

Minutes of UCCA Meeting Oct. 29, 2017
At Safety Harbor Clubhouse, 11:30am

Board members present: JoAnn Beiermeister, Jackie Byrnes, Sue Ann Cousar, Fran DeTure, Helen Justice, Patricia Hoffman, Bryan Brillhart. Absent: Deb Skinner, Jack Rutledge. Also present: Chief Bob Kinniry, A.J. LaVallie, Bill Byrnes, Linda Henderson, Karen Sirabian, Erin LaVallie, Anne & Bruce Carey, Linda DeTure, Travis Parker, Mark Justice, Jon & Janice Cobb, Jennifer White (NCIC employee)

JoAnn called meeting to order.

Sue Ann read Minutes of April 3, 2017. Approved.

JoAnn thanked Karen Sirabian for all her help on Directory. A list of corrections will be emailed out.

Treas. Report: PayPal \$4,827.10; checking \$15,319.94; Island Access Fund \$89,521.43.

Election - Helen: Helen & Patricia have been appointed Election Committee and will send out email informing members of nomination process.

UCFRD Chief Kinniry: Chief read his report of fire at Trapanese house. It was a very hot and intense fire. It would be a good idea to have all your electric appliances inspected because this has been the cause of the last two fires. And our four firefighters had to fight it alone before help from other fire districts arrived, which were 39 with 90 firefighters participating.

Discussion about cell phone reliability in case of emergency. Discussion about importance of having your house well identified in case of renters needing to call 911. Question about cleanup: Four houses damaged so four insurance companies involved and they wait for the Fire Marshall to report on cause of fire before any cleanup can be done. JoAnn asked about the fact that bigger houses are being built and we do not have hook and ladder.

Fran commented how remarkable it was that only two homes were lost and two damaged, considering how hot and large the fire was and how close together the houses are.

Lt. Mike Sawicki: Lee Co. Sheriff's Office covers all of the barrier Islands. Deputies come to Upper Cap at least once a week, and during season every day.

Golf cart issues – Patricia Hoffman: Complained about danger that carts present. Response: It has to be a violation of the law for sheriff to be able to do anything. The power comes from the state statute: golf carts may not be driven on public maintained roads, except for local statutes. But we don't have public roads so law does not apply. Easements and enforcement is governed by civil law (judge, jury). Children should not be driving, but could there be "culpable negligence?" Considering the number of incidents and the small fraction that result in injury, cannot say that injury is likely. Go to County Commissioners and ask if there is any ordinance that could be enacted. Can the county regulate? We've tried and County Attorney says NO. Suggestion: don't include golf carts as part of rental house. Better to include a voucher to a cart rental company as part of the house rental. It's difficult to maintain your own cart when you aren't on Island to verify maintenance. There has to be community consensus; can't have one set of rules for the grandkids and another for renters. Travis: to drive golf cart you have to be minimum of 14 years old, but we want to say only licensed drivers (16 years). Bill Byrnes: There is also section that says "private road open to public". Sheriff has to have "community compact" with a gated community in order for sheriff to enforce those rules. Deputy has tried to speak with children on the Island about underage golf cart driving, but if parents know the law, they can say leave us alone, nothing one can do.

Leash law protects the dog on a leash, people, and wildlife. A zapper is not equal to a leash. Encourage people to be respectful of everyone (even the person afraid of dogs). Dog should be on a leash even on our easements.

Fran: fire works. Sawicki: it is already county ordinance against fireworks, but sheriff has to respond where they get the greatest number of calls. Noise from a party cannot just be a nuisance but has to be above sound meter's limit. Sheriff tries to get here as quick as possible when called. To report a crime, call 239-472-1000 sheriff's dept., otherwise call Mike about long term problem.

Theft – Helen: Theft is up on Island and needs to be reported, partly so that items can be returned, because sheriff does recover property but doesn't always know where to return. The sheriff is patrolling the waterways even at night.

