



Indian River County Florida

Indian River County
Administration Complex
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Vero Beach, Florida,
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www.ircgov.com

Meeting Minutes - Draft

Board of County Commissioners

Chairman, Joseph E. Flescher, District 2
Vice Chairman, Peter D. O'Bryan, District 4
Commissioner Susan Adams, District 1
Commissioner Joseph H. Earman, District 3
Commissioner Laura Moss, District 5

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

Tuesday, March 9, 2021

9:00 AM

Commission Chambers

This meeting can be attended virtually via Zoom. Instructions can be found at the end of this agenda and also online at www.ircgov.com.

1. CALL TO ORDER

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

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

2.B. INVOCATION

Sheriff Eric Flowers

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 Earman, and Commissioner Moss

5. PROCLAMATIONS and PRESENTATIONS

5.A. Presentation of Proclamation designating the month of March, 2021 as March for Meals Month

Vice Chairman O'Bryan read and presented the Proclamation to Karen Deigl, CEO, Senior Resource Association. Ms. Deigl showed a video, *A Day in the Life of a Volunteer for Meals on Wheels*, and provided statistics on the number of seniors served by the program. She then described her organization's efforts to assist seniors in receiving Covid vaccinations.

Read and Presented

6. APPROVAL OF MINUTES

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

7.A. Foreign Trade Zone Letter

No Action Taken or Required

7.B. Clerk of Circuit Clerk and Comptroller Jeffrey R. Smith announces Operation Green Light to be held on Saturday, March 27, 2021 from 10:00 a.m. until 2:00 p.m. at the Courthouse

Clerk of the Circuit Court and Comptroller Jeff Smith presented details of Operation Green Light, which provided citizens the opportunity to pay their overdue court costs without the collection surcharge. He noted that payment plans were available, as was assistance to help drivers reinstate their suspended licenses.

No Action Taken or Required

8. CONSENT AGENDA

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

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

8.A. Award of Bid 2021023 for South Oslo Road WTP Automatic Transfer Switch (ATS) Replacement

Approved staff's recommendation

8.B. Change Order Number 1 to Agreement for Harmony Oaks Conservation Area Boardwalk Construction

Approved staff's recommendation

8.C. South Wastewater Treatment Facility FDEP Permit Renewal

Approved staff's recommendation

8.D. Settlement of ERU Account with Cookies & Crackers, Corp.

Approved staff's recommendation

- 8.E.** Work Order No. 5 for Bowman Consulting Group, Ltd., 20-inch Sewer Force Main Relocation - Main Street

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. Public Hearing: Modification to County Code Section 201.22 (Legislative)

Director of Utility Services Vincent Burke recapped the accounts receivable/bad debt presentation from the February 26, 2021 Board meeting, which contained the proposed code modifications to establish procedures for certain penalty waivers, settlement options, and foreclosure actions for overdue water and sewer accounts.

The Chairman opened the public hearing. There being no comments, the Chairman closed the public hearing.

The Commissioners, each in turn, expressed their support for the proposed ordinance.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to adopt Ordinance 2021-005, amending Section 201.22 (Responsibility for payment of water/sewer fees; lien for unpaid bills) of Part 1 (in General) of Chapter 201 (County Water and Sewer Services) of the Code of Indian River County, to establish procedures for waiver of penalties and interest under certain circumstances and authorize settlements and foreclosure actions; and providing for codification; severability; conflict of ordinances; and effective date of the ordinance. The motion carried by the following vote:

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

10.A.2. Proposed Water Main Assessment Project to Consider 51st Avenue and Portions of Winter Beach Highlands and Winter Beach Park Subdivisions
Resolution III: Public Hearing (Legislative)

Director of Utility Services Vincent Burke appeared before the Board with the final Resolution needed for a proposed water main assessment project in the Winter Beach Highlands and Winter Beach Park subdivisions. Details of the

project and costs involved were contained in staff's memo dated February 24, 2021.

The Chairman opened the public hearing.

The following residents spoke in support of the project:

Cheyenne Carboy, Winter Beach Highlands

Brenda Sistler, Winter Beach Highlands

Mark Mears, Winter Beach Park, also expressed concern for the deteriorating condition of the 51st Avenue roadway.

