

# Indian River County Florida

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



## Meeting Minutes - Final

**Tuesday, November 8, 2016**

**9:00 AM**

**Commission Chambers**

## **Board of County Commissioners**

*Bob Solari, Chairman, District 5  
Joseph E. Flescher, Vice Chairman District 2  
Wesley S. Davis, District 1  
Peter D. O'Bryan, District 4  
Tim Zorc, District 3*

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

**1. CALL TO ORDER****ROLL CALL**

**Present:** 5 - Chairman Bob Solari  
Vice Chairman Joseph Flescher  
Commissioner Wesley Davis  
Commissioner Peter O'Bryan  
Commissioner Tim Zorc

**2. INVOCATION**

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

**3. PLEDGE OF ALLEGIANCE**

Commissioner Bob Solari, Chairman

**4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS**

Item 10.B.1. deleted from the Agenda.

**A motion was made by Commissioner Davis, seconded by Vice Chairman Flescher, to approve the Agenda as amended. The motion carried by the following vote:**

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

**5. PROCLAMATIONS and PRESENTATIONS**

**5.A 16-966** Presentation of Proclamation Designating the Month of November as National Runaway Prevention Month

**Recommended Action:** Read and Present.

**Attachments:** [National Runaway Prevention](#)

Commissioner O'Bryan read and presented the Proclamation to Frank Avilla, representing the Children's Home Society of Florida.

Mr. Avilla spoke about the WaveCREST Shelter and the Safe Place Program. He described the black and yellow, diamond shaped signs that are placed in areas around the County that have a "Safe Place" logo on them, and explained the role that these signs play in providing a safe place for troubled children until their family members can be notified.

**5.B 16-968** Presentation of Proclamation Designating the Month of November, 2016 as National Adoption Awareness Month

**Recommended Action:** Read and Present.

**Attachments:** [National Adoption Awareness Proclamation](#)

Commissioner O'Bryan read and presented the Proclamation to Frank Avilla, Adoption Marketing Specialist for the Children's Home Society of Florida.

Mr. Avilla provided information to the Board about the adoptions in the area and extended an invitation to the "National Adoption Day" celebration being held at Langford Park in Jensen Beach, on November 19, 2016, from 10:00 a.m. to 2:00 p.m. He provided contact information for anyone who wished to obtain more information about programs and services that the Children's Home Society provides.

**5.C 16-969** Presentation of Proclamation Designating the Month of November, 2016 as Veterans Day

**Recommended Action:** Read and Present.

**Attachments:** [Veterans Day Proclamation](#)

Commissioner Davis read and presented the Proclamation to Major Kim Pilger and Captain Doy Demsick of the Veteran's Council of Indian River County.

Captain Doy Demsick provided details on several Veterans' Day Ceremonies being held on Memorial Island, Riverview Park, American Legion Post 189 and VFW 10210, on Friday, November 11, 2016.

**5.D 16-970** Presentation of Proclamation Designating the Day of November 29, 2016 as #Giving Tuesday

**Recommended Action:** Read and Present.

**Attachments:** [#Giving Tuesday](#)

Vice Chairman Flescher read and presented the Proclamation to Angelia Perry and Freddie Woolfork of the Gifford Youth Achievement Center.

Freddie Woolfork provided information on the #Giving Tuesday event being held on November 29, 2016, which was created to allow people to come together to encourage giving and to get involved in a way that is meaningful to them or their community.

## **6. APPROVAL OF MINUTES**

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

### **7.A 16-992 Employment Report**

**Recommended Action:** Informational only

**Attachments:** [Info Nov 8, 2016--Employment Report](#)

### **7.B 16-993 Paychecks for Patriots Hiring Event**

**Recommended Action:** Informational only

**Attachments:** [Info Nov 8, 2016--Paychecks for Patriots](#)

Commissioner O'Bryan spoke about the "Paychecks for Patriots" hiring event that will be held at the Indian River State College, on the St. Lucie West Campus on November 14, 2016, from 10:00 a.m. to 2:00 p.m.