Municode.com (leecountyFL)

Beach restoration – Bryan Brillhart: serious beach erosion of hundreds of feet between Seair Ln. and Bartlett Pky. 25-35 homes are becoming endangered. Informal petition was sent to all property owners to form MSBTU. 125 petitions have been returned and need at least 50% of owners (over 300). If 50% ask for study then there will be a formal study by the

county. Come to webinar on Nov. 2 at Boathouse, meeting NCCBR.com. Engineers did early study to show there is a problem. Now we're asking county to do a study with "beach management plan" including cost. There are two sides to the question of beach restoration and both should be heard.

UCFRD Community Committee, A.J. LaVallie: House bill 1717 "gives FD right to maintain pathways, etc." written by Richard Pringle. Chairman McDonald and Bob Pritt, attorney for the UCFR, are against the FD taking on maintenance of the roads. Bob Pritt offered his resignation and the only other attorney contacted is Richard Pringle (who said FD could assess for path maintenance). Only registered voters in this district can vote in referendum, but that could cost \$60,000 just to have it. Another option: FD has surplus money in budget to use for road maintenance and the commissioners can vote for it. Big hurdle is who will do the job and oversee the work. 3rd option is MTSBU? That would be voted on by all property owners rather than only registered voters. FD likes to not have to be responsible.

Bill Byrnes: UCFRD needs volunteer support staff, so please contact Chief Kinniry if you can train as a volunteer.

Next UCCA meeting will be January 21, 2018

Sue Ann Cousar, Communications Secretary

- Sec. 6-42. - Prohibiting animals from running at-large.

(a) It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, including but not limited to domestic, livestock, farm, wildlife or fowl raised in captivity, to permit the animal to stray, run, go or roam at-large in or upon any public street, sidewalk, school grounds, in the area of school vehicles, beaches, parks or on the private property of others without the consent of the owner of such property.

(b) Any animal found in violation of this section may be impounded.

(c) Any property owner or tenant may seize an unrestrained animal, unattended animal, or animal at large on his or her property and turn said animal over to animal services for disposition. Any person seizing an unrestrained, or animal at large shall capture the animal in a safe and humane manner, and may employ certain humane traps for such purpose. (Ord. No. 14-22, § 3, 12-2-2014)

- Sec. 6-43. - Threatening or menacing behavior.

(a) It shall be unlawful for the owner or agent of any animal to allow that animal to act in a threatening or menacing manner toward any other animal not belonging to said owner or agent, when that animal is not on the property of said owner or agent. This section shall not apply to animals which are securely enclosed, or under the direct control of the owner/agent as defined in this section.

(b) It shall be unlawful for the owner or agent of any animal to allow that animal to act in a threatening or menacing manner toward any person not on the property of said owner or agent.

(c) Upon receipt of a report of any animal acting in this manner, animal services may investigate the incident. After investigation, animal services may order the owner or agent to keep the animal restrained or confined as defined in this section, and may issue a written warning or a citation and a notice ordering confinement.

(d) Upon an owner's conviction under this section, the subject animal will be considered a dangerous animal for the purpose of section 6-

44<https://library.municode.com/fl/lee_county/codes/code_of_ordinances?nodeId=PTIICO_CH6ANFO_ARTIIIANCO_S6-44DAAN> as defined in this article. A record of the order to confine, the written warning, the citation with court results, and any supporting affidavits will be held on file at animal services.

(e) An order to confine will be a written notice issued by an animal control officer to a person who owns or harbors a dog that has acted in a threatening or menacing manner. One (1) copy will be left with the owner of the animal and one (1) copy will be kept on file at animal services. Such notice shall include name, address and telephone number of owner; sex, color, breed of dog; license and rabies vaccination registration numbers; time, date and nature of incident; signature of owner agreeing to confinement and signature of issuing officer. The confinement must be completed within twenty four (24) hours of the notice being issued. The officer conducting the investigation will check to ensure that the confinement has been completed.

(f) Failure or refusal to confine any animal in violation of this section may result in the animal being impounded and/or citations being issued.

