

**Nassau County Board of County Commissioners
Regular Session, July 28, 2020, 6:00 P.M.
Commission Chambers, 96135 Nassau Place, Yulee, Florida**

Call to Order, Invocation and Pledge of Allegiance to the American Flag

Commissioners:

Present: Chairman Daniel B. Leeper, Commissioners Justin Taylor, Aaron C. Bell, Pat Edwards, and Thomas R. Ford.

Other Officials Present: Michael S. Mullin, County Attorney/County Manager; and Taco Pope, Assistant County Manager.

Staff Present: Megan Diehl, Office of Management and Budget Director; and Brenda Linville and Peggy Snyder, Deputy Clerks.

Official Agenda Summary:

RS200728 - 6:02:14 Mr. Mullin advised that for anyone who wishes to provide public comments during the meeting to submit an email with their comments or questions to comments@nassaucountyfl.com and for the individuals to provide their name and address. He advised that if anyone would like to be called during the meeting to call 904-530-6009 and leave a message with their name, phone number, address and topic of discussion. He provided instructions for anyone speaking tonight in the Chambers to wear a mask or speak outside at the podium. Anyone wishing to speak tonight was given a number which the Chairman will call when it is their turn to speak.

Mr. Mullin advised that the item to be discussed tonight is the beach ordinance and amendments; however, there will not be a vote taken tonight as the Board must review the latest draft ordinance and hear additional public comment. Several people were not comfortable coming into the building as yet during this COVID-19 pandemic or were unable to attend a Zoom virtual meeting.

Audience Input: Agenda Items

RS200728 - 6:06:35 Mr. Mullin read the following names into the record of people who sent e-mails or left voice mails related to the proposed beach ordinance:

- Jan McKay - 7/28/20 - Expressed approval of draft beach ordinance.
- John Fournier - 7/28/20 - Suggested restoration of the previous beach access/driving rights.
- Becky Milford - 7/20/20 - Change beach times to be sun up to sundown.
- Joseph Smaha - 7/21/20 - Consider keeping beach open from 6:00 a.m. to 9:00 p.m. year round with no beach driving after 9:00 p.m.
- John DeBartolo - 7/23/20 - Requested an earlier beach opening time and allowing golf carts to drive on the beach.
- Jarrod Carlton - 7/22/20 - Suggested allowing all people to drive on the beach by hiring more law enforcement.
- John Hebden - 7/22/20 - Consider golf carts to be allowed to drive on the beach and an earlier beach opening time.
- Pattee and Michael Boler - 7/22/20 - Requested to know how County evaluated the impact and cost benefit analysis of the attendants of the kiosk, gates and fences on environment and turtle habitat.
- Hyta Mederer - 7/23/20 - Voice Mail in support of the ordinance.
- Kristina K. - 7/24/20 - Felt that people should do what they want at the beach.
- Tina Clark - 7/23/20 - Suggested golf cart use on the beach and an earlier opening time.
- Norman Runk - 7/24/20 - Against banning beach driving.
- Marilyn Green 7/27/20 - Requests language in the draft ordinance to have owners pick up after their dogs and replace beach driving with beach parking.
- Mark Johnson - 7/27/20 - Prohibit all driving on the beach and camping to lower cost of enforcement.
- Beverly Davis - 7/27/20 - Consider length and depth of area where driving and parking can occur on American Beach.
- Rex Humbard - 7/27/20 - Thanked the Beach Committee for all their efforts.

- Lisa Reese - 7/27/20 - Requested consideration of beach driving restrictions after dark and not allow amplified music.
- Becky Milford - 7/23/20 - Provided a petition titled "Leave our Beach Alone" with nearly 1,500 names. She also requested an earlier beach opening time.
- Wade Bell - 7/27/20 - Expressed concerns regarding hours of operation of beach parking lot.
- Erving Gilyard - 7/28/20 - Had concerns with safety associated with beach driving on American Beach.
- Renee Gorham - 7/28/20 - Expressed concerns with beach overcrowding, trash, bright lights, and bad behavior by beachgoers.
- Floyd and Wanda Willis - 7/27/20 - Homeowners in American Beach. Would favor restricting access points to the beach.
- Taylor Stull - 7/28/20 - Requested closing the beaches to driving and enforce the curfew.
- George Shipyan - 7/27/20 - Potential risk and negative economic impacts associated with allowing driving on the beaches.
- Jack Corgel - 7/28/20 - Supported the draft ordinance.
- Brooks Andrews - 7/28/20 - Supported the draft ordinance as a step in the right direction.
- Lisa Kapral - 7/28/20 - Suggested limiting daytime driving to residents and property owners and requested language eliminating sealed or unsealed alcoholic beverages from the beach.
- Melinda Davis - 7/28/20 - In favor of beach parking.
- Constance Colbert - 7/28/20 - Supports new draft ordinance.
- Isabelle Corgel - 7/28/20 - Supports proposed ordinance.
- Ronan Corgel - 7/28/20 - Supports proposed ordinance.

