



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

**REGULAR MEETING MINUTES
TUESDAY, FEBRUARY 10, 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
Bob Solari, Vice Chairman
Joseph E. Flescher
Peter D. O'Bryan
Tim Zorc

District 1
District 5
District 2
District 4
District 3

Present
Present
Present
Present
Present

Joseph A. Baird, County Administrator
Dylan Reingold, County Attorney
Jeffrey R. Smith, Clerk of the Circuit
Court and Comptroller
Maureen Gelfo, Deputy Clerk

Present
Present
Present

Present

**DVD
TIMES**

**PACKET
PAGES**

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

 2. **INVOCATION** Commissioner Wesley S. Davis, Chairman

 3. **PLEDGE OF ALLEGIANCE** Joseph A. Baird, County Administrator

 4. **ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS**
- 9:00 a.m. **Delete: Item 7.A. Town of Indian River Shores, City of Vero Beach, and Indian River County Mediation – December 17, 2014 Meeting Minutes**
- Add: Item 5.D. Bart Gaetjens, Area Manager External Affairs, Florida Power & Light**
- ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Agenda as amended.**
5. **PROCLAMATIONS and PRESENTATIONS**
- 9:01 a.m. **A. Presentation of Proclamation Honoring Deputy Karrie Spooner on Her Retirement from the Indian River County Sheriff's Office Effective January 21, 2015, with Thirty Years of Continuous Service** 1

Chairman Davis read and presented the Proclamation to Deputy Spooner.

In addition, Sheriff Deryl Loar read a statement commending Deputy Spooner's service.

9:11 a.m. B. Presentation of Proclamation Designating the Week of February 11-17, 2015, As "2-1-1 Awareness Week" 2

Commissioner O'Bryan read and presented the Proclamation to Community Relations Specialist Page Woodward, Executive Director Susan Buza, and Sheriff Deryl Loar, who appeared on behalf of 2-1-1 Board Member Deputy Jeff Luther.

9:19 a.m. C. Presentation of Proclamation Designating the Month of February 2015, As Teen Dating Violence Awareness and Prevention Month 3

Commissioner Flescher read and presented the Proclamation to Kimberly Williams, who was accompanied by Tom Manwaring, Present-Elect Safespace, and Deidra A. Ausby from the Indian River County Citizens Advisory Support Group.

9:27 a.m. D. Addition: Bart Gaetjens Florida Power & Light

Bart Gaetjens, Area Manager External Affairs, Florida Power & Light, introduced himself as the new Area Manager of External Affairs for Florida Power & Light Company. Amy Brunjes was the former Area Manager.

6. **APPROVAL OF MINUTES**

- 9:30 a.m. A. Regular Meeting of January 6, 2015
- B. Regular Meeting of January 13, 2015
ON MOTION by Commissioner Flescher, **SECONDED** by Commissioner O'Bryan, the Board unanimously approved the minutes of January 6, 2015 and January 13, 2015, as written.

INFORMATION ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION

7. 9:30 a.m. A. Town of Indian River Shores, City of Vero Beach, and Indian River County Mediation – December 17, 2014 Meeting Minutes 4-15
Deleted
- B. Indian River County Hospital District Meeting Schedule (letter dated January 20, 2015) 16
- C. 2015 Election of Planning and Zoning Commission (P&Z) Chairman and Vice Chairman 17
(memorandum dated January 28, 2015)

Noted for the record was the election of Alan Polackwich, Sr. as Chairman, and Todd Brognano as Vice Chairman, of the Planning and Zoning Commission (P&Z) for 2015.

- D.** 2015 Election of Code Enforcement Board Chairman and Vice Chairman
(memorandum dated January 28, 2015) 18
Noted for the record was the election of Karl Zimmermann as Chairman, and David Myers II as Vice Chairman, of the Code Enforcement Board for 2015.
- E.** Member at Large Vacancies on the Vero Lake Estates Municipal Service
Taxing Unit Advisory Committee
(memorandum dated January 28, 2015) 19
- F.** FY 2013-14 Records Disposition Compliance Statements and Records
Management Liaison Officer Forms
(memorandum dated January 28, 2015) 20-44
- G.** Fitch Ratings Press Release, Indian River County's 2009 Series Water &
Sewer Revenue Refunding Bonds
(memorandum dated January 28, 2015) 45-49
**Noted for the record was the Fitch Ratings designation of an 'AAA'
rating on the County's 2009 Series Water & Sewer Revenue Refunding
Bonds.**

8. CONSENT AGENDA

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Flescher, to approve the Consent Agenda, pulling Items 8.F. and 8.R. for Board discussion, and Item 8.K. for discussion by former County Commissioner Caroline Ginn.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