Art Martin, Winter Beach Park, spoke in opposition to the project.

In response to speakers' comments, Director Burke clarified the payment plan options, assessment method, and consequences should the project be postponed.

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

Vice Chairman O'Bryan noted the majority support from the affected residents, and pointed out the increased resale value that having County water would provide. Chairman Flescher concurred and commented on the savings that homeowners could realize.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve Resolution 2021-019, confirming the special assessments in connection with a water main extension from 65th Street to 69th Street, along 51st Avenue to include certain specially benefited properties abutting 51st Avenue within a portion of Winter Beach Highlands and a portion of Winter Beach Park, located within unincorporated Indian River County, Florida; and providing for special assessment liens to be made of record. The motion carried by the following vote:

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

B. PUBLIC DISCUSSION ITEMS

10.B.1.

Public Discussion Request from Annette & Ralph Valentino re: Amend Code Regarding Placement of Campers, Boats, & Trailers

Annette and Ralph Valentino, 13 Sunset Drive, appeared before the Board to request a County code amendment which would limit storage of RVs, boats, and trailers to the sides of residences. Ms. Valentino displayed photographs showing RVs and boats parked in front of homes in her neighborhood, some of which were in violation of County code. The couple complained that the vehicles blocked their water view, and lowered property values; additionally, they contended that unpermitted driveways created drainage problems.

Chief of Code Enforcement and Environmental Planning Andy Sobczak reported on the citations issued in the Valentino's neighborhood, including vehicles parked on the grass. He offered to provide the couple with documentation of actions taken by his department.

Commissioner Adams supported allowing the violations to work through the code enforcement process, and disagreed with the request to change the County code.

The Commissioners entered into a discussion with the Valentinos and Mr. Sobczak on the code enforcement process, comparison to the City of Sebastian's restrictions, and the diversity of lot sizes in the County.

Phil Matson, Community Development Director, stated his department would step-up enforcement of code violations in the area. He advocated for utilizing code enforcement's process to resolve violations rather than changing the County's code, which could have wide-reaching and unintended consequences.

No Action Taken or Required

C. PUBLIC NOTICE ITEMS

10.C.1.

Notice of Scheduled Public Hearing for March 16, 2021 Board Meeting for a Multi-Family PD Rezoning (Quasi-judicial)

County Attorney Dylan Reingold read the Public Notice into the record.

No Action Taken or Required

11. COUNTY ADMINISTRATOR MATTERS

11.A.

CARES Act Update

County Administrator Jason Brown provided an update on the CARES Act spending. He discussed topics including the higher-than-expected cost to administer vaccines, additional funds needed for the small business grant program, Treasure Coast Community Health's administrative costs, expense reductions from the Health Department, and the City of Sebastian and the School Board's requests for approval of changes to their spending plans. He also expressed appreciation for staff members who pitched-in to administer the County's Rental and Mortgage Assistance Program.

Director of Community Development Phil Matson commented on how fulfilling it was to work on the rental assistance program, and how appreciative the community was in return. He then presented the Commissioners with an oversized card decorated with excerpts from thank-you letters written by residents who received assistance.

Chairman Flescher expressed appreciation for staff's diligence as they endeavored to distribute assistance to those in need.

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

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

12. 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. Award of RFQ No. 2021015 (IRC-1505), CEI Services for 66th Ave from 49th Street to 69th Street Roadway Widening

Director of Public Works Rich Szpyrka appeared before the Board to request approval of Consor Engineers agreement for Construction Engineering Inspection (CEI) Services related to the widening of 66th Avenue from 49th Street to 69th Roadway. He noted that the hiring of a CEI consultant was a requirement of the Florida Department of Transportation (FDOT) grant the County received for this project.

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

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

12.G.2. Florida Department of Environmental Protection's Central Indian River Lagoon Basin Management Action Plan

Public Works Director Richard Szpyrka presented the Florida Department of Environmental Protection's (FDEP) Basin Management Action Plan (BMAP) Final Order which set the revised requirements for nitrogen and phosphorus reduction in the Central Indian River Lagoon (CIRL) that the County must achieve. Director Szpyrka utilized a PowerPoint presentation, and referred to staff's report dated March 3, 2021, as he discussed the impact of the FDEP's Order, which was generated using the Brevard County-based SWIL (Spatial

Watershed Iterative Loading) model. He noted that the SWIL model resulted in a doubling of the County's allocated nitrogen and phosphorus removal levels at an estimated additional cost of \$73 million; the results were in comparison to the previously used PLSM (Pollution Load Screening Model).