RS200728 - 6:15:33 Mr. Mullin referenced a petition dated June 7, 2020 provided by Becky Milford titled "Leave Our Beach Alone" with numerous names urging the County to leave the beach in its natural state and not spend taxpayer money to solve a problem that does not exist. The Board members have all received a copy of this petition which will become a part of the permanent record.

RS200728 - 6:16:12 Chairman Leeper received a telephone message from David Da Rin from the Sandpiper Townhomes who

expressed concerns with overnight camping at Peters Point Park. In addition, an email was submitted on 7/28/20 from Howard Banaczak with three photographs of beer cans left on Peters Point Park beach.

RS200728 - 6:17:27

Discussion: Mr. Mullin provided a call report indicating the total calls the Sheriff's Office received for violations, citations, traffic stops, etc., from the same time period in 2019 versus 2020 for Peters Point Park, American Beach, Burney Park, and Scott Road beach accesses. According to the Sheriff's Office, there has been a 22 percent decrease in the calls the Sheriff's Office has received.

RS200728 - 6:18:46

Discussion: Mr. Mullin explained why Nassau County was concerned about the Endangered Species Act (ESA). Nassau as well as Volusia, Flagler, and St. Johns Counties are all required to seek and obtain a Conservation Plan for the beach and have it approved by the Federal Department of Environmental Protection (FDEP) since their beaches are home to endangered species of both green and loggerhead turtles. Nassau County in conjunction with the City of Fernandina Beach has filed for a grant to fund the preparation of a Habitat Plan for the beach. Included in that plan will be the Incidental Taking Permit which has restrictions for dealing with the endangered species during their nesting season of May 1st to October 31st. During these months, the adult female sea turtles come ashore to lay their eggs in the seaward edge of the dunes. Nassau County beaches are currently under Emergency Orders; however, the times will be changed from 7:00 a.m. to 9:00 p.m. to allow the Turtle Patrol beach access in order to mark the turtle nests prior to allowing cars on the beach.

Mr. Mullin reviewed a 1995 case in the United States District Court of Loggerhead Turtle v. County Council of Volusia County, Florida, seeking an injunction to enjoin Volusia County from allowing cars on the beach. At that time, driving on the beach was their main tourist attraction. The environmental law alleged that the county's activities, including allowing vehicular access to the beaches, were resulting in takings or "harming, injuring, or harassing" of sea turtles protected under ESA. Volusia

County advised that they had driving on the beach as a customary right and an injunction against the county would be devastating on their economy. The State required that there must be an Incidental Taking Permit in order to continue to have driving on their beach and they must also establish Conservation Zones on the beach. There was also evidence that the tires left ruts in the sand which could impede sea turtle hatchlings in their attempt to reach the ocean. Night driving can pose a hazard to the health and safety of sea turtles.

Mr. Mullin highlighted the Volusia County Beach Management Plan. Public safety functions are the responsibility of the Division of Beach Safety (DBS) comprised of 160-180 season and part-time lifeguards to man the towers, 20-30 DBS vehicles on the beach each day and two vehicles at night. They use a variety of structures and signage to regulate traffic. Conservation Zones (CZ) have been established to prevent driving and parking near the dunes where the majority of sea turtle nests are deposited. Mr. Mullin reviewed the plan management for enforcement of laws and regulations, public education, vehicle management of access points, and protected special beach management areas (CZs). Mr. Mullin also reviewed their standard beach opening and closing times utilizing ramp attendants and the driving zone delineation and beach maintenance.

NON-QUASI-JUDICIAL PUBLIC HEARING(S) :

RS200728 - 6:45:37 (Tab A) Consider an Ordinance rescinding Ordinance 76-10, as amended; rescinding Ordinance 74-32, 84-14, 2002-31, 2003-41, 2003-42 and 2006-85; providing for restrictions for driving and parking in the unincorporated areas of the beaches of Nassau County; providing for regulations as to use of the unincorporated beaches; providing for automatic review; providing for an effective date.