- 9:30 a.m.**
- A.** Approval of Warrants January 9, 2015 to January 15, 2015
(memorandum dated January 15, 2015) 50-57
Approved the list of warrants (checks) and wires as supplied by the Comptroller's Office.
- B.** Approval of Warrants January 16, 2015 to January 22, 2015
(memorandum dated January 22, 2015) 58-63
Approved the list of warrants (checks) and wires as supplied by the Comptroller's Office.
- C.** Approval of Warrants January 23, 2015 to January 29, 2015
(memorandum dated January 29, 2015) 64-73

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

- D.** Quarterly Investment Report for Quarter Ending December 31, 2014.
(memorandum dated January 23, 2015) 74-86
Accepted the Quarterly Investment Report for October 1, 2014 through December 31, 2014.
- E.** Quarterly OPEB Trust Report for Quarter Ending December 31, 2014.
(memorandum dated January 23, 2015) 87-89
Accepted the Other Post Employment Benefits (OPEB) Trust Report for the quarter ending December 31, 2014.
- 9:46 a.m.** **F.** Dori Slosberg Driver Education Safety Act, Indian River County Traffic Education Program Trust Fund Report, Cumulative Reporting Through December 31, 2014
(memorandum dated January 20, 2015) 90-91
(Clerk's Note: This item was heard following Item 8.K., and is placed here for continuity).
- Commissioner Flescher reported that effective March 1, 2015, these funds will be used to fund driver education programs in schools.**
- ON MOTION by Commissioner Flescher, SECONDED by Chairman Davis, the Board unanimously accepted the Traffic Education Program Trust Fund Report from the inception of the \$3 fee (on October 1, 2002), through December 31, 2014.**
- G.** Work Order No. 1, Andersen Andre Consulting Engineers, Inc., Intergenerational Recreation Facility at South County Regional Park IRC Project No. 1135
(memorandum dated January 14, 2015) 92-101
Approved and authorized the Chairman to execute Work Order No. 1 to Andersen Andre Consulting Engineers, Inc., authorizing the professional services as outlined in the Scope of Services, for a not-to-exceed amount of \$57,115.00.
- H.** Approval of Extension to Agreement for Auction Services
(memorandum dated January 27, 2015) 102-103
Approved and authorized the Chairman to execute the Second Extension to the Agreement for Auction Services with Associate Auctions, LLC, of Stuart, Florida.
- I.** CR510 Right-of-Way Acquisition, CR510 and Shore Lane – southwest corner, Parcel I.D. #31-39-27-00003-0000-00003.0, Project Parcel #480, #780 & #880, Seller: B. Anders Nyquist, As Trustee of the Unrecorded Nyquist Trust #2 u/a/d July 22, 1992
(memorandum dated January 21, 2015) 104-120

Approved the purchase of the property and easements for a total price of \$27,500, and authorized the Chairman to execute the Purchase and Sale Agreement with B. Anders Nyquist.

- J.** Children’s Services Advisory Committee’s Annual Report, 2013-2014
(memorandum dated February 3, 2015) 121

Accepted the Children’s Services Advisory Committee’s Annual Report for 2013-2014 as submitted.

- 9:32 a.m.** **K.** Children’s Services Advisory Committee’s Needs Assessment
(memorandum dated January 28, 2014) 122-128

Former County Commissioner Carolyn Ginn stated that the Executive Summary 2014-2015 Needs Assessment Report needs to be thoroughly vetted before the Board approves it, and requested that the Commission “accept” rather than “approve” the report.

After a brief discussion, the Board decided to alter the wording in staff’s recommendation, as follows:

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Chairman Davis, to “accept” the 2014-2015 Children’s Needs Assessment Executive Summary as a guide to funding agencies and program agencies for addressing the most current needs for the development of Indian River County children.

Hope Woodhouse, Children’s Services Advisory Committee, Children’s Services Grant Committee, and Chair of the Needs Assessment Committee; provided details on the Children’s Services Advisory Committee and the Needs Assessment sub-committee, and described the Needs Assessment Report process. She explained that the report needs to be approved so different agencies can work on resolving the problems in the community.

Vice Chairman Solari suggested that the County publish the report on the County’s website.

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

- L.** Approval of Firm Selection for RFP 2015014 – Custodial Services for County Building
(memorandum dated February 2, 2015) 129-146

Approved the selection committee’s final rankings and authorized the Chairman to execute the agreements with: (1) K’s Commercial Cleaning for Group 1: Judicial Complex; (2) CER Signature Cleaning for Group 2: Administrative Complex; (3) KeeClean Management, Inc., for Group 3: 43rd Avenue Complex; and (4) Marsden Services, Group 4: North County Facilities, after receipt and approval of the required insurance certificates and after the County Attorney has approved the agreements as to form and legal sufficiency.