### **7.C 16-976 Update On All Aboard Florida/Vero Electric Expenses**

**Recommended Action:** Informational only

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

### **7.D 16-977 Planning & Zoning Commission Vacancy Appointment**

**Recommended Action:** Informational only

**Attachments:** [Staff Report](#)  
[161019 Committee Vacancy Appointment \(P-Z\) Attach](#)

Commissioner Zorc thanked Maria Calderone for her years of service on the Planning and Zoning Commission, and appointed Kenneth A. "Chip" Landers to fill the vacant position of the BCC Appointee, District No. 3, on the Planning and Zoning Commission.

**7.E 16-999** Indian River County Venue Event Calendar Review

**Recommended Action:** Informational only

**Attachments:** [Event Calendar](#)

**7.F 16-1000** License / Use Agreement between FEMA, Indian River County and Indian River State College for Use of Space in Brackett Library

**Recommended Action:** Informational only

**Attachments:** [Informational Report](#)

**7.G 16-957** Florida Public Service Commission Notice of Consummating Order NO. PSC-16-0497-CO-EI In re: Petition for approval of modification to and extension of the approved economic development and re-development rider experimental pilot tariffs, by Duke Energy Florida, LLC, is available for review in the Office of the Clerk to the Board.**7.H 16-978** Florida Public Service Commission Order NO. PSC-16-0499-TR-EQ In re: Petition for approval of modifications to standard interconnection agreement contained in the approved tariff by Duke Energy Florida, LLC, is available for review in the Office of the Clerk to the Board.**8. CONSENT AGENDA**

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

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

**8.A 16-962** Approval of Checks and Electronic Payments October 21, 2016 to October 27, 2016

**Recommended Action:** Approve the attached list of checks and electronic payments issued by the Comptroller's office for the period October 21, 2016 to October 27, 2016

**Attachments:** [Approval of Checks](#)

**Approved staff's recommendation.**

**8.B 16-959** Quarterly Investment Report for the Quarter Ending 09/30/16

**Recommended Action:** Staff recommends the Board accept the attached Quarterly Investment Report.

**Attachments:** [Quarterly Investment Report](#)

Approved staff's recommendation.

**8.C 16-961** Quarterly Tourist Development Tax Report for Quarter Ending 09/30/16

**Recommended Action:** Staff recommends the Board accept the attached Quarterly Tourist Development Tax Report

**Attachments:** [Quarterly Tourist Development Tax](#)

Approved staff's recommendation.

**8.D 16-960** Quarterly OPEB Trust Report for Quarter Ending 09/30/16

**Recommended Action:** Staff recommends the Board accept the attached Quarterly OPEB Trust Report

**Attachments:** [Quarterly OEPB Trust Report](#)

Approved staff's recommendation.

**8.E 16-983** Internal Audit Division of the Clerk's Office

**Recommended Action:** Staff recommends that the Board accept the attached fourth annual report of the Internal Audit Division

**Attachments:** [Internal Audit Division](#)

Approved staff's recommendation.

**8.F 16-958** Economic Opportunities Council of Indian River County, Inc.

**Recommended Action:** The County Attorney recommends that the Board reappoint Miriam Gross, Jennifer Proper and Linda McConkey and appoint Donald Hart, Sr. to the Economic Opportunities Council of Indian River County, Inc.

**Attachments:** [Staff Report](#)  
[EOC Committee Appointments w Ltr Notice-Attach](#)

Approved staff's recommendation.

**8.G 16-1001** Jake Owen Foundation's Request to Utilize Sampson Field to Support Charity Event on December 9, 2016

**Recommended Action:** Staff recommends that the Board authorize the Parks Division to issue the permit requested, waive any field and light rental charge, and waive the alcohol consumption prohibition under County Code Section 205.03 for the Event.

**Attachments:** [Staff Report](#)

Approved staff's recommendation.