Discussion: Mr. Mullin thanked everyone for their input in the 32 versions of the draft ordinance to date. He advised that the Board will not be voting tonight on the beach ordinance because, at this time, people were still hesitant to physically attend the meeting due to the COVID-19 pandemic.

In his PowerPoint presentation, Mr. Mullin provided an overview regarding Nassau County's history behind beach

driving and he reviewed the sections of draft ordinance #32 as follows:

SECTION 1, Motorized Vehicles on the Atlantic Ocean Beaches.

1. Intent to provide for motorized vehicles to be restricted to Nassau County residents and property owners.
2. Define parking and driving areas.
3. Define identification required to be produced at the kiosk.
4. Exceptions: Certain exceptions for active military or disability parking placard.
5. Review: Board of County Commissioners for Nassau County shall review the Nassau County residents and property owners' only restriction on or before December 31, 2020 and determine to extend or not extend the restriction.
6. Based on the Endangered Species Act, no motorized vehicles shall be allowed on the beaches between the hours of 9:01 p.m. and 6:59 a.m. from May 1st through October 31st of each year.
7. Vehicle parking and driving areas will be designated by ropes and markers subject to change/
8. Speed limit for motorized vehicles shall be ten (10) miles per hour (MPH).
9. Only vehicles allowed shall be four-wheel drive, all-wheel drive, or beach buggy. No ATVs, scooters, dirt bikes, motorcycles or similar motorized vehicles shall enter or operate on the beach.
10. Receipt of a vehicle pass subjects any vehicle to a search of any cooler in the vehicle and confiscation of any alcoholic beverage.

SECTION 2, Camping on the Beach

1. Based on the Endangered Species Act, no camping shall be allowed on the beaches in the unincorporated areas of Nassau County between May 1st and October 31st of each year.
2. Beach camping between November 1st and April 30th of each year shall be determined by the Board of County Commissioners at a public hearing on or before October 31, 2020.
3. A violation of this section shall subject the violator to an order to leave the beach.

SECTION 3, Primitive Group Camping on Off Beach Area.

1. Primitive (tent) group camping may occur twelve (12) months per year within the Burney Park parking area subject to the eligibility, permitting, limitations, enforcement, and restrictions as outlined in the draft.

SECTION 4, Regulated Fire on the Beach

1. No fires shall be permitted between the dates of May 1st through October 31st.
2. Fires outside of those dates are allowed subject to restrictions as outlined in the ordinance.

SECTION 5, Alcohol

1. It shall be prohibited for any person on the beach or in the beach parking area to possess any unsealed or open container containing any type of alcoholic beverage and consumption of any type of alcoholic beverage is prohibited.
2. Violators will be ordered to leave the beach and are subject to the issuance of a citation with a penalty of a second degree misdemeanor.

SECTION 6, Glass Containers

1. It shall be unlawful for any person, while on the beach or in the beach parking area, to possess or utilize any glass bottle or containers.
2. Violators will be subject to a civil citation.

SECTION 7, Litter

1. It shall be unlawful for any person, while on the beach or in the beach parking area, to discard or otherwise dispose of or abandon any trash, garbage, bottles, containers, can, or any other litter, except in designated containers for that purpose.
2. Violators will be subject to a civil citation.

SECTION 8, Authority to Close or Restrict Use of the Beach and Ocean.

1. County Manager or the Sheriff have the authority, in case of weather conditions or other like conditions that affect public safety, to declare

that the public safety is at risk and temporarily close the entire beach, or portion of the beach, and the waters of the Atlantic Ocean for use by the public.

SECTION 9, Sound Amplification

1. No audio device, including vehicle audio devices or similar electronic devices, such as loudspeakers, televisions, audio compact disc, tape or musical instrument, except equipment used by law enforcement, rescue or County security agents shall be used on the beach in the beach parking areas in any manner.

SECTION 10, Beachfront Parking Areas

1. The beachfront parking areas are Peters Point, Scott Road, Burney Park, and the South End parking area known as the Dunes Club Parking area. Campers, recreation vehicles, etc. are not permitted in the parking lot areas after 9:00 p.m. and before 6:00 a.m. Towing will be at the operator/owner's expense. Commercial activities of any type are prohibited in the beachfront parking areas.

SECTION 11, Horses

1. Horse trailer parking is on a first come first served basis and is limited to the designated grass parking area in the Peters Point Park. No more than three (3) horse trailers may park there.
2. The horse must be equipped with a manure catch bags.
3. Horseback riding is only allowed after sunrise and before sunset.

