

**Nassau County Board of County Commissioners
Special Session, May 2, 2018, 1:00 p.m.
Commission Chambers, 96135 Nassau Place, Yulee, Florida**

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

Commissioners:

Present: Chairman Pat Edwards, Commissioners Daniel B. Leeper; Steve Kelley, George V. Spicer; and Justin Taylor.

Other Officials Present: Michael S. Mullin, County Attorney; and Shanea Jones, County Manager.

Staff Present: Justin Stankiewicz, Office of Management and Budget Director and Assistant County Manager; Becky Bray, Public Works Director; Taco Pope, Planning and Economic Opportunity Director; and representing the Clerk's office Brenda Linville and Peggy Snyder, Deputy Clerks.

Official Agenda Summary:

Audience Input - Agenda Items:

SS180502 - 1:01:47 Lowell Hall, representing the Citizens for the Preservation of Public Beaches, appeared before the Board to advise that his organization offers their services to do whatever is necessary to protect and defend the public's customary rights of access to Nassau County's sovereign dry sand beaches. He requested that the Board consider and implement State Law Senate Bill (SB) 1577, Section 3, authorizing a motorized tram system on the Atlantic Ocean Beaches within Nassau County, and Section 4, effective date March 1, 1990, along with his statement offering his services and a copy of Senate Bill 1577.

OLD BUSINESS:

SS180502 - 1:05:15 (Tab A) Continue discussion of House Bill (HB) 631.

Discussion: Mr. Mullin referred to the memorandum he distributed at the previous meeting and case law regarding

HB631. He provided a PowerPoint presentation and an overview of various case law and Attorney General's opinion pertaining to this legislation. Mr. Mullin defined the mean high-water line and low-water lines as well as the erosion control line established by the Department of Environmental Protection (DEP) adding that once the DEP establishes the erosion control line, this line replaces the fluctuating mean high-water line as the demarcation point between private rights on the sandy beach area and the public for the wet sand area. Mr. Mullin explained that when there is beach renourishment and the demarcation line is changed to the erosion control line with more dry sand area added, this will not take away the littoral rights of the upland property owner with the right to use that area as a path to the ocean. The courts never addressed the specific real property rights and littoral rights of the dry sand area. The public access of the beach is known as "customary use" which allows people to use any part of the beach that normally is covered by the mean high-water line, or high tide. Private property owners have control of the sand in front of their homes that remains dry.

Mr. Mullin explained that currently, once the erosion control line is established, there are implied easements on the dry sand area that provide the "right" for the public to use; however, there is no defined provision that defines that "right". HB631 outlines what must be presented to demonstrate customary public rights. As an amendment on the Senate floor to HB631 was a provision allowing the County to adopt an ordinance by July 1, 2018 which defines the "customary use" of the beach. Mr. Mullin pointed out that this will be a monumental task requiring the help of several groups like Mr. Hall's to gather historical data and old photographs of the "customary use" of the beach. In this proposed ordinance, the County would be creating what the County understand has been the customary use of the dry sand of the beach from the southern tip of the island to the City of Fernandina Beach limits. Some areas of the beach will not be affected because of the Senate Bill 1577 which Mr. Hall mentioned that established beach areas where driving or parking is not permitted on the unincorporated areas of Amelia Island. He mentioned the few remaining areas for beach driving as a customary use. These uses are what the County will be attempting to draft to bring back to the Board in public hearings in order to accomplish this ordinance by July 1st. If the Board adopts the customary use ordinance, the burden will fall onto the upland

property owners as to whether or not they agree with the ordinance. He recommended that this Board try to establish and preserve the customary use of that beach and direct the County Attorney to pursue this ordinance to be approved by July 1st. He added that within the Amelia Island Plantation, there are dry sand areas which are owned by the Homeowners' and Community Association. North of Lewis Street in American Beach, the erosion control line cannot be determined; therefore, there will be more dry sand areas susceptible to being roped off by property owners.

Public Input: Mac Morris came forward to state that there are over 100 years of documented history in photographs; the University of Florida has archives that are dated and the Tourist Development Council (TDC) has many photographs they have used in their marketing showing customary use of that beach. Using social media, he felt that the Citizens for the Preservation of Public Beaches can get photographs sent in from tourists and seasonal residents. He pointed out that the Army Corps of Engineers has done longshore transport of silt along beaches as early as 1946. Longshore transport of silt is a result of wave action, whether tidal or wind-driven, which moves tons of sand daily past any fixed point. Also, some erosion is mitigated in part by taxpayer-paid beach renourishment.

Motion: Authorize County Attorney to draft a Customary Use of Dry Sand Areas Ordinance for the unincorporated beach area of Amelia Island.

Maker: Commissioner Leeper

Second: Commissioner Kelley

Action: Aye: Commissioners Leeper, Kelley, Edwards, Spicer, and Taylor

Follow Up: County Attorney, County Manager

Request: County citizens and tourists are requested to provide the Board with old beach photographs or archival data that may document the customary uses of the beach area.

Discussion: Mr. Mullin suggested establishing dates when staff will be available here to receive all the data and public testimony for the record as to the customary use of the beach. Also, he requested the Board set the public hearing dates of June 11 and June 18, 2018 to consider the draft ordinance.

Motion: Schedule the first public hearing at the regular meeting scheduled for June 11, 2018 at 6:00 p.m., or as soon thereafter as the matter may be heard, and set a special meeting to conduct the second public hearing on June 18, 2018 at 6:00 p.m. to consider the draft ordinance for the Customary Use of Dry Sand Areas for the Unincorporated Beach Areas of Amelia Island.

Maker: Commissioner Leeper

Second: Commissioner Taylor

Action: Aye: Commissioners Leeper, Kelley, Edwards, Spicer, and Taylor

Follow Up: County Manager, County Attorney

Motion: Authorize the County Manager, County Attorney, and Director of Planning and Economic Opportunity to constitute a Fact-Finding Committee to advertise dates and times to receive data from the public regarding customary uses of the beach.

Maker: Commissioner Leeper

Second: Commissioner Spicer

Action: Aye: Commissioners Leeper, Kelley, Edwards, Spicer, and Taylor

Follow Up: County Manager, County Attorney, Director of Planning and Economic Opportunity

DISCUSSION ITEMS:

SS180502 - 1:33:57 Commissioner Kelley's Business:
None


SS180502 - 1:33:59 Commissioner Spicer's Business:
None

SS180502 - 1:34:02 Commissioner Leeper's Business:
None

SS180502 - 1:34:04 Commissioner Taylor's Business:
None

SS180502 - 1:34:06 Chairman Edwards' Business:
None

There being no further business, the special session of the Nassau County Board of County Commissioners adjourned at 1:35 p.m.



Pat Edwards, Chairman

Attest:

John A. Crawford, Ex-Officio Clerk