element to be added to the County's code. Staff would then work with the committee's recommendation to create a policy that was in-line with the County's Code, and then return before the Board with a presentation in March of 2022.

A motion was made by Commissioner Adams, seconded by Chairman O'Bryan, to direct staff to work with interested community partners to create parameters for a future Community Development District element in the County's code. Staff was further instructed to return before the Board with a presentation in March of 2022. The motion carried by the following vote:

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

10.A.3. Public Hearing and Discussion of 2021 Redistricting of County Commissioner Districts

County Attorney Dylan Reingold referred to the Commission meeting of November 9, 2021, at which the Board voted to move forward with Proposal 1B for the 2021 Redistricting of County Commissioner Districts.

Chairman O'Bryan displayed an overhead image of the Proposal 1B map as he opening the public hearing.

Paul Carlisle, City Manager, Sebastian, spoke in support of Proposal 1B

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

A motion was made by Commissioner Adams, seconded by Vice Chairman Earman, to approve Resolution 2021-084, establishing boundaries of County Commissioner Districts following the 2020 Decennial Census. The motion carried by the following vote:

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

B. PUBLIC DISCUSSION ITEMS

C. PUBLIC NOTICE ITEMS

10.C.1. Public Notice of Public Hearing for December 14, 2021, to Consider an Ordinance Authorizing an Extension of the Temporary Moratorium for an Additional 1 Year with regard to Class B Biosolids

County Attorney Dylan Reingold read the notice into the record.

No Action Taken or Required

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****12.F.1.** CARES Act - Spending Plan Revisions

County Administrator Jason Brown referred to staff's memo dated November 19, 2021, as he reviewed changes to the CARES Act Spending Plan. Administrator Brown discussed extensions for the cities of Sebastian and Fellsmere until December 31st, decreased allocations, and funding for County employees' Covid-related health care costs.

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

G. Public Works**H. Utilities Services****13. COUNTY ATTORNEY MATTERS****13.A.** Agriculture Advisory Committee Appointment

County Attorney Dylan Reingold presented Michael E. Sexton's application for the open position of "Farm Bureau Representative" on the Agriculture Advisory Committee (AAC).

Vice Chairman Earman received confirmation from Attorney Reingold that Mr. Sexton was aware of Florida's Government in the Sunshine Laws in light of the fact that his father, Sean Sexton, was also a voting member of the AAC.

Commissioner Adams suggested having Attorney Reingold review the Sunshine Laws at the next AAC meeting.

A motion was made by Vice Chairman Earman, seconded by Commissioner Moss, to approve the appointment of Michael E. Sexton to fill the unexpired term for the "Farm Bureau Representative" to the Agriculture Advisory Committee. The motion carried by the following vote:

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

13.B. Planning and Zoning Commission Appointment

County Attorney Dylan Reingold presented applicants for the open position of "Alternate Member" on the Planning and Zoning Commission.

Commissioners Adams and Moss nominated Kenneth A. "Chip" Landers for the position.

Commissioner Flesher and Vice Chairman Earman supported Jordan J. Lulich for the vacancy.

The following candidates addressed the Board to advocate for their nomination:

Kenneth A. "Chip" Landers

Karen Osborne

County Attorney Dylan Reingold confirmed for Chairman O'Bryan that the alternate could fill-in for any member's absence, not just when a quorum was needed.

A motion was made by Commissioner Adams, seconded by Commissioner Moss, to approve the appointment of Kenneth A. "Chip" Landers to fill the unexpired term for the "Alternate Member" representative to the Planning and Zoning Commission. The motion carried by the following vote:

Aye: 3 - Chairman O'Bryan, Commissioner Adams, and Commissioner Moss

Nay: 2 - Vice Chairman Earman, and Commissioner Flesher

13.C. Sebastian River Improvement District 82nd Avenue Interlocal Agreement

County Attorney Dylan Reingold referred to staff's memorandum, dated December 1, 2021, which laid out the history of discussions leading to the proposed Interlocal Agreement (ILA) with the Sebastian River Improvement District (SRID) for the maintenance of 82nd Avenue from 26th Street to 69th Street.

Attorney Reingold highlighted important portions of the ILA, which included permitting for the application of County-provided asphalt millings, and the County's right (but not responsibility) to maintain the roadway's shoulders and signage.

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

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

13.D. Environmental Control Hearing Board Committee Appointment

County Attorney Dylan Reingold presented Dr. Norman Meyer's application for the vacant position of "Medical Doctor" to the Environmental Control Hearing Board.

Commissioner Flescher spoke in favor of Dr. Meyer for the position.

A motion was made by Commissioner Flescher, seconded by Commissioner Moss, to approve the appointment of Dr. Norman Meyer to fill the unexpired term for "Medical Doctor" representative to the Environmental Control Hearing Board. The motion carried by the following vote:

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

13.E. Chapter 164 Mediation Update

County Attorney Dylan Reingold advised the Board that the City of Vero Beach (City) declined to meet further to discuss the water supply issue, and that the County should move forward to mediation which was the third stage of the conflict resolution process. He spoke in favor of utilizing Mediator Randy Brennan for the next stage of meetings.

Attorney Reingold clarified the County's position in regard to assisting the City with obtaining grants for their planned utility upgrades. He also confirmed for Vice Chairman Earman that the mediator was not required to be from outside the County.

Board consensus was reached to move to the Mediation phase of the Chapter 164 Dispute Resolution Process, with Randy Brennan as Mediator.

13.F. Right of Way Ordinance Amendment

County Attorney Dylan Reingold referred to staff's memo, dated November 23, 2021, which detailed the circumstances that led to the proposal of an Ordinance amendment regarding driveway construction materials. Attorney Reingold requested authorization to draft the Ordinance amendment and to invoke the pending ordinance doctrine.

Chairman O'Bryan provided further explanation of the pending ordinance doctrine.

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

13.G. Unconditional Offer for a Parcel of Right-Of-Way Located at 7950 66th Avenue, Vero Beach, FL 32967 - Parcel 128 - Owned by Leonard Ganbin III and Kelly L. Jackson

Deputy County Attorney Bill DeBaal presented the third step in the Eminent Domain process, providing an unconditional offer, for a parcel of right-of-way located at 7950 66th Avenue. Attorney DeBaal detailed the methodology used to arrive at the offer.

Chairman O'Bryan received confirmation that the offer was more than the appraised amount.

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

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

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.

- A. Emergency Services District
- B. Solid Waste Disposal District

15.B.1. Approval of Meeting Minutes September 21, 2021

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to approve the Solid Waste Disposal District minutes of September 21, 2021 as written. 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.

Consent to Assignment of Landfill Gas Agreement with Nopetro Eco District, LLC

Chairman O'Bryan received confirmation from Solid Waste Disposal District Managing Director Himanshu Mehta that the consent to assignment to Nopetro RNG, LLC regarded a previously approved agreement.

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 12:15 p.m.