

# 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

**Tuesday, April 18, 2017**

**9:00 AM**

**Commission Chambers**

### **Board of County Commissioners**

*Joseph E. Flescher, Chairman, District 2  
Peter D. O'Bryan, Vice Chairman, District 4  
Susan Adams, District 1  
Bob Solari, District 5  
Tim Zorc, District 3*

**Jason E. Brown, County Administrator  
Dylan Reingold, County Attorney  
Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller**

**1. CALL TO ORDER****ROLLCALL**

**Present:** 5 - Chairman Joseph Flescher  
Vice Chairman Peter O'Bryan  
Commissioner Susan Adams  
Commissioner Bob Solari  
Commissioner Tim Zorc

**2.A A MOMENT OF SILENT REFLECTION FOR FIRST RESPONDERS****2.B INVOCATION**

Pastor Jeremy Rebman, First United Methodist Church

**3. PLEDGE OF ALLEGIANCE**

Jason E. Brown, County Administrator

**4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS**

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

**Aye:** 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

**5. PROCLAMATIONS and PRESENTATIONS**

**5.A**     [17-0369](#)     Presentation of Proclamation Designating the Month of April, 2017 as Volunteer Appreciation Month

**Recommended Action:** Read and presented.

**Attachments:** [Proclamation](#)

Commissioner Adams read and presented the Proclamation to Volunteer Captain Richard (Dick) Lutterman, representing the current 31 Cap (Road Patrol) Volunteers. Also present were volunteers Kathy Allston, Lee Bowden, Eve Carswell, Lewin Cocks, Donna Dobie, Jim Dobie, Mary Gilmartin, Michael Hyde, Marge Lutterman, Rocco Margotta, Warren Miller, Ernie Poland, Rod Puleo, Ern Sheppard, Michael Sherwood, Ken Simone, and Dan Thomas.

Sheriff Deryl Loar detailed the important services that local volunteers provide, and expressed his appreciation for their valuable contributions to the community.

**No Action Taken or Required**

- 5.B [17-0400](#) Presentation of Proclamation Designating April 30th Through May 6, 2017, as Small Business Week in Indian River County.

**Recommended Action:** Read and Presented.

**Attachments:** [Proclamation](#)

Commissioner Solari read and presented the Proclamation to Helene Caseltine, Economic Development Director, Indian River Chamber of Commerce.

Helene Caseltine explained the importance of small businesses in the County, and provided information on resources that are available to provide training for start-up businesses, entrepreneurs, and current business owners.

**No Action Taken or Required**

## **6. APPROVAL OF MINUTES**

- 6.A [17-0421](#) Regular Meeting of March 21, 2017

**Recommended Action:** Approve

**Attachments:** [03212017BCC](#)

**A motion was made by Commissioner Zorc, seconded by Commissioner Adams, to approve the Regular Meeting Minutes of March 21, 2017, as written. The motion carried by the following vote:**

**Aye:** 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

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

- 7.A [17-0426](#) Proclamation and Retirement Award Honoring Ray F. Jones on His Retirement From Indian River County Board of County Commissioners Department of Emergency Services/Fire Rescue with Twenty-Six Years of Service

**Attachments:** [Service Award](#)

[Proclamation](#)

Chairman Flescher congratulated Ray F. Jones on his retirement.

**No Action Taken or Required**

## **8. CONSENT AGENDA**

**A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve the Consent Agenda, pulling Item 8.G. and Item 8.I. for discussion, as amended. The motion carried by the following vote:**

**Aye:** 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

**8.A**     [17-0418](#)     Checks and Electronic Payments March 31, 2017 to April 6, 2017

**Recommended Action:** Approve the list of checks and electronic payments issued by the Comptroller's office for the time period of March 31, 2017 to April 6, 2017

**Attachments:**   [Finance Department Staff Report](#)

**Approved**

**8.B**     [17-0419](#)     Resolution Authorizing the Submittal of an Application to FDEP Requesting an Easement for Utilities on State Owned Uplands under Lease by Indian River County

**Recommended Action:** Adopt the resolution, and authorize the Chairman to execute same for submitting with the application request to the Florida Department of Environmental Protection.