- M.** Change Order No. 1 and Release of Retainage, 12th Street and 27th Avenue Intersection Improvements, IRC Project No. 9334 Bid No. 2013021 (memorandum dated December 29, 2014) 147-158
Approved Change Order No. 1 to Timothy Rose Contracting, Inc., decreasing the contract total to \$1,424,417.27, and of Timothy Rose Contracting, Inc. Contractor’s Application for Payment No. 6 in the amount of \$71,220.86 for release of retainage.
- N.** Work Order No. 1, MBV Engineering, Inc., East Gifford Drainage (41st Street to 43rd Street), IRC Project No. 1502 (memorandum dated January 28, 2015) 159-164
Approved and authorized the Chairman to execute Work Order No. 1 to MBV Engineering, Inc., authorizing the professional services outlined in the Scope of Services, for a lump sum amount of \$54,400.00.
- O.** Indian River Preserve, LLC Request for Extension of Site Plan Approval for a Multi-Family Development to be Known as The River Preserve (memorandum dated January 26, 2015) 165-171
Approved Indian River Preserve, LLC’s request for a one-year extension of the site plan approval for The River Preserve multi-family development with all original approval conditions to remain in effect; the new site plan approval expiration date will be January 24, 2016.
- P.** D. R. Horton, Inc. Request for Partial Release of an Easement at 2253 West Ocean Oaks Circle (Lot 8, Ocean Oaks West Subdivision) (memorandum dated February 2, 2015) 172-178
Approved Resolution 2015-014, releasing a portion of an easement on Lot 8, Ocean Oaks West Subdivision.
- Q.** TRG CFG Project IV, LLC Request for Partial Release and Replacement of a Conservation Easement at 6055 and 6059 Sequoia Circle (Huntington Place Subdivision) (memorandum dated February 2, 2014) 179-195

Approved: (1) Resolution 2015-015, releasing a portion of a conservation easement for Huntington Place Subdivision, *subject to the following conditions*: (a) prior to recording of the resolution, the conservation easement boundary fence shall be relocated to incorporate the replacement easement areas, and (b) prior to recording of the resolution, the replacement easement areas shall be supplemented with native plantings subject to County Environmental Planning staff approval; and (2) accepted the proposed replacement conservation easements and authorized staff to have the replacement easements and resolution simultaneously recorded in the public records (subject to the above noted conditions).

- 9:45 a.m. R. Approval of Change Orders and Release of Retainage under a Contract Agreement with Bayshore Construction, Inc. for Construction of a Wetland Boardwalk and Observation Deck on the Flinn Tract of the Lagoon Greenway
(memorandum dated February 3, 2015) 196-215

Vice Chairman Solari stated that a boardwalk had been constructed at the Lagoon Greenway in October 2014, and encouraged the public to visit the site.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Change Orders and Release of Retainage under the Lagoon Greenway Phase 2B Construction Agreement with Bayshore Construction, Inc., and authorized staff to process the final payment of \$26,296.29 to Bayshore Construction.

- S. Traffic Control Device Ledger
(memorandum dated January 12, 2015) 216-237
- Approved Resolution 2015-016, approving traffic control devices authorized by the Director of Public Works.

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

None

10. PUBLIC ITEMS

9:47 a.m. A. PUBLIC HEARINGS

1. Public Hearing for Amendment to Section 100.03 "Amendment or Repeal of Ordinances" of Chapter 100 "General Provisions" of the Code of Indian River County, Codifying and Publishing the Ordinances to Readopt the Code up to and including Supplement 106
(memorandum dated January 16, 2015) 238-241

Legislative

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

County Attorney Dylan Reingold explained the need to codify and publish the County Ordinances published in the Code of Indian River County up to and including Supplement 106.

The Chairman opened the Public Hearing.

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

ON MOTION by Commissioner O’Bryan , SECONDED by Commissioner Flescher, the Board unanimously adopted Ordinance 2015-002, amending Section 100.03 “Amendment or Repeal of Ordinances” of Chapter 100 “General Provisions” of the code of Indian River County (“the Code”), codifying and publishing the ordinances up to and including Supplement 106 thereto, readopting the code, designating the code as the best evidence of the current law of Indian River County, Florida, and providing for severability, codification, and an effective date.

B. PUBLIC DISCUSSION ITEMS

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

**10:05
a.m.**

- 1. Request to Speak from Althea McKenzie Regarding Community Development Block Grant (CDBG) Citizen Advisory Task Force and Thresholds for Water Utilities**

242

(Clerk’s Note: This item was heard following 10.B.2. and is placed here for continuity).

