

Indian River County Florida

*Indian River County Administration Complex
1801 27th Street, Building A
Vero Beach, Florida, 32960-3388
www.ircgov.com*



Meeting Minutes - Draft

Tuesday, June 6, 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
Maureen Gelfo, Deputy Clerk**

1. CALL TO ORDER**ROLL CALL**

Present: 4 - Chairman Joseph Flescher
Vice Chairman Peter O'Bryan
Commissioner Susan Adams
Commissioner Tim Zorc

Absent: 1 - Commissioner Bob Solari

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

Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller

3. PLEDGE OF ALLEGIANCE

Commissioner Tim Zorc

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Delete Item 10.B.2. Request to Speak from George D. MacArthur Regarding All Aboard Florida - Brightline

Delete Item 10.B.3. Request to Speak from Matt Lechowicz Regarding Make the Jungle Trail Safe!

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, by a 4-0 vote (Commissioner Solari absent), 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 Zorc

Absent: 1 - Commissioner Solari

5. PROCLAMATIONS and PRESENTATIONS**5.A. 17-0564** Public Announcement for Hurricane Preparedness - Are You Ready?

Recommended Action: No action needed.

Attachments: [Staff Report](#)

[Public Advertisement & Preparedness Guide Coversheet](#)

Assistant Chief of Emergency Services Brian Burkeen spoke on hurricane preparedness - urging residents to prepare their homes and develop family and

work emergency plans. He announced that extensive information on storm safety can be found at www.irces.com, and that emergency alerts and updates can be obtained by signing up at www.alertindianriver.com. Chief Burkeen also provided information on the County's emergency shelters, which include a special needs and a pet shelter.

During discussion, the Board and Chief Burkeen discussed the importance of running generators outdoors only; keeping informed about impending storms; and being prepared to evacuate should it become necessary. He also asked residents to keep the roads clear after a storm to facilitate emergency rescues/repairs.

6. APPROVAL OF MINUTES

6.A. 17-0578 Regular Meeting of May 2, 2017

Recommended Action: Approve

Attachments: [05022017BCC](#)

Approved

6.B. 17-0575 Regular Meeting of May 9, 2017

Recommended Action: Approve

Attachments: [05092017BCC](#)

A motion was made by Commissioner Adams, seconded by Vice Chairman O'Bryan, by a 4-0 vote (Commissioner Solari absent) to approve the minutes of the Regular Meeting of May 2, 2017 and May 9, 2017, as written. The motion carried by the following vote:

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

Absent: 1 - Commissioner Solari

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

7.A. 17-0562 FP&L/Vero Beach/FMPA and All Aboard Florida Expenses

Recommended Action: No Action Required

Attachments: [Staff Report](#)
[All Aboard FL Expenses](#)
[FP&L-Vero Beach-FMPA expenses](#)

No Action Taken or Required**7.B. 17-0569** Indian River County Venue Event Calendar Review

Recommended Action: No Board Actions Required

Attachments: [Staff Report](#)

No Action Taken or Required**7.C. 17-0573** Update to Geosyntec Work Order Number

Recommended Action: This item is provided for the BCC's information. No action is needed at this time.

Attachments: [Staff Report](#)
[Geosyntec Work Order No. 6](#)

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

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, by a 4-0 vote (Commissioner Solari absent), to approve the Consent Agenda, as presented. The motion carried by the following vote:

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

Absent: 1 - Commissioner Solari

8.A. 17-0554 Checks and Electronic Payments May 12, 2017 to May 18, 2017

Recommended Action: Approve the list of checks and electronic payments issued by the Comptroller's office for the time period of May 12, 2017 to May 18, 2017

Attachments: [Finance Department Staff Report](#)

Approved

8.B. 17-0558 Checks and Electronic Payments May 19, 2017 to May 25, 2017

Recommended Action: Approve the list of checks and electronic payments issued by the Comptroller's office for the time period of May 19, 2017 to May 25, 2017

Attachments: [Finance Department Staff Report](#)

Approved

8.C. 17-0555 Out of County Travel to Attend Governor's Conference on Tourism

Recommended Action: Request for Approval

Attachments: [Staff Report](#)
[Florida Governor Conference on Tourism Cover](#)
[Florida Tourism Conference Agenda](#)

Approved out-of-County travel for Commissioners and Staff to attend the Governor's Conference on Tourism to be held August 28 - 30, 2017 at the Diplomat Beach Resort in Hollywood, Florida.