**8.H 16-980** Resolution Cancelling Taxes on Property Quit-Claimed by Indian River County to the City of Fellsmere

**Recommended Action:** Authorize the Chairman of the Board of County Commissioners to execute the attached Resolution to cancel certain taxes upon publicly owned land, and the Clerk to send a certified copy of same to the Tax Collector and the Property Appraiser so that any delinquent or current taxes can be cancelled.

**Attachments:** [Staff Report](#)

[Resolution](#)

[Letter from Fellsmere City Attorney](#)

Approved **Resolution 2016-115**, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (Lincoln Park Subdivision)

**8.I 16-981** Final Pay and Release of Retainage to Mack Concrete Industries, Inc., for a new Package Wastewater Treatment Plant at Blue Cypress Lake - UCP #4102, Bid No. 2015044

**Recommended Action:** Staff recommends that the BCC approve the Final Pay Application No. 4 in the amount of \$42,926.36 to Mack Concrete Industries, Inc.

**Attachments:** [Staff Report](#)

[Pay Application No. 4](#)

Approved staff's recommendation.

**8.J 16-953** Award of Bid No: 2017009 8th Street Sidewalk Improvements (58th Avenue to 21st Court)

**Recommended Action:** Staff recommends that the project be awarded to Timothy Rose Contracting, Inc., in

the amount of \$575,858.97 and requests that the Board of County Commissioners approve the attached sample agreement and authorize the Chairman to execute said agreement after receipt and approval of the required Public Construction Bond and Certificate of Insurance and after the County Attorney has approved the agreement as to form and legal sufficiency.

**Attachments:** [Staff Report](#)  
[Sample Agreement](#)

**Approved staff's recommendation.**

## **9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES**

**9.A 16-994** Indian River County Clerk of the Circuit Court & Comptroller Jeffrey R. Smith Annual Fiscal Report for the Fiscal Year Ended September 30, 2016

**Recommended Action:** Approve the Annual Fiscal Report

**Attachments:** [Clerk 9A.pdf](#)

Clerk of Circuit Court and Comptroller Jeffrey R. Smith presented a summary of the Annual Fiscal Report for the Fiscal Year ending September 30, 2016.

**A motion was made by Vice Chairman Flescher, seconded by Commissioner Zorc, to approve the Annual Fiscal Report for the Fiscal Year ending September 30, 2016. The motion carried by the following vote:**

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

**9.B 16-995** Indian River County Property Appraiser David C. Nolte Annual Fiscal Report for the Fiscal Year Ended September 30, 2016

**Recommended Action:** Approve the Annual Fiscal Report

**Attachments:** [Annual Report](#)

**A motion was made by Commissioner O'Bryan, seconded by Vice Chairman Flescher, to approve the Annual Fiscal Report for the Fiscal Year ending September 30, 2016. The motion carried by the following vote:**

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

**9.C 16-996** Indian River County Sheriff Deryl Loar Annual Fiscal Report for the Fiscal Year Ended September 30, 2016

**Recommended Action:** Approve the Annual Fiscal Report



**Attachments:** [Annual Report](#)

Sheriff Deryl Loar presented a summary of the Annual Fiscal Report and asked for the Board's consideration of funds to replace an old generator and several windows on the top floor of the Administration Building at the jail.

Commissioner O'Bryan mentioned his attendance at a recent Mental Health Court staff meeting and graduation, and provided details of the visit. He stated that he was extremely impressed by the Mental Health Program and spoke highly of Judge Cox. He was inspired by how well the many agencies involved worked together to provide mental health services to those who need the help.

The Chairman suggested that Sheriff Loar submit a request for the repairs and place it on a future Board Agenda to provide an opportunity for public comment. Sheriff Loar answered questions from the Board about the replacement costs and the natural gas compatibility of the generator and provided information about the Mental Health Court Program.

