

**BOARD OF COUNTY
COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA**



**REGULAR MEETING MINUTES
TUESDAY, JANUARY 13, 2015**

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

COUNTY COMMISSIONERS

DISTRICT

Wesley S. Davis, Chairman	District 1	Present	Joseph A. Baird, County Administrator	Present
Bob Solari, Vice Chairman	District 5	Present	Dylan Reingold, County Attorney	Present
Joseph E. Flescher	District 2	Present	Jeffrey R. Smith, Clerk of the Circuit	Present
Peter D. O'Bryan	District 4	Present	Court and Comptroller	
Tim Zorc	District 3	Present	Maureen Gelfo, Deputy Clerk	Present

**DVD
TIMES**

**PACKET
PAGES**

1. **CALL TO ORDER 9:00 A.M.**

 2. **INVOCATION** Deputy Teddy Floyd, IRC Sheriff's Department

 3. **PLEDGE OF ALLEGIANCE** Commissioner Bob Solari

 4. **ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS**
- 9:01 a.m. **Delete: 10.B.1. Request to Speak from Bill Rigby Regarding Robert's Rules of Order and Procedures**
- ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Davis, the Board unanimously approved the agenda as amended.**

5.

PROCLAMATIONS and PRESENTATIONS

9:02
a.m.

- A. Presentation by Bob Solari, Indian River County Commissioner, District 5 Update on the Reorganization of the Indian River Lagoon National Estuary Program

Vice Chairman Solari read a statement (copy on file) highlighting the evolution of the Indian River Lagoon National Estuary Program (IRL-NEP) reorganization process up through December 17, 2014, at which time the IRL-NEP Advisory Board Members approved the proposed IRL-NEP Interlocal Agreement (IA) between Volusia, Brevard, Indian River, St. Lucie, and Martin counties; the Florida Department of Environmental Protection (FDEP); the St. Johns River Water Management District (SJRWMD); and the South Florida Water Management District (SFWMD). Vice Chairman Solari disclosed that he had opposed the agreement because of inadequate financial information; unclear goals and objectives; reliance on a six-year old Comprehensive Conservation and Management Plan (CCMP) as the basis of the new program; and the fact that the proposed IRL-NEP Interlocal Agreement was drafted by Carolyn Ansay, an attorney hired by the SFWMD, with little input from the IRL-NEP subcommittee (the “Design Group”). He also said that the IRL-NEP Advisory Group had been non-responsive to his and others’ concerns.

Director of Management and Budget Jason Brown and County Attorney Dylan Reingold corroborated Vice Chairman Solari’s views.

Vice Chairman Solari continued discussing his concerns about the IRL-NEP, expressing alarm that they wish to ask for extensive funding, yet there was no structure in place to account for the monies received and dispensed, nor a clear plan for using the funding.

Discussion followed among the Board regarding the IRL-NEP Program.

Commissioner Flescher and Commissioner O’Bryan shared Vice Chairman Solari’s reservations. In addition, Commissioner O’Bryan questioned language in the initial draft of the Interlocal Agreement about the group’s ability to incur debt, issue bonds, and charge rates.

Attorney Reingold stated that he did not think the IRL-NEP Group would have the authority to issue bonds or levy taxes or charges, but there was some ambiguity in the document.

Chairman Davis elaborated on his conviction that the proposed Interlocal Agreement would be detrimental to local control, and would cause the County to lose its voice.

Vice Chairman Solari suggested two changes that might make the proposed Interlocal Agreement more viable: (1) the addition of a meaningful five-year sunset clause, and (2) limiting the voting parties to elected representatives from the governing boards of the five counties participating in the IRL-NEP Program.