Althea McKenzie, 2405 16th Avenue, addressed the Board with her concerns about how water utility charges and policies create a hardship for low income persons. She also questioned the County’s use of Community Development Block Grant (CDBG) funds, and requested that the Board expand its Citizens Advisory Task Force to allow for proper representation from the community.

Discussion followed between Ms. McKenzie, County Administrator Joseph Baird, and Attorney Reingold.

Commissioner Zorc wanted to explore creating a Care Fund for Utilities, to help those persons having trouble paying their water bills.

The Chairman called a recess at 10:27 a.m., and reconvened the meeting with all members present at 10:41 a.m., with Item 12.E.1. Quarterly Budget Report.

9:49
a.m.

2. Request to Speak from Daniel Stump, Vero Beach Chamber of Commerce, Regarding an Appointment of Vero Beach Chamber of Commerce to the Economic Development Council

243

Daniel Stump, 650 Camelia Lane, representing the Vero Beach Chamber of Commerce (the Chamber), provided an update on the Chamber, and asked the Board to grant the organization a seat on the County's Economic Development Council (EDC).

Discussion ensued between Mr. Stump and the Board regarding the current representation and membership on the EDC; what qualifying criteria might enable additional members to join the EDC; and the upcoming events planned by the Chamber to promote tourism.

Attorney Reingold explained that changes to the membership to the EDC are made by the Board through a Resolution.

MOTION WAS MADE by Commissioner Zorc, SECONDED by Chairman Davis, for discussion, to follow the guidelines in the Economic Development section of the County's Comprehensive Plan, to create a seat for the Vero Beach Chamber of Commerce and the City of Fellsmere, if a Chamber develops in the future.

Commissioners Flescher and O'Bryan said they wanted to see the Chamber officially designated by the City of Vero Beach as its official tourism representative before an additional seat on the EDC is created for them.

Commissioner O'Bryan pointed out that the City of Vero Beach already has a representative on the EDC.

Community Development Director Stan Boling explained that the Comprehensive Plan does not govern the composition of the EDC; the decision is made by the County Commission.

Commissioner Zorc wondered what the Chamber would need to do to be considered a viable addition to the EDC.

Vice Chairman Solari suggested that Commissioner Zorc bring this matter back for discussion at a future County Commission

meeting.

Commissioner Zorc WITHDREW his Motion, stating that he would research the requirements for adding new seats on the EDC, and report back to the Board.

10. PUBLIC ITEMS

C. PUBLIC NOTICE ITEMS

10:41
a.m.

1. Notice of Scheduled Public Hearing February 17, 2015:
To Consider Amending the Code of Indian River County to Create “The Indian River County Driver Education Program Trust Fund” to Implement the Dori Slosberg Driver Education Safety Act (memorandum dated January 29, 2015) 244

Legislative

2. Notice of Scheduled Public Hearing February 17, 2015:
Tracy Sabol’s Request for Abandonment of a Right-of-Way for a 16’ Alleyway Running from 129th Place to 130th Street and Lying Behind Lots 1-10, Block 1, of the Townsite Plat of Roseland Subdivision (memorandum dated January 23, 2015) 245

Legislative

County Attorney Dylan 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

12. DEPARTMENTAL MATTERS

PAGE

D. Human Resources

None

E. Office of Management and Budget

10:41
a.m.

1. Quarterly Budget Report
(memorandum dated February 2, 2015)

246-254

Management and Budget Director Jason Brown gave a Prezi Presentation of the quarterly budget report for the first quarter of Fiscal Year 2014-2015. He advised that the County has issued its first Revenue Manual to give the public and other entities an idea of the County's major revenue sources and the regulations governing their expenditure.

Discussion ensued by Board Members and Administrator Baird on the importance and validity of the Optional Sales Tax, which expires on December 31, 2019 and would need to go before the voters for approval/denial.

Commissioner Zorc requested that staff provide more details on diminishing revenues in the next quarterly report.

Commissioner Flescher remarked that increased attendance at the Gifford Aquatic Center (while repairs are undertaken at the North County Aquatic Center), has resulted in a large increase in revenues generated from that facility.

F. Public Works

11:04
a.m.

1. Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT) for Upgrades to Traffic Signal System Equipment Located on the State Highway System in Indian River County FM# 228613-4-54-01
(memorandum dated February 3, 2015)

255-271

Director of Public Works Chris Mora reported that the Florida Department of Transportation (FDOT) will provide District Discretionary Revenue (DDR) funds for proposed upgrades to the County's traffic signal system.