**Attachments:**   [Staff Report](#)

[Resolution](#)

[Application](#)

**Approved Resolution 2017-034, authorizing the submittal of an application to the Florida Department of Environmental Protection requesting an easement for utilities on state owned uplands under lease by Indian River County.**

**8.C**     [17-0420](#)     Release and Satisfaction of Demolition Lien (Lot 13 and the South 1/2 of Lot 14, Block H, Citrus Gardens)

**Recommended Action:** Authorize the Chairman to execute the Release and Satisfaction for forwarding to the title company for recordation in the Public Records of Indian River County, Florida.

**Attachments:**   [Staff Report](#)

[Release and Satisfaction](#)

**Approved staff's recommendation**

**8.D**     [17-0390](#)     Work Order No. 13 with KHA - Roseland Elevated Tank Conversion-UCP 4136

**Recommended Action:** Staff recommends that the BCC approve Work Order No. 13 with KHA, for the lump sum amount of \$112,222.00, and authorize the Chairman to execute the same, as presented.

**Attachments:** [Staff Report](#)  
[Work Order No. 13](#)

**Approved staff's recommendation**

- 8.E**     [17-0412](#)     Contract with the Center for Urban Transportation Research (CUTR) at the University of South Florida for Public Transportation Assistance

**Recommended Action:** Staff recommends that the Board of County Commissioners review the proposal for assistance with the Procurement of Public Transportation Services prepared by the Center for Urban Transportation Research (CUTR) and authorize staff to issue a Purchase Order in the amount of \$32,824 for Consultant Services.

**Attachments:** [Staff Report](#)  
[Attachment 1: Scope of Services](#)

**Approved staff's recommendation**

- 8.F**     [17-0413](#)     Approval of a Public Transportation Supplemental Joint Participation Agreement (SJPA) with the Florida Department of Transportation (FDOT) for Section 5339 Public Transportation Capital Funds

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

**Attachments:** [Staff Report](#)  
[Attachment 1: Resolution](#)  
[Attachment 2: Supplemental Joint Participation Agreement](#)  
[Attachment 3: Grant Budget Form](#)

**Approved Resolution 2017-035, authorizing the execution of a Public Transportation Supplemental Joint Participation Agreement with the Florida Department of Transportation.**

- 8.G**     [17-0417](#)     Agreement to Purchase Property for Stormwater Pollution Removal System, Owner: Ellis Greene and Kathleen Greene & Janie E. Greene, 53rd Street, Vero Beach, FL 32967

**Recommended Action:** Staff recommends the Board approve the Purchase Agreement for the properties located along the North side of 53rd Street, East of 66th Avenue, Vero Beach, FL and authorize the Chairman to execute the Purchase Agreement on behalf of the Board.

**Attachments:** [Staff Report](#)  
[Stormwater Project Potential Properties Map](#)  
[Stormwater Project Synopsis](#)  
[Purchase Agreement - Janie Greene](#)

Commissioner Zorc made reference to the ongoing Public Works Projects that were developed in an effort to clean more water flowing into the Indian River Lagoon, and suggested that the Indian River Farms Water Control District (IRFWCD) should be involved earlier in the discussion process to better locate proper sites for those projects.

Public Works Director Rich Szyrka, with the assistance of Stormwater Engineer Keith McCully, provided the Board with answers to their questions regarding the involvement of IRFWCD and reviewed the process used for locating and purchasing land necessary for a project.

**A motion was made by Commissioner Zorc, 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 Solari, and Commissioner Zorc

**8.H**     [17-0424](#)     Change Order No. 1 and Release of Retainage 87th Street and 91st Avenue Sidewalk Improvements

**Recommended Action:** Staff recommends approval of Change Order No. 1, and payment of Application for Payment No. 12 to Kerns Construction & Property Management Corporation, in the amount of \$53,686.64.