MOTION WAS MADE by Commissioner O'Bryan, **SECONDED** by Commissioner Flescher, to: (1) direct Vice Chairman Solari and Attorney Dylan Reingold to draft a letter to the St. Johns River Water Management District asking that the Interlocal Agreement for the Indian River Lagoon National Estuary Program be amended to: (a) include a five-year Sunset Provision with an analysis of the last five years and plans for the upcoming five years, and (b) stipulate that voting members will consist only of elected officials; the letter should advise the St. Johns River Water Management District that upon incorporation of these two changes into the Interlocal Agreement, the Indian River Board of County Commissioners would reconsider the proposed Indian River Lagoon National Estuary Program Interlocal Agreement; and (2) to authorize the Chairman to execute the letter.

Jeffrey Smith, Clerk of Circuit Court and Comptroller, volunteered to work with the Clerks in Volusia, Brevard, St. Lucie, and Martin counties to obtain the financial information that Commissioner Solari is seeking. He suggested that Management and Budget Director Jason Brown also contact his counterparts in the above-mentioned counties.

MOTION WAS AMENDED, **SECONDED** by Commissioner Flescher, to accept the Clerk of Circuit Court and Comptroller Jeffrey Smith's offer to work with Management and Budget Director Jason Brown, along with Clerks of Court and Budget Directors from Brevard, Martin, St. Lucie, and Volusia Counties, to obtain meaningful financial information on the reorganized Indian River Lagoon National Estuary Program (IRLNEP).

The Chairman **CALLED THE QUESTION**, and the Amended Motion carried unanimously.

6. **APPROVAL OF MINUTES**

None

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

PAGE

9:54
a.m.

A. Code Enforcement Board Vacancy
(memorandum dated January 5, 2015) 1-2

Noted for the record was the resignation, effective immediately, of Aaron Bowles as the Engineer representative to the Code Enforcement Board.

B. Proclamation and Retirement Award Honoring Richard Habeshian on His Retirement from Indian River County Board of County Commissioners Department of General Services/Sandridge Golf Club With Thirteen Years of Service 3-4

Noted for the record was the retirement of Richard Habeshian from the Department of General Services/Sandridge Golf Club.

8. **CONSENT AGENDA**

9:54
a.m.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Consent Agenda as presented.

A. Approval of Warrants – December 19, 2014 to December 25, 2014
(memorandum dated December 24, 2014) 5-10

Approved the list of warrants (checks) and wires as supplied by the Comptroller's office.

B. Approval of Warrants – December 26, 2014 to December 31, 2014
(memorandum dated December 31, 2014) 11-16

Approved the list of warrants (checks) and wires as supplied by the Comptroller's office.

C. Resolutions Canceling Taxes on Properties Acquired by the City of Fellsmere for the Benefit of the Municipal Water System
(memorandum dated January 5, 2015) 17-30

(1) Authorized the Chairman to execute the Resolutions and the Clerk to send a certified copy of each Resolution to the Tax Collector and Property Appraiser;

(2) approved Resolution 2015-005, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

(1065 Lincoln Street, Fellsmere, FL; Lots 97 and 98, Block 3, Hall, Carter & James Subdivision); and

(3) approved Resolution 2015-006, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

(1048 Booker Street, Fellsmere, FL; Lots 211 and 212, Block 9, Hall, Carter & James Subdivision)

- D.** Out of County Travel to attend the National Conference on Beach Preservation
(memorandum dated January 7, 2015) 31-34
Authorized Commissioners and staff to attend the 28th Annual National Conference on Beach Preservation Technology in Clearwater Beach, Florida, on February 4 through February 6, 2015.
- E.** Out of County Travel to attend the Florida’s Research Coast Legislative Conference
(memorandum dated January 7, 2015) 35-36
Approved out-of-County travel for Commissioners and staff to attend the Florida’s Research Coast Legislative Conference in Tallahassee, Florida, on March 11 through 13, 2015.
- F.** Change Order No. 1 and Release of Retainage Oslo Road Phase III (58th Avenue to 43rd Avenue) IRC Project No. 0517 Bid No. 2012036
(memorandum dated December 5, 2014) 37-51
Approved: (1) Change Order No. 1 to Timothy Rose Contracting, Inc., decreasing the contract total to \$3,731,200.19; and (2) Timothy Rose Contracting, Inc., Pay Application No. 18 in the amount of \$186,560.01 for release of retainage.