Jeanne Bresett, County Traffic Analyst, and John Ankeny, County Traffic Signal Coordinator, gave a PowerPoint

Presentation providing an overview of the proposed Automated Traffic Management System (ATMS). They discussed traffic signalization and current and future traffic detection equipment (Video Image Processors (VIP's), Intelligent Transportation Systems (ITS), and Remote Traffic Microwave Sensors (RTMS). FDOT funding of \$695,705 would be bestowed over a three (3) year period for the improvements, and the proposed upgrades would be done in five phases according to designated regions of the County. Staff's recommendation was for the Board to approve the Joint Participation Agreement (JPA) with the FDOT through approval of the proposed Resolution.

A brief discussion ensued on the efficacy of the RTMS in regulating traffic flow.

Chairman Davis remarked that no other County in the FDOT's District 4 has the ability to utilize these DDR funds for traffic flow.

MOTION WAS MADE by Commissioner O'Bryan, **SECONDED** by Commissioner Flescher, to approve **Resolution 2015-017**, authorizing a Joint Participation Agreement for traffic signal system equipment upgrades.

Speakers Citizen Bob Johnson, and Joseph Paladin, Black Swan Consulting and Entitlements, LLC, addressed the Board with questions and observations about the proposed upgrades.

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

The Chairman called a recess at 11:37 a.m., and reconvened the meeting at 11:46 a.m., with all members present.

11:47
a.m.

G.

Utilities Services

1. Spoonbill Marsh – Update
(memorandum dated January 28, 2015)

272

Director of Utility Services Vincent Burke stated that the Spoonbill Marsh wetland treatment system (Spoonbill Marsh) was initiated in August 2010, as a water treatment facility to clean the concentrate from the wastewater treatment process, before it discharges into the Indian River Lagoon (the Lagoon).

Chip Swindell, Ecotech Consultants, Inc., gave an in-depth PowerPoint Presentation to provide an overview of the current operation and performance conditions at Spoonbill Marsh. He reported that Spoonbill Marsh has greatly exceeded the permit

requirements for removing nitrogen and phosphorous from the wastewater and also removed a percentage of those nutrients from the Lagoon; mangroves have increased throughout the site; high marsh plant communities continue to thrive; there has been an approximate 200% increase in the number of terrestrial wildlife species onsite; game fish species live on site, and there has been a proliferation of oysters, which were not present before the Spoonbill Marsh Project.

Discussion ensued during and following the presentation, as the Board offered comments and sought further information from staff and Mr. Swindell on various elements of the Spoonbill Marsh project.

Commissioner Zorc asked how much the County has budgeted for capital improvement costs at Spoonbill Marsh, and Vice Chairman Solari offered to return to the Board with a presentation.

Chairman Davis felt the ecosystem is working very well at Spoonbill Marsh, and proposed organizing a field trip to the site for the public.

13. **COUNTY ATTORNEY MATTERS**

- 12:26 A. Children Services Advisory Committee Vacancy
p.m. (memorandum dated January 27, 2015)

273

County Attorney Dylan Reingold advised that there were two qualified applicants for the “Member At Large” vacancy on the Children Services Advisory Committee (CSAC), as follows: Caryn M. Toole and Susan M. Blaxill-Deal.

MOTION WAS MADE by Commissioner O’Bryan, **SECONDED** by Chairman Davis, to appoint Susan M. Blaxill-Deal to fill the unexpired term for the “Member At Large” representative to the Children Services Advisory Committee (CSAC).

Caryn M. Toole appeared before the Board to discuss her qualifications and reaffirm her interest in the “Member At Large” position.

The Chairman **CALLED THE QUESTION** and by a 2-3 vote (Commissioners Davis, Flescher, and Zorc opposed), the Motion failed.

Chairman Davis explained that he had changed his mind, and decided to vote for Ms. Toole, who had demonstrated her commitment by sitting through the Board Meeting thus far.

ON MOTION by Commissioner Flescher, SECONDED by Chairman Davis, the Board unanimously appointed Caryn M. Toole to fill the unexpired term for the “Member At Large” representative to the Children Services Advisory Committee.

12:32 p.m. B. Environmental Control Hearing Board Committee Vacancy (memorandum dated February 2, 2015) 274

County Attorney Dylan Reingold advised that there was one qualified applicant for the “Lawyer” vacancy on the Environmental Control Board (ECB), as follows: Kevin Rollin, from Napier & Rollin, PLLC.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Zorc, after reviewing the applicant’s resume/application, the Board unanimously appointed Kevin Rollin to fill the unexpired term for the “Lawyer” representative to the Environmental Control Board.

12:33 p.m. C. 2015 Committee Vacancies – Enterprise Zone Development Agency (memorandum dated January 27, 2015) 275

County Attorney Dylan Reingold advised that there was one qualified applicant for the “Member At Large” vacancy on the Enterprise Zone Development Agency (EZDA) as follows: George Connelly.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Flescher, after reviewing the applicant’s resume/application, the Board unanimously appointed George Connelly to fill the unexpired term for the “Member At Large” representative to the Enterprise Zone Development Agency.