Approved staff's recommendation

8.D. 17-0547 National Veterans Legal Services Program, et al. v. United States Class Action Lawsuit

Recommended Action: The County Attorney's Office recommends that the Board vote to stay in the class and authorize the County Attorney's Office to file a claim, if and when eligible to do so.

Attachments: [Staff Report](#)
[Class Notice for National Veterans Legal Services Program, et al. v. United States Class Action Lawsuit](#)

Approved staff's recommendation

8.E. 17-0553 DiVosta Homes, LP's Request for Final Plat Approval for The Lakes at Waterway Village POD 3R [PD-16-03-02 / 2004010124-78246]

Recommended Action: Based on the analysis, staff recommends that the Board of County Commissioners grant final plat approval for The Lakes at Waterway Village POD 3R.

Attachments: [Staff Report](#)
[Application](#)
[Location Map](#)
[Final Plat Layout](#)
[Contract for Construction of Required Improvements](#)

Approved staff's recommendation

8.F. 17-0539 Recommended Selection of Consultants for RFQ 2017048 - Engineering Consulting Services for Landfill

Recommended Action: Staff recommends the Board approve the committee's final ranking and authorize negotiations with the top ranked firm (and the subsequently ranked firms, should negotiations with any higher ranked firms fail) in accordance with FS 287.055, Consultant's Competitive Negotiation Act.

Attachments: [Staff Report](#)

Approved staff's recommendation, with the committee rankings as follows:
1. CDM Smith; 2. Geosyntec Consultants, Inc.; 3. Cornerstone Environmental; and 4. CB&I

8.G. 17-0563 Approval of Work Authorization No. 2017-006 to Replace Water Service Laterals in Pelican Pointe

Recommended Action: Staff recommends that the Board of County Commissioners approve and authorize the Chairman to sign Work Authorization No. 2017-06 for Blue Goose Construction to replace the water services in Pelican Pointe for the labor amount of \$70,809.75, and also requests that the Board of County Commissioners authorize the direct purchase of materials totaling \$40,424.70.

Attachments: [Staff Report](#)
[Cost Estimate - Labor & Material](#)
[Work Authorization No. 2017-006](#)

Approved staff's recommendation

8.H. 17-0566 Easement and Agreement for FPL Underground Distribution Facilities for Well No. 7 at South County RO Plant (SCRO)

Recommended Action: Staff recommends that the Board of County Commissioners approve the Underground Distribution Facilities Installment Agreement and the Underground Easement, and authorize the Chairman to execute both.

Attachments: [Staff Report](#)
[Underground Distribution Facilities Installment Agreement](#)
[Underground Easement](#)

Approved staff's recommendation

8.I. 17-0570 Miscellaneous Budget Amendment 017

Recommended Action: Staff recommends that the Board of County Commissioners approve the budget resolution amending the fiscal year 2016/2017 budget

Attachments: [Staff Report](#)
[2016 2017 Resolution](#)
[Exhibit "A" BA 017](#)

Approved [Resolution 2017-053](#), Amending the Fiscal Year 2016-2017 Budget.

Approved staff's recommendation

8.J. 17-0579 Notice of Application for Hurricane Matthew HMGP Grant Funding - Conservation Lands Projects

Recommended Action: Authorization for staff to finalize and submit the HMGP Application for Oslo Riverfront Conservation Area, identified by the LMS as Project Priority #1 for Indian River County in the amount of \$65,000, and further authorize the County Administrator to sign the grant application after review by the County Attorney for legal sufficiency. Authorization for staff to finalize and submit the HMGP Application for Conservation Area Prescribed Burn & Wildfire Protection, identified by the LMS as Project Priority #6 for Indian River County in the amount of \$150,000, and further authorize the County Administrator to sign the grant application after review by the County Attorney for legal sufficiency.

Attachments: [Staff Report](#)
[Attachment A - LMS PPL HMGP Eligibility Status April 5 2017](#)
[Attachment B - HMGP Application and Checklist 11012016 \(2\) blank](#)
[Attachment C - HMGP Letter ORCA Wildfire Protection 5-12-17](#)
[Attachment D - HMGP Letter Con Lands Rx Burn 5-12-17](#)

Approved staff's recommendation

8.K. 17-0586 Notice of Application for Hurricane Matthew HMGP Grant Funding, Wabasso Causeway Fishing Pier Removal

Recommended Action: Staff is requesting authorization to finalize and submit the HMGP Application for Wabasso Causeway Fishing Pier Removal, identified by the LMS as Project Priority #4 for Indian River County in the amount of \$500,000, and further authorize the County Administrator to sign the grant application after review by the County Attorney for legal sufficiency.