- G.** First Amendment to Agreement for Annual Operations of the Biosolids Dewatering Facility, Sludge Dewatering, and Hauling With Synagro South, LLC
(memorandum dated December 29, 2014) 52-55
Approved and authorized the Chairman to execute the amended agreement with Synagro South, LLC.
- H.** Acceptance of the State Homeland Security Grant Program – Emergency Management Sub-grant Agreement 15-DS-P4-10-40-01-XXX
(memorandum dated January 5, 2015) 56-111
Approved the grant and the expenditures as directed in the Federally Funded Subgrant Agreement (15-DS-P4-10-40-01-XXX), and authorized the Chairman to execute the agreement between Indian River County Emergency Management and the State of Florida, Division of Emergency Management.
- I.** Acceptance and Approval of Expenditures of the 2014/2015 Federally-Funded Community Emergency Response Team (CERT) sub-grant # 15-CI-XX-XX-XX-XX-XXX
(memorandum dated January 5, 2015) 112-161
(1) Accepted and approved of expenditures as directed in the Federally Funded Sub-grant Agreements; and (2) authorized staff to make any line-item adjustments which may occur after execution of the contract (due to cost savings or reprioritization by the Florida Department of Emergency Management), with written approval from the State.
- J.** Out of County Travel to attend Joint Legislative Auditing Committee Hearings
(memorandum dated January 7, 2015) 162
Approved out of County travel for Commissioners and staff to attend the Joint Legislative Auditing Committee Hearings in Tallahassee, Florida, when the Committee plans to discuss the Florida Municipal Power Agency (FMPA) Audit.

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

None

10.

PUBLIC ITEMS

A. PUBLIC HEARINGS

9:55
a.m.

1. Full Gospel Assembly Inc. of Vero Beach’s Request for Special Exception Use Approval for a Fellowship Hall Addition
(memorandum dated December 24, 2014)

163-180

Quasi-Judicial

Proof of Publication of Advertisement for Hearing is on file in the Office of the Clerk to the Board

The Commissioners, as requested by the Chairman, disclosed that there had been no ex parte communications, site visits, or independent investigations. Commissioner Flescher added that he had driven past the church site, and Commissioner Zorc stated that he was familiar with the site. Each Commissioner affirmed that he has an open mind and is able to base his decision on the evidence presented and the applicable law.

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

Community Development Director Stan Boling, through a PowerPoint Presentation, provided background and analysis on the request of Full Gospel Assembly Inc. of Vero Beach (“Full Gospel”) for a special exception use approval to add a fellowship hall to their church on Old Dixie Highway. He recalled that on September 25, 2014, after its review of the application, the Planning and Zoning Commission (P&Z) had recommended: (1) that the Board approve Full Gospel’s application with conditions defined by staff; and (2) that staff meet with church representatives and property owners who voiced concerns about noise, traffic, and the aesthetic appearance of the proposed addition. Director Boling relayed that after said meeting on October 31, 2014, Full Gospel made some minor changes to its sound system, but the neighbors maintained their objections to the fellowship hall. Concluding his presentation, Director Boling confirmed that with the conditions outlined in staff’s report (page 169 of the agenda packet), staff recommends that the Board grant special exception approval for the proposed fellowship hall.

The Chairman opened the Public Hearing.

Kevin Crowe, 209 13th Place SW, expressed concerns about vehicle parking, noise, and the frequency of church gatherings. He played a videotape taken on Saturday, November 29, 2014, to illustrate how many people were driving home from the church at 10:30 p.m.

Randy Mosby, P.E., Project Engineer, disclosed that Timothy Rose Construction has agreed to provide overflow parking for church members at his site across the street from Full Gospel.