12:34 p.m. D. Board’s Offer of Settlement to Linda and Tom Winkel, Property Located at 6650 45th Street, Vero Beach (memorandum dated February 3, 2015) 276-280

Deputy County Attorney Bill DeBraal recalled the Board’s approval on January 6, 2015, of a Global Settlement Offer to Tom and Linda Winkel, for the County to fulfill its obligations as presented in the 2010 Agreement with the Winkels and the 2014 Amendment to same, and to give the Winkels \$10,000 to satisfy all other claims of damage attributed to the County’s 66th Avenue Road Project. He reported that the Winkels have made a counter offer rejecting the Board’s proposal. Attorney DeBraal gave staff’s recommendation for the Board to deny the counteroffer, withdraw its January 6, 2015 settlement offer, and fulfill the County’s obligations in the original 2010 Agreement and 2014 Amendment to same.

Public Works Director Chris Mora explained that the County has not yet fulfilled all of the obligations in the original agreement and

amendment.

Chairman Davis suggested delaying a vote on this matter until County staff fulfills their obligations.

Director Mora stated that staff would be happy to complete the work that was planned by the contractor, and to hold the \$10,000 offer in abeyance until the Winkels have a chance to see the improvements.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Chairman Davis, to: (1) reject Linda and Tom Winkel's counter offer; and (2) hold the County's previous offer extended on January 6, 2015 in abeyance until thirty days past the date that the Winkels get notice that the County has completed the obligations set forth in the 2010 Agreement with the Winkels, and the 2014 Amendment to the Agreement.

Discussion followed between Board and staff about what remained to be done for the Winkels, and the necessity to cap any future monetary offers (other than the \$10,000) by the County.

Commissioner Flescher recalled his opposition to the Motion made on January 6, 2015, and declared his opposition to the proposed Motion.

The Chairman CALLED THE QUESTION and by a 4-1 vote (Commissioner Flescher opposed), the Motion carried.

12:46 E.
p.m.

Approval of Resolutions Establishing Fair Market Rental Rates and Utility Rates for Housing Choice Voucher Program (memorandum dated February 4, 2015)

281-295

Deputy County Attorney Bill DeBaal reported that he is the Fair Housing Coordinator, and that Robin Miller is the Housing Program Manager. He provided background on the Fair Housing Program and the Housing Choice Voucher Program (HCV), and explained that each year, the annual rental rates and utility rates established by the United States Department of Housing and Urban Development (HUD) must be approved by the County. Attorney DeBaal thereafter requested that the Board approve the fair market values for Fiscal Years 2012, 2013, 2014, and 2015 through adoption of the four proposed Resolutions, and the utility rate for the same period, through adoption of the single proposed Resolution.

(Clerk's Note: Only one Resolution is required for the utility rate since those rates have not changed significantly in the past four years).

ON MOTION by Commissioner O'Bryan, **SECONDED** by Commissioner Flescher, the Board unanimously approved: (1) **Resolution 2015-018**, approving payment standards for Fiscal Year 2012 for the Housing Choice Voucher Program; (2) **Resolution 2015-019**, approving payment standards for Fiscal Year 2013 for the Housing Choice Voucher Program; (3) **Resolution 2015-020**, approving payment standards for Fiscal Year 2014 for the Housing Choice Voucher Program; (4) **Resolution 2015-021**, approving payment standards for Fiscal Year 2015 for the Housing Choice Voucher Program; and (5) **Resolution 2015-022**, approving revisions to the Housing Choice Voucher Program Utility Allowance Schedule.

12:51 F. Update on the February 3, 2015 Public Service Commission Meeting
p.m. (no back-up) ---

County Attorney Dylan Reingold stated that the County had sought from the Public Service Commission (PSC), a Declaratory Statement as to its rights and responsibilities once the County's Electric Utility Franchise Agreement with the City of Vero Beach expires on March 4, 2017. At its February 3, 2015 meeting, the PSC denied the County's petition, but granted the City of Vero Beach's (the City's) petition for a PSC Declaration, which determined that the City has the right and obligation to serve with regards to those areas included in the Franchise Agreement (in the unincorporated County), despite any actions taken by the County. He relayed that the final order from the Public Service Commission will be released on February 23, 2015, at which time County staff will explore and present options to the Board, regarding the electric utility issue.

Commissioner O'Bryan was disappointed that only one PSC Commissioner spoke on this matter, and that PSC's decision impedes the County Commission's ability to represent its constituents against a monopoly.

Chairman Davis led a discussion on the importance of raising awareness on this issue.

Attorney Reingold sought and received authorization to interject with an update on the Florida Municipal Power Agency (FMPA).