Attachments: [Staff Report](#)

[Attachment A - Eligibility Status](#)

[Attachment B - HMGP Application and Checklist](#)

Approved staff's recommendation

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

9.A. 17-0590 Jeffrey R. Smith, Indian River County Clerk of the Circuit Court and Comptroller: Continuation of May 9th Board Agenda, Consolidation of Deferred Compensation Plans

Recommended Action: Staff Recommends: 1) Awarding the deferred compensation contract to Nationwide with a term of five years with two optional 2-year extensions, guaranteeing the fixed account at 3.5% for 60 months and charging a recordkeeping fee of 0.25%, and 2) Approval to revise Section 104.5 Deferred Compensation of the Indian River County Code of Ordinances.

Attachments: [Finance Department Staff Report](#)

[Prior Finance Department Staff Report Agenda of 050917](#)

Clerk of Circuit Court and Comptroller Jeffrey R. Smith (the Clerk) stated that he was returning to the Board for further discussion on the consolidation of Deferred Compensation Plans, after fulfilling the Board's directives from the May 9, 2017 Board of County Commission meeting to provide supplementary information and hold additional employee meetings.

Jacob Peacock, Director of Retirement Solutions with AndCo Consulting (formerly The Bogdahn Group), provided background on the County's current 457 Plan, which consists of three providers - ICMA-RC, Nationwide, and Florida League of Cities. He stated that the Clerk, in an effort to fulfill his fiduciary duty, had hired AndCo, to review plans and make recommendations, and that AndCo had recommended consolidating to one deferred compensation provider. A Deferred Compensation Plan Oversight Committee (the Committee) was formed containing representatives from the Board and the Constitutional Officers (with the exception of the Sheriff), which issued a Request for Proposal (RFP). After reviewing nine responses and interviewing five potential providers, the Committee asked AndCo to negotiate with Nationwide to be the sole source deferred compensation provider for the County.

Mr. Peacock recalled discussion at the May 9, 2017 meeting about the potential loss of the 3.5% rate on Nationwide's fixed account (the NW Fixed Account), and provided details on Nationwide's rate structure and recordkeeping fees. He detailed Nationwide's current proposal to either: (1) retain the NW Fixed Account with a guaranteed minimum crediting rate of 3.5% for 60 months and a 0.25% recordkeeping fee on all plan assets; or (2) retain the NW Fixed Account with a rate of 3.5% for 36 months; 2.5% for 24 months, with a 0.12% recordkeeping fee on plan assets. After briefing the Board on the Committee's second choice provider, Lincoln Financial Group, Mr. Peacock relayed that the Committee's recommendation was to continue with Nationwide as its sole provider. Also present was a representative from Nationwide.

Vice Chairman O'Bryan discussed his concerns about the employees who are invested in the NW Fixed Account, and the higher recordkeeping fees that accompany the option to retain the 3.5% rate for 60 months. He also sought further details on Target Date funds, the Pension Protection Act, and how the fund performance is monitored.

Mr. Peacock addressed the Commissioner's questions and comments. He also disclosed that AndCo would be providing updates on a quarterly basis, and Nationwide would be holding meetings for the employees prior to the consolidation of the plans, as well as holding eight meetings annually.

Indian River County Human Resources Director Suzanne Boyll, with input from County Administrator Jason Brown, discussed the educational meetings that had been held for the employees, and stated that they would provide ongoing educational outreach for the employees.

Linda Eromin, Human Resources Director, Clerk of Court & Comptroller, expressed appreciation for the opportunity to invest in a safe retirement account, and attested to the Clerk of Court and Comptroller's dedication to fulfilling his fiduciary responsibility.

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, by a 4-0 vote (Commissioner Solari absent), to approve staff's recommendation. The motion carried by the following vote:

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

Absent: 1 - Commissioner Solari

10. PUBLIC ITEMS**A. PUBLIC HEARINGS****B. PUBLIC DISCUSSION ITEMS****10.B.1. 17-0546** Request to Speak from Ardra Rigby and Bill Rigby Regarding Sewer Services and the Wabasso Community**Recommended Action:****Attachments:** [Request to Speak Form](#)

President Ardra Rigby and Board Member William Rigby, of the West Wabasso Progressive Civic League, addressed the Board about the urgent need for the County to move forward with the West Wabasso Sewer Project (the Project). They discussed the environmental hazards of deteriorating septic tanks and requested a status update on the Project.