Director Szyrka relayed staff's ongoing discussions with the FDEP, and their documented objections to both the BMAP draft process and the SWIL model. He reported that staff last met with the FDEP on March 5, 2021, to discuss filing a petition to challenge the Final Order in advance of the March 16, 2021 deadline. In response, the FDEP generated a draft letter which outlined the County's ongoing concerns, and stated the Agency's commitment to revise and recalibrate the BMAP allocations. The letter was offered in lieu of the County filing a petition, however, a final letter had not been received as of March 8, 2021.

Vice Chairman O'Bryan received clarification of staff's recommendation from County Attorney Dylan Reingold who stated that staff first sought to obtain a letter from FDEP and to continue working cooperatively to recalibrate the SWIL model's numbers. He then requested authorization to pursue filing a petition if the desired letter was not received. County Administrator Jason Brown expanded staff's rationale to continue negotiation talks with the FDEP.

Vice Chairman O'Bryan remained skeptical that the FDEP would honor their offer to revise the Final Order and was hesitant to give up the leverage that filing a petition would bring. Chairman Flescher and Commissioner Earman echoed the Vice Chairman's doubts that the FDEP would adjust their allocations without the motivation of legal action. Director Szyrka confirmed that the FDEP initiated talks only after the County threatened to file a petition.

Administrator Brown spoke in support of pursuing the FDEP letter as the best path to negotiate meaningful change to the SWIL model, and ultimately the County's allocations. He stated that staff would pursue an extension to the petition deadline if that was the Board's desire. Commissioner Adams admitted that affecting change could be a struggle, but that it was often best to work with a state agency rather than risk an adversarial relationship. The letter, she noted, would also put the County's concerns on record. Commissioner Moss agreed with pursuing the letter from the FDEP.

A motion was made by Commissioner Moss, seconded by Commissioner Adams, to support waiting for a letter from the Florida Department of Environmental Protection (FDEP) indicating the agency will continue conversations to resolve the County's concerns. In the event that a letter from the FDEP is received, there will be no further action. In the event that a letter from the FDEP is not received, the County Attorney is authorized to seek an extension and file a petition to challenge the Central Indian River Lagoon Basin Management Action Plan (BMAP) as a last resort in order to preserve

the County's rights. The motion carried by the following vote:

- Aye:** 4 - Chairman Flescher, Commissioner Adams, Commissioner Earman, and Commissioner Moss
- Nay:** 1 - Vice Chairman O'Bryan

The Chairman called for a recess at 11:08 a.m., and reconvened the meeting at 11:16 a.m., with all members present.

H. Utilities Services

12.H.1.

FPL Heritage West 138kV Transmission Project

Director of Utility Services Vincent Burke referred to a PowerPoint presentation as he detailed Florida Power and Light's (FPL) new transmission line project and FPL's request to purchase easements on County-owned property. Director Burke displayed the path of the transmission line, and discussed considerations staff had taken to ensure that FPL's project did not conflict with existing development plans for the area.

Public Works Director Rich Szpyrka joined Director Burke in confirming for the Board that the FPL project would not affect the planned improvements at the intersection of 58th Avenue and College Lane. Commissioner Moss received information regarding the demolition of vacant storage buildings on the County-owned property.

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 Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Earman, and Commissioner Moss

12.H.2.

North Sebastian Water and Sewer Phase II, Resolutions I and II

Director of Utility Services Vincent Burke opened his presentation to the Board by thanking staff and partnering agencies for their assistance in bringing this project to fruition. He then referred to staff's memo dated February 16, 2021, as he described the scope of the water and sewer project, costs, funding, and the timeline.

Director Burke clarified that all properties in the identified area would receive centralized sewer capability at no cost to the homeowners. The sewer assessment cost would be paid for with State and Federal grants, and the impact fee would be offset with revenue from the Optional Sales Tax fund.