**Attachments:** [Staff Report](#)  
[Kerns Construction & Property Management Corporation Application for Payment No. 12](#)  
[Change Order No. 1](#)

**Approved staff's recommendation**

**8.I**     [17-0427](#)     Approval of Animal Shelter Services Agreement with Humane Society of Vero Beach and Indian River County

**Recommended Action:** Staff recommends the Board award the agreement of Animal Shelter Services to the Humane Society of Vero Beach and Indian River County.

**Attachments:** [Staff Report](#)  
[Committee Member Ranking Summary](#)  
[Contract for Providing Animal Shelter Services 2017](#)

Deputy County Attorney William DeBaal explained the additions to the contract that were requested by the Humane Society.

**A motion was made by Commissioner Solari, seconded by Vice Chairman O'Bryan, to approve staff's recommendation, with the additions as requested by the Humane Society. The motion carried by the following vote:**

**Aye:** 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

## **9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES**

### **10. PUBLIC ITEMS**

#### **A. PUBLIC HEARINGS**

**10.A.1** [17-0411](#) Florida Power & Light Company's Request for Special Exception Use Approval for a Private Heavy Utility (Blue Cypress Solar Energy Center) [SP-SE-17-04-06 / 2017030093-78598] (Quasi-Judicial)

**Recommended Action:** Staff recommends that the BCC grant special exception use approval for a private heavy utility facility (solar energy center) to be known as FPL Blue Cypress Solar Energy Center with the following conditions: 1. Prior to site plan release, the applicant shall provide a recorded unity of title that combines the grove maintenance site with the adjacent parcel owned by West Vero Farms, LLC. *(Completed)* 2. Prior to utilizing the approved project access route for construction traffic, the applicant shall install the County required culvert crossing improvements. 3. Prior to utilizing an alternative project access route, the applicant shall: a. Obtain approval of any alternate project access route from Public Works. b. Install the required improvements for any County culvert crossings along the alternate route.

**Attachments:** [Staff Report](#)  
[Application](#)  
[Excerpt from Draft 3-23-2017 PZC Minutes](#)  
[Location Map](#)  
[County Culvert Crossings Exhibit](#)  
[Extended Roadway Grid Network Exhibit](#)  
[Aerial](#)  
[Site Plan](#)  
[Additional Backup - Affidavit of Publication](#)

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS

ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD.

Each Commissioner, as requested by the Chairman, disclosed ex parte communications, site visits, or independent investigations. They 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 meeting.

Stan Boling, Community Development Director, provided a PowerPoint Presentation detailing the special exception process, the overall location, the site plan, and project access routes for the FPL Blue Cypress Solar Energy Center. He clarified that the site plan does not include a sub-station; therefore, landscaping requirements would not apply.

Attorney Bruce Barkett, representing Florida Power & Light (FPL), supported staff's recommendations and mentioned the submission of a preliminary report on the condition of the culverts. He stated that FPL would comply with any determinations made by the Public Works Department with regards to the report.

A short discussion ensued between the Board and Attorney Barkett about the possible cumulative effects that a 74.5 megawatt solar energy center may have in the future, the condition and ownership of the culverts, and if the construction would interfere with the regular road grading maintenance schedule.

Krista Hendricks, Solar Development Team, FPL, through a PowerPoint Presentation, gave information on the location, the installation requirements, and employment opportunities for the proposed solar energy center. She noted that the solar energy center would be virtually silent, emit no light at night, and that the solar panels sit quietly while harvesting emissions-free energy from the sun. She stated that the site is capable of generating enough electricity annually to power approximately 15,000 homes, and would help the State of Florida meet emissions goals.

Bob Johnson, Coral Winds Subdivision, asked if FPL was tax exempt and what the benefit to the citizens in the County would be. Along with input from the Board and staff, Vice Chairman O'Bryan clarified that the exception was for special use for zoning purposes, not for a tax exemption. He clarified further that the facility would be placed on the tax roll at full value; would provide an increase in Ad Valorem revenue; and that the benefit to the citizens would be a reduced

cost, zero-emissions energy source.