**A motion was made by Commissioner O'Bryan, seconded by Vice Chairman Flescher, to approve the Annual Fiscal Report for the Fiscal Year ending September 30, 2016. The motion carried by the following vote:**

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

**9.D 16-997** Indian River County Supervisor of Elections Leslie R. Swan Annual Fiscal Report for the Fiscal Year Ended September 30, 2016

**Recommended Action:** Approve the Annual Fiscal Report

**Attachments:** [Annual Report](#)

Upon request from the Supervisor of Elections Leslie Swan, Vice Chairman Flescher presented information on the Annual Fiscal Report to the Board.

**A motion was made by Vice Chairman Flescher, seconded by Commissioner Zorc, to approve the Annual Fiscal Report for the Fiscal Year ending September 30, 2016. The motion carried by the following vote:**

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

**9.E 16-998** Indian River County Tax Collector Carole Jean Jordan Annual Fiscal Report for the Fiscal Year Ended September 30, 2016

**Recommended Action:** Approve the Annual Fiscal Report

**Attachments:** [Annual Report](#)

Tax Collector Carole Jean Jordan updated the Board on the revenues associated with concealed weapons applications and provided information on the Annual Fiscal Report. She also responded to several questions from the Board about the revenue sharing on the concealed weapons permits and the efforts made for making the process of obtaining the Real I.D. for driver's licenses less complicated. Also present from the Tax Collector's Office were Debbie Gee, Adria Espich, and Lori Bloom.

Brian Heady made comments about a recent visit to the Tax Collector's office, and commended Carole Jean Jordan for being out in front assisting with customers instead of sitting in her office.

**A motion was made by Commissioner O'Bryan, seconded by Commissioner Zorc, to approve the Annual Fiscal Report for the Fiscal Year ending September 30, 2016. The motion carried by the following vote:**

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

## **10. PUBLIC ITEMS**

### **A. PUBLIC HEARINGS**

#### **10.A.1 16-965 Right-Of-Way Ordinance Amendment (Legislative)**

**Recommended Action:** The County Attorney's Office respectfully requests that the Chair open the public hearing and take any comments from the public and then have the Board vote to approve the proposed ordinance.

**Attachments:** [Staff Report](#)  
[Ordinance](#)

County Attorney Dylan Reingold recalled the Meeting of August 16, 2016, where the Board authorized the County Attorney's Office to review the Indian River County Right-of-Way Ordinance in light of the Supreme Court's decision in the Reed vs. Town of Gilbert case. Attorney Reingold provided background on the proposed Ordinance along with the language prohibiting people from standing or entering the right-of-way for the purpose of distributing items with a driver or a passenger of a vehicle.

The Chairman opened the Public Hearing; there being no speakers, the Chairman closed the Public Hearing.

Commissioner Zorc inquired about Section 312.06 (g) in the proposed Ordinance which addresses unauthorized signs in the right-of-way and if a temporary sign is included as prohibited activity. Attorney Reingold clarified that the Planning and Development Department is working on an Ordinance that will address the signage issue separately.

A motion was made by Vice Chairman Flescher, seconded by Commissioner Zorc, to adopt Ordinance 2016-013, Amending Section 312.02 (Purpose), Section 312.04 (Definitions) and Section 312.06 (Prohibited Activity) of Chapter 312 (Rights-Of-Way) of the Code of Indian River County, Florida in order to prohibit the distribution of items in portions of the rights-of-way with drivers and passengers of vehicles; and providing for codification, severability, repeal of conflicting provisions, and an effective date. The motion carried by the following vote:

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

#### 10.A.2 16-973 Ordinance Concerning Medical Marijuana Treatment Centers

**Recommended Action:** The County Attorney's Office recommends that the Chairman open the public hearing and take public comment on this matter and then have the Board vote whether to approve the Ordinance.

**Attachments:** [Staff Report](#)  
[Ordinance](#)

County Attorney Dylan Reingold noted for the record that Amendment 2 concerning medical marijuana is on the ballot today, and that the Board has already adopted a Regulatory Ordinance along with a Zoning Ordinance addressing medical marijuana in the event that the Amendment passes. The Board previously authorized staff to advertise for a public hearing to clarify the definition of "medical marijuana treatment centers" and clarifying that cultivation of marijuana in Indian River County is prohibited.

