

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



REGULAR MEETING MINUTES

TUESDAY, MARCH 24, 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	Absent	Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller	Present
Peter D. O'Bryan	District 4	Present		
Tim Zorc	District 3	Present	Terri Collins-Lister, Deputy Clerk	Present

**DVD
TIMES**

**PACKET
PAGES**

1. **CALL TO ORDER** **9:00 A.M.**
2. **INVOCATION** Commissioner Wesley S. Davis, Chairman
3. **PLEDGE OF ALLEGIANCE** Dylan Reingold, County Attorney
4. **ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS**

9:01 a.m. **Add: Item 14.D.1. Remediation Efforts in Fire Stations**
Move: Emergency Item 14.D.1 to Emergency Services District 15.A.3.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Solari, by a 4-0 vote (Commissioner Flescher absent), the Board approved the agenda as amended.

- 5. PROCLAMATIONS and PRESENTATIONS**
- 9:02 a.m.** **A.** Presentation of Proclamation Designating April 1 through April 30, 2015 as Water Conservation Month in Indian River County 1
- Vice Chairman Solari read and presented the Proclamation to Arjuna Weragoda and Eric Charest, Utility Services**
- 9:06 a.m.** **B.** Presentation of Proclamation Designating April 15, 2015 as Jackie Robinson Day 2
- Chairman Davis read and presented the Proclamation to Michael Kint, CEO United Way, Committee Chair Lynn Hall, and Brady Ballard, Vice President of Historic Dodgertown.**
- 6. APPROVAL OF MINUTES**
- 9:11 a.m.** **A.** Regular Meeting of March 3, 2015
- ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Zorc, by a 4-0 vote (Commissioner Flescher absent), the Board approved the Regular Meeting Minutes of March 3, 2015, as written.**
- 7. INFORMATION ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION**
- A.** Proclamation and Retirement Award Honoring Bruce Meguin on His Retirement from Indian River County Board of County Commissioners Department of Emergency Services/Fire Rescue with Twenty-Four Years of Service 3-4
- B.** Proclamation and Retirement Award Honoring Walter Slusser on His Retirement from Indian River County Board of County Commissioners Department of Public Works/Facilities Management Division with Twenty-Eight Years of Service 5-6
- 8. CONSENT AGENDA**
- 9:12 a.m.** **ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Zorc, by a 4-0 vote (Commissioner Flescher absent), the Board approved the Consent Agenda, pulling Item 8.C. for discussion.**
- A.** Approval of Warrants – March 6, 2015 to March 12, 2015 (memorandum dated March 12, 2015) 7-14
- Approved the list of warrants (checks) and wires as supplied by the Comptroller’s Office.**

- B.** Approval of Annual Financial Report by County Commissioners and Notice of CAFR (Comprehensive Annual Financial Report) Completion
(memorandum dated March 18, 2015) 15-24
Accepted the CAFR as presented for fiscal year 2013-2014, and authorized the Chairman to sign the County’s Local Government Annual Financial Report.
- C.** Sector 3 Dune Repair Project, Change Order No. 2 Contract Increase – Additional Sand Fill, Guettler Brothers Construction, LLC
(memorandum dated March 17, 2015) 25-26
Chairman Davis announced that due to a conflict of interest, he would withhold his vote on this matter.

(Clerk’s Note: Form 8B Memorandum of Voting Conflict is attached to these minutes as Addendum A).

ON MOTION by Commissioner O’Bryan, **SECONDED** by Commissioner Zorc, by a 3-0 vote (Commissioner Flescher absent and Chairman Davis abstained), the Board approved a not-to-exceed amount for Change Order No. 2 to be 38,675 cubic yards or a maximum contract increase of \$638,137.50, increasing the final contract price to \$3,715,057.50 and authorizing the Chairman to sign an amendment and any additional documents necessary in order to effectuate Change Order No. 2 once the final volumes and total costs are calculated.
- D.** Work Order No. 8 Ecological Associates, Inc., Sector 3 Beach Restoration Project, Post Construction Biological Monitoring Services
(memorandum dated March 16, 2015) 27-40
Approved Work Order No. 8 to the contract with Ecological Associates, Inc., and authorized the Chairman to sign on behalf of the County.
- E.** Board Consideration to Authorize Staff to Apply for Florida Inland Navigation District Waterways Assistance Program Cost-Share Grants for Replacement of the Round Island Riverside Park Boardwalk and for Dock Restoration at the Archie Smith Fish House
(memorandum dated March 16, 2015) 41-46
Authorized staff to apply for Florida Inland Navigation District Waterways Assistance Program grants for the Round Island Riverside Park Improvements and Archie Smith Fish House Phase I Restoration Projects, using the Florida Boating Improvement Fund and Secondary Roads Fund for the

County match.