Director of Utilities Vincent Burke recalled that on January 17, 2017, the Board directed staff to put the Project on hold, due to the bids coming in \$1 million over the original Project estimate. He noted that after that date, staff had spent three and one half months soliciting additional funding without success.

A lengthy dialogue followed between the Board, staff, and the Rigby's. Key discussion topics included, but were not limited to, former and prospective grants; cost analysis methodology; environmental concerns; and how market conditions affect the competitive bids.

Throughout the discussion, individual Board Members and Director Burke acknowledged the need for the Project and voiced their commitment to accomplishing the improvements when funding can be secured. Director Burke noted that the Project would have to undergo the Public Hearing process again when it is brought back before the Board.

Ardra Rigby discussed past Federal grant money allocations, asked the Board to ensure that any grants received for the Wabasso Community are used exclusively for that purpose, and requested notification when decisions affecting the Wabasso Community are made. The Rigby's also requested that staff explore Federal grant moneys.

The Chairman called a recess at 10:56 a.m., and reconvened the meeting at 11:08 a.m.

No Action Taken or Required

10.B.2. 17-0571 Request to Speak from George D. MacArthur Regarding All Aboard Florida - Brightline

Recommended Action: Public Discussion Item - No Action Required

Attachments: [Request to Speak Form](#)

This item was deleted.

No Action Taken or Required

10.B.3. 17-0565 Request to Speak from Matt Lechowicz Regarding Make the Jungle Trail Safe!

Recommended Action: Public Discussion Item Only - No Action Required

Attachments: [Request to Speak Form](#)

This item was deleted.

No Action Taken or Required

C. PUBLIC NOTICE ITEMS

10.C.1. 17-0559 Notice of Scheduled Public Hearing June 13, 2017, to Consider Collier Creek Estates Subdivision (Utility Phase 2) and Harbor Point Subdivision (Utility Phase 3) Water Assessment Project in Indian River County, Florida

Recommended Action: This public hearing item is provided for the BCC's information. No action is needed at this time.

Attachments: [Staff Report](#)

10.C.2. 17-0567 Public Notice of Public Hearing Scheduled for June 13, 2017 to Consider Amending Chapter 315 of the Code of Indian River County - LEGISLATIVE

Attachments: [Staff Report](#)

County Attorney Dylan Reingold read the notices into the record.

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

12.E.1. 17-0572 Tourist Development Council 2017/2018 Budget Recommendations

Recommended Action: Staff recommends that the Board of County Commissioners approve the funding amounts recommended by the Tourist Development Council as show in Table 2 for a total allocation of \$827,699 and authorize the County Attorney to prepare standard grant agreements for all funding recipients.

Attachments: [Staff Report](#)

Management and Budget Director Michael Smykowski used a PowerPoint Presentation to provide background and outline the final Tourist Development Council (TDC) Funding Recommendations for Fiscal Year 2017-2018. He pointed out that under Table 2 in staff's report, there was a scrivener's error in the funding for the Chambers of Commerce showing an amount of \$551,699; the correct amount is \$551,669. Director Smykowski disclosed the funding recommendations and conveyed that the agencies had adjusted their funding requests to make sure the Chambers received enough funding, because of the possible elimination of Visit Florida (the State's marketing corporation).

Discussion ensued, with input from Administrator Brown, regarding the State Legislature's reconvening to hold a special session on Visit Florida and the

potential results of the State's actions. The Board also discussed the various economic indicators which are used to measure the impact of grant dollars.

Commissioner Zorc advocated designating a portion of tourist development funding to enhance the activities and amenities which are available in the community.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Zorc, by a 4-0 vote (Commissioner Solari absent), to approve staff's recommendation, amended to correct the funding amount in Table 2 for the Indian River County Chamber of Commerce and Sebastian Chamber of Commerce, from \$551,699 to \$551,669. The motion carried by the following vote:

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

Absent: 1 - Commissioner Solari

F. Public Works

G. Utilities Services

13. COUNTY ATTORNEY MATTERS

13.A. 17-0581 2017-2018 State Legislative Final Report

Attachments: [Staff Report](#)
[2017-2018 State Legislative Final Report](#)

Assistant County Attorney Kate Pingolt-Cotner used a PowerPoint Presentation to describe the County's 2017 legislative priorities and provide an overview of the 2017 Florida Legislative Session. She pointed out that two laws opposed by the County and passed by the Legislature, were a regulation providing for small wireless facilities to be collocated within a public right-of-way, and a Constitutional Amendment to increase the homestead exemption by \$25,000 for homes valued between \$100,000 and \$125,000. Attorney Cotner reported that the County received appropriations of \$13.1 million for Hurricane Matthew Beach Funding; \$1,234,286 for a new pollution control facility known as the Osprey Acres Project; and that no appropriation was provided this year for the Sebastian Septic to Sewer Project.