Mike Ziegler, 3375 12th St, representing WC Graves IV, adjacent landowner to the proposed site, expressed his concern over the condition of 98th Avenue south of 8th Street, the lack of signage, and the safety of drivers over the culvert crossings. Mr. Ziegler requested additional assessments for the culvert crossings and the roadway conditions to ensure the safety of the public.

Public Works Director Rich Szpyrka discussed the review of a recent e-mail received regarding the engineer's study of the four culverts in question and informed the Board that Mr. Ziegler's concerns would be considered as a part of the standard right-of-way application review process.

Bob Johnson, Coral Winds Subdivision, suggested to table this decision until the culvert issue has been resolved to Mr. Ziegler's satisfaction.

A lengthy discussion ensued between the Board, Attorney Barkett and Mr. Ziegler regarding Mr. Johnson's request to table the matter. Attorney Barkett objected to a continuance, and Chairman Flescher clarified that unless there was a difference of opinion amongst the Board, the matter had been properly vetted, and would be moving forward today with the ability for Mr. Ziegler to have further discussions with the Public Works Department to have his concerns heard.

The Chairman made inquiries to staff and FPL for any final arguments, moved for the admission of all documentation into evidence, asked if any party had questions or objections to the admitted evidence, and closed the Public Hearing.

**A motion was made by Vice Chairman O'Bryan, 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 Solari, and Commissioner Zorc

## **B. PUBLIC DISCUSSION ITEMS**

- 10.B.1** [17-0208](#) Request to Speak from Rob Volsky, The Church of Jesus Christ of Latter-Day Saints, Regarding Ninth Annual Indian River County Day of Service / JustServe.org

**Recommended Action:**

**Attachments:** [Public Discussion Request Form](#)

Rob Volsky from The Church of Jesus Christ of Latter-Day Saints provided information on the Ninth Annual Indian River County Day of Service scheduled to

take place on Saturday, April 22, 2017. He spoke about several volunteer organizations, available volunteer opportunities, upcoming events, and provided a short video about the website JustServe.org.

**No Action Taken or Required**

- 10.B.2** [17-0415](#) Request to Speak from Fred Mensing Regarding All Aboard Florida - Brightline

***Recommended Action:***

***Attachments:*** [Public Discussion Request Form](#)

Mr. Mensing was not present.

**No Action Taken or Required**

### **C. PUBLIC NOTICE ITEMS**

## **11. COUNTY ADMINISTRATOR MATTERS**

## **12. DEPARTMENTAL MATTERS**

### **A. Community Development**

### **B. Emergency Services**

### **C. General Services**

#### **1. Human Services**

#### **2. Sandridge Golf Club**

#### **3. Recreation**

### **D. Human Resources**

### **E. Office of Management and Budget**

### **F. Public Works**

- 12.F.1** [17-0425](#) Award of Bid No. 2017034, CR512 Westbound Resurfacing (Roseland Road to US 1) and CR512 Eastbound Resurfacing (Easy Street to US 1)

***Recommended Action:*** Staff recommends the Board approve award to the lowest responsive and responsible bidder, Timothy Rose Contracting, Inc. for \$3,491,545.38. Staff further recommends the Board authorize the Chairman to execute the agreement upon review and approval of both the agreement and required public construction

bond by the County Attorney as to form and legal sufficiency, and the receipt and approval of required insurance by the Risk Manager.

**Attachments:** [Staff Report](#)  
[Sample Agreement](#)  
[Response to Ranger Protest](#)

Public Works Director Rich Szyrka recalled the meeting of March 22, 2016, and provided background on the approval of a Small County Outreach Program Grant from the Florida Department of Transportation (FDOT) for the resurfacing of County Road 512. He detailed the review of three bids for the project, one of which failed to meet the minimum qualifications established for the award of the project. He stated that Ranger Construction Industries of Fort Pierce, Florida, submitted a letter of protest to the award of the contract for the project, but has since withdrawn their protest.

Director Szyrka explained the construction process, the equipment involved, and the special expertise required for the Full Depth Reclamation Process.