- F.** Preservation Pointes Property Owners Association’s Request for Release of Certain Easements on Lots in Preservation Pointes Phases I and II (Timber Ridge P.R.D.) (memorandum dated March 16, 2015) 47-52
Approved Resolution 2015-042, releasing conservations easements on lots in Preservation Pointes Phase I and Preservation Pointes Phase II.
- G.** Final Pay to MBV for WO No. 5 – South County RO Facility Storage & Piping Tank Modifications (memorandum dated March 11, 2015) 53-55
Approved Final Pay to MBV Engineering, Inc. in the amount of \$2,025.01.

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

**9:13
a.m.**

- A. Indian River County Clerk of the Circuit Court and Comptroller, Jeffrey R. Smith**
Presentation of Summary Review of the September 30, 2014 Comprehensive Annual Financial Report
Clerk of Circuit Court and Comptroller Jeffrey R. Smith announced that Indian River County’s 2013-2014 Comprehensive Annual Financial Report (CAFR) was completed on March 4, 2015, and the County has received the Certificate of Achievement for Excellence in Financial Reporting for 31 consecutive years. He summarized the CAFR in a PowerPoint presentation and mentioned some of the Clerk’s initiatives for the upcoming year: 1) increase the number of electronic payments to vendors; 2) provide a link on the Board’s website for the Board’s and Clerk’s unclaimed property; and 3) modernize the Board’s Official Documents and Minutes software. He responded thereafter to the Board’s questions about the CAFR.

Mr. Smith thanked his staff, Finance Director Diane Bernardo, Assistant Finance Director Elissa Nagy, Senior Accountant Raeanne Cone, and Internal Auditor Ed Halsey, for their work in preparing the CAFR.

County Administrator Joe Baird thanked Jeff Smith and his staff for their exceptional work on the CAFR and their professionalism.

10. PUBLIC ITEMS

A. PUBLIC HEARINGS

**9:29
a.m.**

- 1.** Faith Baptist Church, Inc. of Vero Beach, Fla.’s Request for Special Exception Use Approval for a Modular Office Addition
(memorandum dated March 12, 2015)

56-66

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 or independent investigations. Commissioners O’Bryan, Solari, and Zorc disclosed that there have been no site visits; Chairman Davis stated he received a phone call and had formerly driven by the site. The Commissioners affirmed that they had an open mind and are able to base their decisions 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 presented a description and analysis of Faith Baptist Church, Inc.’s Request for Special Exception with staff’s recommended conditions.

He relayed that the Planning & Zoning Commission (P&Z) recommended Board approval of the request with conditions:

- 1.** The modular office shall have either a 5-V crimp metal roof or a dimensional asphalt/fiberglass shingle roof.
- 2.** Prior to issuance of a certificate of occupancy, the applicant shall install all required landscaping improvements, as shown on the project landscape plan.

Vice Chairman Solari inquired on the church’s use of the modular office. Director Boling replied it would be for church administration purposes and the sanctuary space itself was not expanding with this proposal. He

9:35
a.m.

indicated the applicant agreed to add some additional overflow parking to bring the entire facility up to the County's current code.

The Chairman invited public comment; there were no speakers.

ON MOTION by Vice Chairman Solari, **SECONDED** by Commissioner Zorc, by a 4-0 vote (Commissioner Flescher absent), the Board unanimously **GRANTED** special exception use approval for the Faith Baptist Church modular office addition, subject to the following conditions: 1) The modular office shall have either a 5-V crimp metal roof or a dimensional asphalt/fiberglass shingle roof; 2) Prior to issuance of a certificate of occupancy, the applicant shall install all required landscaping improvements, as shown on the project landscape plan.