County Attorney Dylan Reingold reported that in addition to Indian River, there are other counties who are concerned about the Auditor General's audit of the Florida Municipal Power Agency (FMPA), and about FMPA itself. He disclosed that he would be attending the City of Fort Meade's Commission meeting this evening (February 10, 2015) where discussion on FMPA would occur, and that he would continue to monitor other municipalities to see when their Commissions will be discussing FMPA. Attorney Reingold also mentioned that FMPA plans to discuss the Auditor General's audit

at its February 16, 2015 meeting.

Discussion followed by the Board, with input from County Administrator Joseph Baird, about the importance of joining with other City Council Members and County Commissioners who have expressed concerns about FMPA and the audit.

The Chairman called a recess at 1:03 p.m. and reconvened the meeting at 1:10 p.m., with all members present.

County Webmaster Scott Johnson, in response to Attorney Reingold's request, played an audio excerpt of FMPA's February 3, 2015 meeting.

The Board directed the Webmaster to place the full audio file and the excerpt of the meeting on the County's website.

Individual Board Members continued to comment on the FMPA.

Attorney Reingold reported that the City of Vero Beach had asked for a written copy of the Motions concerning the FMPA audit that were made by the Board at its January 28, 2015 Special Call Meeting. He explained that the City would be considering the Motions at its City Council Meeting of February 17, 2015, and asked whether the Board wished to amend, or approve, the Motions as drafted in his February 6, 2015 email to the Board.

No amendments were made by the Board.

ON MOTION by Vice Chairman Solari, **SECONDED** by Commissioner Flescher, the Board unanimously approved to:

(1) Request the Florida Auditor General and the Joint Legislative Auditing Committee and any other appropriate committee of the Florida Legislature to use what remains of the initially appropriated \$200,000 for the full audit to:

- a. Determine the fair market value of the FMPA generation assets;
- b. Determine the fair market value of the FMPA as a whole;
- c. Prepare 3 years of pro forma financial statements based upon GASB financial procedures, including balance sheets, profit and loss statements and cash flow statements;
- d. Review the Purvis, Gray & Company audits to determine what was stated with respect to the internal

-
- controls and policies; and
 - e. **Include Florida Municipal Electric Association (FMEA) in the pro formas to be performed**
- (2) Adopt the County Attorney’s Recommendation, which includes:**
- a. **Asking Indian River County Legislative Delegation to request legislative hearings on FMPA’s activities**
 - b. **Engaging in statewide dialogue with members of FMPA and other interested entities**
 - c. **Immediately hiring support to assist in and coordinate statewide dialogue; and**
- (3) Add to the County’s legislative priorities list, an amendment to Florida Statutes which would give the Public Service Commission (PSC) jurisdiction over the Florida Municipal Power Agency and direct staff to examine other laws applicable to local governments, including municipalities that do not currently apply to the Florida Municipal Power Agency and support legislation to have Florida Municipal Power Agency subject to such laws.**

14. COMMISSIONERS MATTERS PAGE

**2:43
p.m.**

A. Commissioner Wesley S. Davis, Chairman

- 1. IRL Council Interlocal Agreement
(memorandum dated January 28, 2015) 296-298**

Chairman Davis asked if there were any Board comments on Martin County Commissioner Ed Fielding’s letter supporting the Interlocal Agreement for the new Indian River Lagoon Council (formerly referred to as the Indian River Lagoon National Estuary Program, or IRLNEP).

Vice Chairman Solari discussed a hasty Special Call meeting that the Council has set, in response to the Board’s January 13, 2015 decision to not approve the Interlocal Agreement unless amendments are made. He added that the reorganization of the IRLNEP has been the least transparent process he has been involved with.

B. Commissioner Bob Solari, Vice Chairman

**2:44
p.m.**

- 1. Resolution Regarding the Florida Municipal Power Agency (FMPA) Audit 299-301
(memorandum dated January 30, 2015)**

Vice Chairman Solari reported that the Town of Indian River

Shores had adopted a Resolution regarding the Florida Auditor General's audit of the Florida Municipal Power Agency and the plans of the City of Vero Beach, in response to that audit. He asked fellow Commissioners if they wished to draft a similar Resolution.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner O'Bryan, the Board unanimously directed the County Attorney's Office to: (1) draft a Resolution similar to one that was adopted by the Town of Indian River Shores with regards to the Florida Municipal Power Agency's preliminary and tentative audit findings and recommendation concerning the Florida Municipal Power Agency (FMPA), and the plans of the City of Vero Beach in response to that audit report, and (2) bring back the draft Resolution for Board review.

C. Commissioner Joseph E. Flescher
None

D. Commissioner Peter D. O'Bryan

1:30
p.m.