Commissioner O'Bryan expressed concerns about the safety of crossing the street and asked whether Full Gospel would pay for a pedestrian crosswalk.

Director of Public Works Chris Mora estimated that a pedestrian crosswalk and warning signs would cost less than \$500.00.

The following speakers also offered arguments *in opposition* to the fellowship hall:

David Troska, 218 13th Place SW
Katherine Crowe, 209 13th Place SW

The following speakers offered arguments *in support* of the fellowship hall:

Veronique Barlatier, Full Gospel Church Member
Joseph Paladin, President, Black Swan Consulting and Entitlement Company
Jacques Louis, Deacon, Full Gospel Church
Fred Mensing, PO Box 964, Roseland
Spencer Simmons, 118 43rd Avenue
Patricia Hunt

There were no additional speakers, and the Chairman closed the Public Hearing.
Board Members asked staff for further information.

MOTION WAS MADE by Vice Chairman Solari, **SECONDED** by Commissioner O'Bryan, to approve staff's recommendation, with the caveat that Full Gospel Assembly Inc. of Vero Beach pay for a

pedestrian crosswalk across Old Dixie Highway.

Commissioner O'Bryan explained the basis for his support of the church's request. He opined that the parking situation would improve because of the new site plan.

Chairman Davis agreed with Commissioner O'Bryan that the new site plan would help with parking issues, and observed that the fellowship hall met the criteria for a special exception use.

Discussion ensued about the noise ordinance for commercial buildings.

The Chairman CALLED THE QUESTION and the Board unanimously granted Special Exception Use approval for the Full Gospel Assembly fellowship hall addition with the following conditions:

(1) Prior to site plan release, the applicant shall obtain release of all existing utility and drainage easements, as shown on the project site plan.

(2) Prior to issuance of a certificate of occupancy (C.O.), the applicant shall:

- (a) Install all required landscaping and buffer improvements, as shown on the project landscape plan;
- (b) Paint the addition to match the color of the church building;
- (c) Plant additional foundation plantings (shrubs) along the west (rear) facade, as approved by planning staff;
- (d) Install a pedestrian crosswalk across Old Dixie Highway

The Chairman called a recess at 11:33 a.m., and reconvened the meeting at 11:50 a.m., with all members present.

**11:50
a.m.**

2. Repeal of Medical Marijuana Ordinance
(memorandum dated December 31, 2014)

181-194

Legislative

**Proof of Publication of Advertisement for Hearing is on file
in the Office of the Clerk to the Board**

County Attorney Dylan Reingold recounted that in anticipation of a vote on Amendment 2 “Use of Marijuana for Certain Medical Conditions”, the Board on October 21, 2014, adopted Ordinance 2014-018 regarding Medical Marijuana regulations. Subsequent to Amendment 2’s failure to pass at the November 4, 2014 General Election, the Board on November 18, 2014, directed the County Attorney to draft legislation (now before the Board) to repeal all of the medical marijuana regulations that were enacted by the Board as part of Ordinance 2014-018.

The Chairman opened the Public Hearing.

There were no speakers, and the Chairman closed the Public Hearing.

MOTION WAS MADE by Commissioner O’Bryan, SECONDED by Vice Chairman Solari, to adopt Ordinance 2015-001, amending Chapter 315 of the code of Indian River County entitled “Pain Management Clinics, Controlled Substances and Medical Marijuana” to repeal regulations and prohibitions of certain activities relating to Medical Marijuana; and providing for severability, codification and effective date.

Discussion ensued wherein it was noted that Medical Marijuana proponents are still trying to legalize the drug, and that the Board and Sheriff need to make sure the public is well educated about this issue.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously.

B. PUBLIC DISCUSSION ITEMS

(As a general rule, public discussion items should be limited to matters on which the commission may take action.)