9:36
a.m.

- 2. Consideration of County-initiated Amendments to Land Development Regulations (LDRs) Chapter 902 (Administrative Mechanisms) and Chapter 915 (Planned Developments) to Grant the Planning and Zoning Commission the Authority to Approve Certain Modifications to Planned Development (PD) Setbacks and Other Dimensional Criteria and the Powers of the Board of (Zoning) Adjustment to Grant Variances (memorandum dated March 9, 2015)

67-90

Legislative

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD.

Community Development Director Stan Boling reviewed the information contained in his memorandum dated March 9, 2015 and gave a PowerPoint presentation.

Director Boling said the changes to LDR's Chapter 902 (Administrative Mechanisms) and Chapter 915 (Planned Development) were directed by the Board to streamline the process and it came about as a proposed change to setbacks on certain lots internal to the Marsh Island Development. He pointed out setback changes were approved unanimously by the Board and the support of the Planning and Zoning (P&Z) Committee.

9:42
a.m.

Chairman Davis mentioned Marsh Island was a good example of a bureaucracy slowing down a project and there had to be a better way. He indicated Bob Bruce, a former P&Z Commissioner, agreed that P&Z should have the authority to approve minor PD setback reductions and grant variances.

The Chairman opened the Public Hearing.

Bob Johnson, Coral Wind Subdivision, questioned the number of members on the P&Z and asked if four members on the Board qualified for an approval of a change of an Ordinance.

Joseph Paladin, Black Swan Consulting, agreed with the changes and granting the P&Z the authority to approve certain modifications. He disclosed he was the spokesman and point person for Marsh Island and maintained an interest.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, by a 4-0 vote (Commissioner Flescher absent), the Board; 1) adopted ORDINANCE 2015-004, concerning amendments to its Land Development Regulations (LDRS); providing for amendments to Chapter 902, Administrative Mechanisms, providing for amendments to Chapter 915, Planned Development (P.D.) process and standards for Planned Development; by amending section 902.05, Role of Planning and Zoning Commission in Planning and Development; by amending section 902.08, Role of Board of Adjustment; by amending section 902.09, Variances; by amending section 915.28, Modifications to Planned Development Plans; and by providing for repeal of conflicting provisions; codification; severability; and effective date; and 2) approved RESOLUTION 2015-043 transferring the authority, powers and duties of the Board of Adjustment to the Planning and Zoning Commission and dissolving and sunsetting the Board of Adjustment.

B. PUBLIC DISCUSSION ITEMS

None

C. **PUBLIC NOTICE ITEMS**

None

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**

None

F. **Public Works**

9:45
a.m.

1. Presentation of the Indian River County 2014 Beach Preservation Plan Update (memorandum dated March 17, 2015)

91-96

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Public Works Director Chris Mora indicated this was the third update of the County's Beach Preservation Plan (BPP).

Coastal Engineer James Gray introduced Gordon Thompson and David Swigler with CB&I Coastal Planning and Engineering, Inc., the County's Coastal Engineering Consultant who prepared the third update of the BPP.

Mr. Gray stated since 1988, the County has had a Beach Management Strategy for addressing coastal erosion along the County's 22.4 miles of shoreline. He informed the Board that the BPP is updated every five to ten years which includes new technologies and strategies/alternatives to abate the erosion. He emphasized this was an advisory document only and to be used as a management tool and approval of the document would not commit the County to follow the strategies under the document.

Director Gordon Thompson with CB&I Coastal Planning and Engineering, Inc., gave a PowerPoint Presentation on the Indian River County Beach Preservation Plan. He emphasized that the County's Beaches were an important economic engine for Indian River County. He added the County could increase its State's Cost Share funding for beach projects from 27% to 42%, by improving public access with added parking, and he recommended the County look into acquiring private property and establishing public accesses.

Following the Presentation, a discussion ensued by the Board on the Cattle Dip and the Kennedy Site, beach access, and parking.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Zorc, by a 4-0 vote (Commissioner Flescher absent), the Board accepted the 2014 Update to the Beach Preservation Plan.