Commissioner Zorc made comments about the numerous complaints that he received involving Timothy Rose Contracting, Inc., and their lack of safety awareness while working on a recent project. He expressed his concerns about how safety compliance and supervision would be handled on a larger scale project, and that based on the amount of complaints that have been received from the public about safety issues along the construction sites involving that particular contractor, he would be inclined to not be in support of the award.

**A motion was made by Commissioner Solari, 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 Solari

**Nay:** 1 - Commissioner Zorc

### **G. Utilities Services**

## **13. COUNTY ATTORNEY MATTERS**

**13.A**    [17-0393](#)    Consideration of a Mediated Settlement Agreement: Jenkins v. Indian River County, Circuit Court Case No. 31 2014 CA 911

**Recommended Action:** Staff recommends that the Board approve the Mediated Settlement Agreement and authorize the Chairman to execute any documents in furtherance of the agreement on behalf of the Board.

**Attachments:** [Staff Report](#)  
[Aerial Photo](#)  
[Mediation Agreement](#)

Deputy County Attorney William DeBraal provided history and background information on the pending Circuit Court Case between the Estates of William and Carlyne Jenkins and Indian River County for property acquisition associated with the construction of 53rd Street west of Old Dixie Highway and east of Waterway Village. Attorney DeBraal informed the Board of the risk to the County if the case had been taken to trial, successful mediation negotiations with the Jenkins family, and suggested approval of the Mediated Settlement Agreement to cap the County's exposure from a higher verdict and additional fees.

A short discussion ensued amongst the Board about the pending lawsuit, and any additional costs that may be associated with the County's experts, engineers, and attorneys that have not been reflected in the settlement. Commissioner Zorc disclosed that he was familiar with the Jenkins family, as he used to play on their property as a child, and suggested the consideration of other alternatives to save taxpayer dollars to resolve the issue. The Board expressed appreciation for the efforts made in bringing the situation to an amicable solution.

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

**Aye:** 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

**13.B**    [17-0414](#)    Resolution Supporting Local Zoning Decisions Protection Act of 2017

**Recommended Action:** The County Attorney's Office recommends that the Chair allow for public comment on this matter and then have the Board vote whether to accept the resolution as drafted or amend the resolution.

**Attachments:** [Staff Report](#)  
[Resolution Supporting Local Zoning Decisions Protection Act of 2017](#)

County Attorney Dylan Reingold recalled the meeting held on April 4, 2017, where the Board directed the County Attorney's Office to draft a Resolution in support of the Local Zoning Decisions Protection Act of 2017. He explained that the Local Zoning Decisions Protection Act of 2017 would nullify the Housing and Urban Development's (HUD's) Final Rule entitled "Affirmatively Furthering Fair Housing" (the "AFFH Rule") and eliminate the HUD Assessment Tool that is required to be used by local governments, and also prevents the use of Federal funds for the building

of a Federal database that is used in affordable housing considerations.

Commissioner Solari noted that Indian River County supported the Fair Housing Act itself, and felt that local planning, zoning and land use decisions should remain with the County.

**A motion was made by Commissioner Solari, seconded by Commissioner Zorc, to approve Resolution 2017-036, urging the United States Congress to pass and President Donald Trump to sign the Local Zoning Decisions Protection Act of 2017; and directing certified copies of this Resolution to be provided to various officials. The motion carried by the following vote:**

**Aye:** 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

#### **14. COMMISSIONERS MATTERS**

**A. Commissioner Joseph E. Flescher, Chairman**

**B. Commissioner Peter D. O'Bryan, Vice Chairman**

**C. Commissioner Susan Adams**

**D. Commissioner Bob Solari**

**E. Commissioner Tim Zorc**

#### **15. SPECIAL DISTRICTS AND BOARDS**

**A. Emergency Services District**

**B. Solid Waste Disposal District**

**C. Environmental Control Board**

#### **16. ADJOURNMENT**

There being no further business, the Chairman declared the meeting adjourned at 10:55 a.m.