The Chairman opened the Public Hearing. There being no speakers, the Chairman closed the Public Hearing.

A motion was made by Commissioner O'Bryan, seconded by Vice Chairman Flescher, to adopt Ordinance 2016-014, Amending Section 315.02 (Definitions) and Section 315.03 (Prohibited Activities) of Chapter 315 (Pain Management Clinics, Controlled Substances and Medical Marijuana) of the Code of Indian River County, Florida to revise the definition of a medical marijuana treatment center and clarify the prohibited activities; and providing for severability, codification and an effective date. The motion carried by the following vote:

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

### **B. PUBLIC DISCUSSION ITEMS**

#### 10.B.1 16-1002 Request to Speak from Ardra Rigby and Bill Rigby Regarding Issue on Natural Gas / Franchise Agreement Negotiated with Waste

**Recommended Action:** Provide answers to questions on the Franchise Agreement with Waste Management.

**Attachments:** [Request to Speak Form](#)

This item was deleted from the Agenda.

**10.B.2 16-1004** Request to Speak from Brian Heady Regarding Representative Government

**Recommended Action:** Corrective action by the County Commission

**Attachments:** [Request to Speak Form](#)

Brian Heady brought up the issue that veterans were being asked to return bonuses that they received when they agreed to serve a tour of duty. He requested that the Board approve a Resolution that would support the veterans and put a permanent end to the policy. He also brought up the subject of the pending sea turtle code violations.

Commissioner Zorc clarified for the record that the Secretary of Defense had suspended the repayment of those funds back in October, and that policy applied to California National Guard members only. The Chairman echoed Commissioner Zorc's comments and also noted for the record, with respect to the code violations, that there has not been any authority presented by the homeowner that Mr. Heady is representing her, nor has she appeared for any meetings to express her feelings on the matter.

### **C. PUBLIC NOTICE ITEMS**

**10.C.1 16-964** Public Notice of Public Hearing Scheduled for November 15, 2016 to Consider Creating a New Chapter 317 of the Code of Indian River County to Prohibit Oil and Gas Well Stimulation (Fracking)

**Attachments:** [Staff Report](#)

County Attorney Dylan Reingold read the Notice of Scheduled Public Hearing for November 15, 2016 into the record.

## **11. COUNTY ADMINISTRATOR MATTERS**

### **12. DEPARTMENTAL MATTERS**

#### **A. Community Development**

#### **B. Emergency Services**

**C. General Services****1. Human Services****2. Sandridge Golf Club****3. Recreation****D. Human Resources****E. Office of Management and Budget****F. Public Works****G. Utilities Services****13. COUNTY ATTORNEY MATTERS****13.A 16-985** Jenkins vs. IRC - Unconditional Offer for a Parcel of Property Located on the South Side of 53rd Street West of Old Dixie Highway

**Recommended Action:** Staff recommends that the Board approve making an unconditional offer for the Permanent Slope Easement to the Jenkins Estate in the amount of \$125,000.

**Attachments:** [Staff Report](#)  
[Permanent Slope Easement](#)  
[Aerial](#)  
[Temporary Construction Easement](#)

County Attorney Dylan Reingold provided background on the issues with the Jenkins property, and clarified circumstances that led to the filing of the lawsuit by the Jenkins family.

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

**Aye:** 5 - Chairman Solari, Vice Chairman Flescher, Commissioner Davis, Commissioner O'Bryan, and Commissioner Zorc

**14. COMMISSIONERS MATTERS****A. Commissioner Bob Solari, Chairman****B. Commissioner Joseph Flescher, Vice Chairman****C. Commissioner Wesley S. Davis**

**D. Commissioner Peter D. O'Bryan**

**E. Commissioner Tim Zorc**

**15. SPECIAL DISTRICTS AND BOARDS**

**A. Emergency Services District**

**B. Solid Waste Disposal District**

**C. Environmental Control Board**

**16. ADJOURNMENT**

There being no further business, the Chairman adjourned the meeting at 10:22 a.m.