- G. Utilities Services
None

13. COUNTY ATTORNEY MATTERS

- 10:09 a.m. A. Legislative Update – Talking Points (memorandum dated March 17, 2015) 97-101
Assistant County Attorney Kate Pingolt Cotner stated at the Board Meeting on March 17, 2015, the Board requested the

County Attorney's Office to start drafting talking points on the following proposed bills and issues in the State of Florida's 2015 Legislative Session which might impact the County.

- Oppose House Bill 101 and Senate Bill 140 Relating to Taxation (related to commercial leases)
- Oppose House Bill 391 and Senate Bill 896 Location of Utilities
- Oppose House Bill 41 and Senate Bill 154 Hazardous Walking Conditions (for Public School Students)
- Oppose House Bill 681 and Senate Bill 516 Health Coverage for Emergency Services.

Attorney Cotner advised the Board of two proposed bills which required further discussion.

House Bill 41 and Senate Bill 154 – Hazardous Walking Conditions.

Attorney Cotner indicated there was an amendment to House Bill 41 allowing local flexibility via an interlocal agreement between a School Board and a local government to address the identification and correction of hazardous walking conditions with two requirements: 1) must establish the same or higher standards of safety and 2) it must establish the same or a more rigorous process for addressing safety concerns. She emphasized that it still contained Florida Statutes Chapter 86 action language allowing a School Board to bring actions against a local government.

Attorney Cotner asked the Board if they wanted staff to distribute the white paper to the local legislative delegation, if the added amendment language was approved. She suggested asking for Florida Statutes Chapter 86 language contained in House Bill 41 to be addressed, because it was important for the local delegation to be aware of the County's concerns.

There was a CONSENSUS of the Board to continue to oppose House Bill 41 with the Florida Statutes, Chapter 86 mechanism, and directed staff to submit the white paper to the local legislative delegation.

House Bill 391 and Senate Bill 896 – Location of Utilities

Attorney Cotner clarified how proposed House Bill 391 would have a significant impact on the County financially in regards to the removal and the relocation of utilities in reconstruction and the widening of road projects.

Attorney Cotner explained the proposed legislation would shift the burden from utility companies to the State and local governments for the removing or relocation of utility lines outside a public right-of-way. A discussion ensued on how proposed House Bill 391 would have a huge impact on road projects by slowing projects to a standstill in the State of Florida and could weaken the County's position in getting utilities relocated in projects.

There was a CONSENSUS of the Board to oppose House Bill 391 and directed staff to submit the white paper to the local legislative delegation.

- 10:21 a.m.** **B.** Request for Closed Attorney-Client Session Relating to *Ocean Concrete and George Maib vs. Indian River County* (Case No.: 20071589-CA17)
(memorandum dated March 13, 2015)
ON MOTION by Commissioner O'Bryan, **SECONDED** by Vice Chairman Solari, by a 4-0 vote (Commissioner Flescher absent), the Board approved the request for Closed Attorney-Client Session relating to Ocean Concrete and George Maib vs. Indian River County, to be held on Tuesday, April 14, 2015 at 10:30 a.m.

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14. COMMISSIONERS MATTERS

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

15. **SPECIAL DISTRICTS AND BOARDS**

A. **Emergency Services District**

10:22
a.m.

The Board reconvened as the Board of Commissioners of the Emergency Services District. Those Minutes are available separately.

1. Approval of Minutes Meeting of February 17, 2015
2. Potential Lawsuit Challenging U.S. Department of Transportation's Approval of the Issuance of \$1,750,000,000 of Tax Exempt Private Activity Bonds for All Aboard Florida (memorandum dated March 17, 2015)
3. Addition: Remediation Efforts in Fire Stations

103-104

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 11:12 a.m.

ATTEST:

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

Wesley S. Davis, Chairman

By: _____
Deputy Clerk

Approved: April 21, 2015

BCC/TCL/2015Minutes

ADDENDUM A
ITEM 8C

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Davis Wesley S.	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Board of County Commissioners
MAILING ADDRESS 1801 27th Street, Building A	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY COUNTY Vero Beach Indian River	<input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED March 24, 2015	NAME OF POLITICAL SUBDIVISION: MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)