1. Request to Speak from Bill Rigby Regarding Robert’s Rules of Order and Procedures 195
Deleted
2. Request to Speak from Fred Mensing Regarding Potential Lawsuit against County and Others 196
Fred Mensing, 7580 129th Street, requested that the Board authorize County officials to enter into

**11:52
a.m.**

negotiations with him and Johnny Leon Davis, Jr., before he files his proposed lawsuit against the County.

No Board Action Required or Taken

12:00
p.m.

3. Request to Speak from Patricia Hunt Regarding All Aboard Florida Information and Public Records 197

Patricia Hunt, P.O. Box 442, relayed information about the All Aboard Florida (AAF) Project, and suggested that one of the Commissioners attend an upcoming conference about high speed rail in Washington, D.C. Ms. Hunt also provided a timeline of the multiple requests she has made for public records, including Courthouse surveillance tapes.

Chairman Davis stated that the County Commission is not the custodian of the records that Ms. Hunt is specifically seeking, and urged her to let them know if there is any information that is within the Board's jurisdiction.

No Board Action Required or Taken

12:18
p.m.

4. Request to Speak from Joe Paladin, Black Swan Consulting and Entitlement Corp Regarding Update on Clean-up Project on 45th Street, Gifford. AAA Salvage Site 198

Joe Paladin, Black Swan Consulting and Entitlements LLC, provided details on a project he took over in June 2014 to clean the Triple AAA Salvage Yard. He disclosed that 9,000 buried tires and 300,000 pounds of trash have been removed from the site, and no hazardous waste remains. He also advised that there are currently no plans to build on the property.

No Board Action Required or Taken

C.

PUBLIC NOTICE ITEMS

12:24
p.m.

1. **Notice of Scheduled Public Hearing January 20, 2015:**
Beth Ann Atamer's Request for Special Exception Use and Conceptual Planned Development (PD) Approval for a Project to be known as Hampton Woods East (Quasi-Judicial)
(memorandum dated January 5, 2015) 199

- 2. **Notice of Scheduled Public Hearing January 20, 2015:**
 To Consider Adopting a Resolution with regard to Electing to Use the Uniform Method for the Levy, Collection, and Enforcement of Non Ad Valorem Assessments to Recover Costs of Street Lighting and Maintenance in the Oceanside Replat Subdivision Area (Legislative)
 (memorandum dated January 5, 2015) 200

- 3. **Notice of Scheduled Public Hearing January 20, 2015:**
 To Consider Adopting a Resolution with regard to Electing to Use the Uniform Method for the Levy, Collection, and Enforcement of Non Ad Valorem Assessments to Recover Costs of Street Lighting and Maintenance in the Oslo Park Area (Legislative)
 (memorandum dated January 5, 2015) 201

- 4. **Notice of Scheduled Public Hearing January 20, 2015:**
 To Consider Adopting a Resolution with regard to Electing to Use the Uniform Method for the Levy, Collection, and Enforcement of Non Ad Valorem Assessments to Recover Costs of Street Paving and Maintenance in the Oceanside Replat Subdivision Area (Legislative)
 (memorandum dated January 5, 2015) 202

Attorney Reingold read the notices into the record.

11. **COUNTY ADMINISTRATOR MATTERS**
 None

12. **DEPARTMENTAL MATTERS**

- A. **Community Development**
None

- B. **Emergency Services**
None

- C. **General Services**
None
 - 1. **Human Services**
None

 - 2. **Sandridge Golf Club**

None

3. Recreation

None

D. Human Resources

None

E. Office of Management and Budget

- 1. Funding Request – Additional Position for Problem Solving Courts
(memorandum dated January 7, 2015)

203-215

12:25
p.m.