1. Parking for Vacation Rentals
(memorandum dated January 26, 2015)

302-314

(Clerk's Note: This item was heard following Item 13.F. Update on the Public Service Commission Meeting, and is placed here for continuity).

Commissioner O'Bryan reported that on August 18, 2014, a Code Enforcement Board Order was filed against Michael D. Dudek for residential parking violations at his vacation rental property in the White Surf Subdivision, and that Mr. Dudek's attorney, Barry G. Segal, has filed a challenge to that Order. Commissioner O'Bryan explained that the volume of renters at the home has led to parking issues with the adjoining property owners, Dr. Miles Conway, Dr. Walter Forman, and Dr. Thomas Gillman, and proposed that the County Attorney's office draft an Ordinance regulating parking at vacation rentals, with the maximum number of allowable cars tied to the size of the home.

There was a brief discussion among the Board about vacation rentals in residential areas.

Dr. Miles Conway, 2340 South Highway A1A, stated that he, Dr. Thomas Gillman, and Dr. Walter Forman, are in civil litigation with Mr. Dudek, because they have been putting up with untenable conditions for over a year. He noted that he resides in the Kansas City Colony subdivision, just north of

the White Surf Subdivision, and that the other two property owners live in the same subdivision as Mr. Dudek. He presented supporting evidence that the transient rentals are negatively impacting his quality of life and that of Drs. Gilman and Forman, as well as other beachfront property owners. Dr. Conway elaborated on issues related to these transient rentals as follows: large volumes of cars being parked at individual properties and on right-of-way; damage to the sand dunes; sea turtle disorientation; unknown persons wandering around in the middle of the night; trespassing; noise pollution; and vandalism, and invited individual Board Members to spend time at the site to see what is going on.

Vice Chairman Solari asked Dr. Conway to clarify what remedy he was seeking from the Board.

Dr. Conway responded that he would like to see the Board enact a two to three car limit at individual properties.

Discussion/debate ensued between the Board and Dr. Conway about the existing parking regulations for residential homes.

Commissioner Flescher voiced concerns that formulating regulations governing residential parking might impede upon individual property rights.

Commissioner O'Bryan said that the parking rules for homeowners will fall under the existing County Code, as far as guests visiting a single-family residence; however, he was proposing separate regulations governing commercial vacation rentals.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Vice Chairman Solari, to direct staff to draft parking regulations for vacation rentals, either by the addition of wording to our existing County Code, or by drafting a new Ordinance to deal with parking at residences that are being employed as vacation rentals.

Chairman Davis asked staff to provide him with a list of properties at which there have been complaints related to transient rentals.

Dr. Conway related that since the City has tightened up its restrictions on transient vacation rentals, these types of rentals will migrate over to the County.

A brief discussion ensued between the Board and staff about the collection of Tourist Taxes.

Dr. Conway stated that he would like to speak at a future Board meeting on the deleterious impact of transient rentals on property values and other associated issues.

Daniel Lamson, Executive Director, Indian River Neighborhood Association, spoke in support of Commissioner O'Bryan's proposed parking regulations, and provided for the record, emailed correspondence from three homeowners having problems associated with neighboring short-term rental properties.

Barry Siegel, Esq., representing Mr. Dudek, provided to the Clerk a copy of the Florida Attorney General's Legal Opinion that a local government may not restrict vacation rentals, and cautioned the Board that the proposed Ordinance may have unintended consequences.

Attorney Reingold, responding to Board questions, clarified that while a local government may regulate vacation rentals, it may not enact a local law, ordinance, or regulation which would operate to prohibit vacation rentals.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

E. Commissioner Tim Zorc

2:46
p.m.

1. Update on Foreign Trade Zone from the Port Canaveral Meeting held on January 21, 2015
(no back-up)

(Clerk's Note: This item was heard following Item 14.B.1. Resolution Regarding FMPA Audit, and is placed here for continuity).

Commissioner Zorc stated that the Port Canaveral Board of Commissioners was receptive to his request to create an Indian River County sub-zone within Port Canaveral Foreign Trade Zone 136, but would need to review their Charter. He asked for authorization to attend any future meetings about the County's request to be included in Foreign Trade Zone 136.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Davis, the Board unanimously approved out-of-County travel, as needed, for Commissioners and staff to attend meetings regarding: (1) the Florida Municipal Power Agency (FMPA); and (2) Port Canaveral Foreign Trade Zone 136.

15. **SPECIAL DISTRICTS AND BOARDS**
- A. **Emergency Services District**
None
 - 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 **2:47 p.m.**

ATTEST:

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

Wesley S. Davis, Chairman

By: _____
Deputy Clerk

Approved: _____

BCC/MG/2015Minutes