He noted that the properties which did not already have water service would be responsible for assessment and impact fees. Director Burke then discussed the financing options for the water fees, and advised that staff was researching the possibility of longer term financing through the tax collector and property appraiser's office.

The final portion of his presentation involved the need to obtain temporary construction easements from property owners for the required clean-outs and installations. Director Burke stressed the importance of providing an educational campaign for homeowners to explain the benefits of connecting to sewer and water services at this time, rather than waiting until they were mandated by statute and incurring the full cost. He closed his presentation with staff recommendations and upcoming dates in April 2021 for an informational meeting and a public hearing to receive final Board approval.

Commissioner Adams received additional information regarding the County's Comprehensive Plan, and long-term financing options. Vice Chairman O'Bryan requested moving the informational meeting to a location in Sebastian, in consideration of the affected residents; staff agreed to find a suitable location and to include online viewing. Chairman Flescher received confirmation that staff would return with additional information regarding a long-term debt service plan.

Glenn Powell, 12845 Bay Street, thanked the Board and staff for their commitment to improving this area of Roseland, and finding an affordable way to provide sewer and water services.

Caroline Alter (via Zoom), Ercildoune Heights, requested information regarding improvements on an adjacent lot, and expressed concern regarding poor drainage on her street.

A motion was made by Commissioner Moss, seconded by Commissioner Adams, to approve: 1) staff's recommendation; 2) Resolution 2021-020, providing for a water main extension to serve 13700-13990 Ruffner Lane within River Trees; and 14365 78th Avenue, 14355 and 14370 80th Avenue within Ercildoune Heights Subdivision No. 1; and all properties within Ercildoune Heights Subdivision No. 2; and all properties lying northwest of Bay Street (83rd Avenue), all properties within Blocks 1, 2, 3 and 4; 8240 133rd Court and 8225, 8245 and 8255 133rd Place within Block 14, 8230, 8240 and 8250 133rd Place, 8235, 8245 and 8255 134th Street within Block 15, 8240 134th Street, 13400 82nd Court, and 8235 and 8255 135th Street within Block 16, of the Plat of Wauregan on Fleming Grant; and all properties within Blocks B-1 (less right-of-way), B-2, B-3 and B-4 (river front), all properties within Block B-2 (railroad front), all properties within Blocks 1, 2 and 3, and 12805 and 12835 82nd Court within Block 5, and 12820 and 12846 82nd Court within Block 6, and 12920 and 12940 82nd Court within Block 8, and 12948 and 12960 82nd Court within Block 9, and 12970 and 12980 82nd Court within Block 10, of the Townsite Plat of Roseland, Florida, located within Unincorporated Indian River County, Florida; providing the total estimated cost, method of payment

of assessments, number of annual installments, and description of the area to be served; and 3) Resolution 2021-021, setting a time and place at which owners of certain properties, within River Trees, Ercildoune Heights Subdivision No. 1, Ercildoune Heights Subdivision No. 2, Plat of Wauregan on Fleming Grant and the Townsite Plat of Roseland, Florida, located within Unincorporated, Indian River County, Florida; and other interested persons, may appear before the Board of County Commissioners of Indian River County and be heard as to the propriety and advisability of constructing a water main extension, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be specially assessed against each property benefited thereby. The motion carried by the following vote:

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

13. COUNTY ATTORNEY MATTERS

13.A. Economic Development Council Appointment

County Attorney Dylan Reingold introduced the item to the Board.

J. Rock Tonkel and Ardra Rigby, via Zoom, addressed the Board with information on their experience and value to the Economic Development Council. Also via Zoom, Helene Caseltine, Economic Development Director, Indian River County Chamber of Commerce, spoke on behalf of candidates Linda Morgan and Ardra Rigby.

Commissioner Moss spoke of her positive experience when working with Mr. Tonkel.

A motion was made by Commissioner Moss, seconded by Chairman Flescher, to appoint J. Rock Tonkel for the "BCC Appointee" position to the Economic Development Council. The motion carried by the following vote:

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

14. COMMISSIONERS MATTERS

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

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 12:14 p.m.