Director of Management and Budget Jason Brown provided background on the Nineteenth Judicial Circuit’s problem solving courts, and recalled the Board’s 4-1 vote on November 18, 2014, to spend \$100,000 for a Mental Health Court pilot program. He stated that Trial Court Administrator Thomas A. Genung has submitted a written request for funding for a Court Program Specialist position to provide support services to the problem solving courts, including the new Mental Health Court. Director Brown thereafter provided the basis of staff’s recommendation for the Board to fund the position for Fiscal Year 2014-2015 out of the Court Innovations Fund, with the caveat that the General Fund will not be used to support this position if reserves are exhausted in the future.

Trial Court Administrator Thomas A. Genung, Esq., discussed the function of the proposed Court Program Specialist, and advised that funding is being sought from all four counties (Martin, St. Lucie, Indian River, and Okeechobee) in the Nineteenth Judicial Circuit.

MOTION WAS MADE by Commissioner O’Bryan, SECONDED by Commissioner Flescher, to: (1) authorize the use of Court Innovations to fund this request for Fiscal Year 2014-2015 in the amount of \$12,324.00, considering that the County has a limited ability to direct the use of these dollars, with the caveat that the County does not intend to make General Fund dollars available if reserves are exhausted in the future; (2) request that Court Administration submit the Court

Program Specialist position for State funding next fiscal year to avoid the drawdown of reserves in the near future, and (3) transmit a letter to the State Legislative Delegation urging them to fund the Court Program Specialist position at an appropriate level.

Vice Chairman Solari noted that he would have preferred for Sheriff Loar and Judge Cox to have presented this information when they addressed the Board about the Mental Health Court.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

F. Public Works
None

G. Utilities Services
None

13.

COUNTY ATTORNEY MATTERS

216-232

12:32
p.m.

A. Tourist Development Council Vacancy
(memorandum dated January 7, 2015)

Attorney Reingold presented the names of the qualified applicants for the “Interested in Tourist Industry/Development” vacancy on the Tourist Development Council (TDC), as follows:

Steve Hayes
Oscar Sales, Jr.
Diane B. Burda
Barry Shapiro
Sophie Bentham Wood (Shanaphy)

Commissioner Flescher, Chairman of the Tourist Development Council, presented his recommendation for Steve Hayes, who operates a successful airboat tour business.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Zorc, after Board review of the applicants’ resumes and/or applications, to appoint Steve Hayes to fill the unexpired term for the “Interested in Tourist Industry/Development” position on the Tourist Development Council.

Barry Shapiro, 1954 Westminster Circle, owner of Lighthouse Art and Framing, described his background and qualifications, and expressed interest in serving on the Tourist Development Council.

Commissioner Flescher advised Mr. Shapiro that his input would be welcome at the TDC meetings, and that perhaps he might reapply for the subject position in the future.

Commissioner O'Bryan noted that the five applicants were all well qualified.

Commissioner Zorc endorsed the appointment of Mr. Hayes.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

14. **COMMISSIONERS MATTERS**

- A. **Commissioner Wesley S. Davis, Chairman**
None
- B. **Commissioner Bob Solari, Vice Chairman**
None
- C. **Commissioner Joseph E. Flescher**
None
- D. **Commissioner Peter D. O'Bryan**
None
- E. **Commissioner Tim Zorc**
None

15. **SPECIAL DISTRICTS AND BOARDS**

- 12:42 p.m.
- A. **Emergency Services District**
The Board reconvened as the Board of Commissioners of the Emergency Services District. Those Minutes are available separately.

- 1. Approval of Minutes Meeting of November 18, 2014
- 2. Approval of Minutes Meeting of December 2, 2014

3. Final Payment for The Roof Authority, Inc. for IRC Bid #2014047, Replacement of Roof at Fire-Rescue Station #10
(memorandum dated December 24, 2014) 233-235

B. Solid Waste Disposal District
None

C. Environmental Control Board
None

16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at **12:45 p.m.**

ATTEST:

Jeffrey R. Smith, CPA, CGFO, CGMA
Clerk of Circuit Court and Comptroller

Wesley S. Davis, Chairman

By: _____

Approved: _____

BCC/MG/2014Minutes