Attorney Cotner thereafter addressed the Board's questions and comments. Key topics of discussion included: (1) the possibility of requesting State authorization to charge for use of County infrastructure (based on the Department of Transportation's rate); (2) derelict vessels; and (3) prospective 2018 legislation, including: a) a bill which may redefine internet video service to be excluded from communications services; b) a law which would preempt the County's ability to

regulate personal drones; c) a bill which would prohibit local governments from enacting, extending, or increasing taxes otherwise authorized under specified conditions; and d) Senate Bill 1312/House Bill 1021 which would interfere with the County's ability to impose building regulations that would conflict with corporate trademarks or logos.

Attorney Cotner announced that the Legislature will convene a Special Session commencing June 7, 2017 to discuss funding for education and Visit Florida. Legislators will also confer on the Florida Job Growth Grant Fund.

No Action Taken or Required

13.B. 17-0549 Designated Receiving System Transportation Plan

Recommended Action: The County Attorney's Office recommends that the Chair allow for public comment on this matter and then have the Board vote to approve the Indian River County Transportation Plan.

Attachments: [Staff Memo](#)
[Proposed Indian River County Transportation Plan](#)

County Attorney Dylan Reingold provided background on the 2016 Senate Bill 12 (SB12), relating to Mental Health and Substance Abuse. He stated that pursuant to SB 12, each County was required to develop and implement a plan to transport certain individuals to an appropriate facility within the designated receiving system. Under the Transportation Plan, the Indian River County Sheriff's Office will be responsible for transport. The Southeast Region of the Department of Children and Families Substance Abuse and Mental Health Program Office, and the Southeast Florida Behavioral Health Network, in conjunction with Indian River County, will provide oversight of the Plan.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Flescher, by a 4-0 vote (Commissioner Solari absent) to approve staff's recommendation. The motion carried by the following vote:

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

Absent: 1 - Commissioner Solari

13.C. 17-0568 Right of Way Ordinance

Recommended Action: The County Attorney's Office recommends that the Chair allow for public comment on this matter and then have the Board vote to authorize the County Attorney's Office to finalize the proposed right-of-way ordinance and set a public hearing for the June 20th Board meeting.

Attachments: [Staff Report](#)
[Proposed Right of Way Ordinance](#)

County Attorney Dylan Reingold provided background and analysis on the Advanced Wireless Infrastructure Deployment Act, House Bill 687 (HB 687). He explained that the law would impact the ability of local governments to prohibit, regulate, or charge fees for the collocation of small wireless facilities in public rights-of-way, and if the Governor signs the Bill, the law would become effective July 1, 2017. He noted that HB 687 would allow local governments to adopt by Ordinance certain provisions relating to insurance, annual fees, security funds, and abandonment. Attorney Reingold announced that if the Board approves this item, the County Attorney's Office will present an Ordinance and Rate Resolution at the June 20, 2017 County Commission meeting. He also mentioned that there may be some changes to HB 687 between now and June 20, 2017.

Commissioner Zorc suggested that applications be time-stamped upon receipt to avoid conflicts of two utilities wanting the same utility pole/equipment. He also mentioned that he wanted to ensure that the flow of the Public Works Department was not disrupted by the additional work of processing permits for the small wireless facilities.

Public Works Director Richard Szyprka acknowledged Commissioner Zorc's concerns and affirmed that staff would be working out logistically how to approach compliance with HB 687. He confirmed that staff would utilize a time stamp for the applications, and that an outside consultant may be used to help with development review.

Commissioner Zorc requested for the Commissioners to be informed upon receipt of the first application.

Chairman Flescher and Attorney Reingold commended Assistant Attorney Cotner on her lobbying activities in Tallahassee.

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, by a 4-0 vote (Commissioner Solari absent) to approve staff's recommendation. The motion carried by the following vote:

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

Absent: 1 - Commissioner Solari

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 adjourned the meeting at 12:12 p.m.