SECTION 12, Dogs

1. Dogs may be permitted on the beaches but must be under leash at all times.
2. Violators may be subject to a civil citation and fine.

SECTION 13, Definitions: As outlined in the draft ordinance.

RS200728 - 6:55:46 Mr. Mullin read an additional comment received on 7/28/20 from Mary Marks questioning why parking is still allowed on American Beach.

RS200728 - 6:56:46 Lowell Hall, a committee member of the Beach Working Group, and President of Citizens for Public Beaches and Shores, came forward to speak regarding the draft beach ordinance. He thanked the Board and staff for their due diligence and hard work to resolve the beach issues. Discussion ensued regarding County resident beach access through the Amelia Island State Park. Mr. Hall reviewed issues addressed by the ordinance. Discussion followed.

RS200728 - 7:07:16 The following members of the audience came forward to speak regarding the proposed beach ordinance:

- Howard Banazak came forward with three photographs of beer cans left near a trash can on the beach at Peters Point Park on July 19, 2020. Expressed concern with the amount of alcohol being driven onto the beach.
- Marianne Phillips came forward to relay a message from Ron Sterling with NightSanders, a frequent American Beach camping group, who had numerous questions related to when overnight camping would be permitted again on American Beach.
- Lady (name inaudible) felt that everyone is entitled to go to the beach and to camp.
- Sara Edwards inquired whether the proposed ordinance will have a provision for permit fee collection to offset the costs associated with implementing controls of the beach accesses.
- Scott Sernaker offered camping suggestions which would include a security deposit, insurance, and camping fee. He felt that this beach ordinance banned individuals, small groups, and families from camping on the beach.
- Deborah Manser with Amelia Island Horseback Riding pointed out that her horseback rides begin one half hour before sunrise and finish one half hour after sunset. The draft ordinance states that people are not permitted on the beach before sunrise.

- Lady (name inaudible) came back before the Board to request that the freedom of camping not be taken away.

Motion: Close the floor to public discussion.
Maker: Commissioner Bell
Second: Commissioner Ford
Action: Aye: Commissioners Leeper, Bell, Edwards, Ford, and Taylor

Discussion: Chairman Leeper suggested a placard-type tag that matches the vehicle tag number be utilized for a convenience fee to allow residents to more easily enter through the beach access kiosk. He inquired whether the American Beach/Evans Rendezvous grass parking area identified on page 18(2) also be identified as a parking area on Page 15 - Section 10(1). Commissioner Ford inquired whether the horseback riding could have a special permit to access the beach before sunrise. Mr. Mullin will check with the Turtle Patrol to see if earlier access for the horseback riding would cause a conflict. Commissioner Bell "googled" Volusia County's driving system whereby they have a thirty (30) foot Conservation Zone (CZ) past the dune before the driving begins. He added that Nassau County beaches are not as wide as Volusia County's. Mr. Mullin advised that it would depend on the beach management plan that was submitted. Commissioner Bell mentioned a possible "family" camping night sponsored by the County.

Motion: Continue to September 14, 2020 at 6:00 p.m., or as soon thereafter as the matter may be heard, consideration of Tab A as stated above.
Maker: Commissioner Edwards
Second: Commissioner Ford
Action: Aye: Commissioners Leeper, Bell, Edwards, Ford, and Taylor
Follow Up: County Manager

DISCUSSION ITEMS:

RS200728 - 7:37:46 Commissioner Taylor's Business:

- Thanked the Beach Committee for all their work and the speakers who attended tonight.

RS200728 - 7:38:04 Commissioner Bell's Business:

- Thanked all the speakers for attending and the public for submitting comments.
- Thanked the Beach Committee for a phenomenal job in helping to draft the beach ordinance.

RS200728 - 7:38:30 Commissioner Ford's Business:

- Thanked everyone who came tonight to speak.

RS200728 - 7:38:44 Commissioner Edwards' Business:

- Thanked everyone who attended tonight.
- Appreciated the Board continuing this meeting to allow more members of the public to be able to come speak.

RS200728 - 7:35:41 Commissioner Leeper's Business:

- Thanked everyone for attending tonight.

There being no further business, the regular session of the Nassau County Board of County Commissioners adjourned at 7:41 p.m.

Daniel B. Leeper, Chairman

Attest:

John A. Crawford, Ex-Officio Clerk