(g) Exception to threatening or menacing behavior. An animal that is secured on its own property cannot be found to be threatening or menacing.

(Ord. No. 14-22, § 3, 12-2-2014)

Animal roaming at large means any animal not under the restraint, confinement or direct control of the owner or his agent, as defined further herein.

**Direct control shall mean immediate and continuous physical control of an animal at all times; such as by means of a fence, leash not to exceed eight (8) feet in length, cord, or chain of sufficient strength to restrain said animal (excluding herding dogs, dogs in process of hunting, police dogs, dogs participating in a registered field trial, obedience training or trial, or on its owner's property).

https://library.municode.com/fl/lee_county/codes/code_of_ordinances?nodeId=PTIICO_CH6ANFO_ARTIIIANCO_S6-47ENV1

Florida State statute governing golf cart operation:

<image001.gif>

Title XXIII<http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Index&Title_Request=XXIII#TitleXXIII>
MOTOR VEHICLES

Chapter 316<http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0316/0316ContentsIndex.html>
STATE UNIFORM TRAFFIC CONTROL

View Entire Chapter<http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0316/0316.html>

316.212 Operation of golf carts on certain roadways.—The operation of a golf cart upon the public roads or streets of this state is prohibited except as provided herein:

(1) A golf cart may be operated only upon a county road that has been designated by a county, a municipal street that has been designated by a municipality, or a two-lane county road located within the jurisdiction of a municipality designated by that municipality, for use by golf carts. Prior to making such a designation, the responsible local governmental entity must first determine that golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street. Upon a determination that golf carts may be safely operated on a designated road or street, the responsible governmental entity shall post appropriate signs to indicate that such operation is allowed.

(2) A golf cart may be operated on a part of the State Highway System only under the following conditions:

- (a) To cross a portion of the State Highway System which intersects a county road or municipal street that has been designated for use by golf carts if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.
- (b) To cross, at midblock, a part of the State Highway System where a golf course is constructed on both sides of the highway if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

(c) A golf cart may be operated on a state road that has been designated for transfer to a local government unit pursuant to s.

335.0415<http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0335/Sections/0335.0415.html> if the Department of Transportation determines that the operation of a golf cart within the right-of-way of the road will not impede the safe and efficient flow of motor vehicular traffic. The department may authorize the operation of golf carts on such a road if:

1. The road is the only available public road along which golf carts may travel or cross or the road provides the safest travel route among alternative routes available; and 2. The speed, volume, and character of motor vehicular traffic using the road is considered in making such a determination.

Upon its determination that golf carts may be operated on a given road, the department shall post appropriate signs on the road to indicate that such operation is allowed.

(3) Notwithstanding any other provision of this section, a golf cart may be operated for the purpose of crossing a street or highway where a single mobile home park is located on both sides of the street or highway and is divided by that street or highway, provided that the governmental entity having original jurisdiction over such street or highway shall review and approve the location of the crossing and require implementation of any traffic controls needed for safety purposes. This subsection shall apply only to residents or guests of the mobile home park. If notice is posted at the entrance and exit of any mobile home park where residents of the park operate golf carts or electric vehicles within the confines of the park, it is not necessary for the park to have a gate or other device at the entrance and exit in order for such golf carts or electric vehicles to be lawfully operated in the park.

(4) Notwithstanding any other provision of this section, if authorized by the Division of Recreation and Parks of the Department of Environmental Protection, a golf cart may be operated on a road that is part of the State Park Road System if the posted speed limit is 35 miles per hour or less.

(5) A golf cart may be operated only during the hours between sunrise and sunset, unless the responsible governmental entity has determined that a golf cart may be operated during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.

(6) A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.

(7) A golf cart may not be operated on public roads or streets by any person under the age of 14.

(8) A local governmental entity may enact an ordinance relating to:

(a) Golf cart operation and equipment which is more restrictive than those enumerated in this section. Upon enactment of such ordinance, the local governmental entity shall post appropriate signs or otherwise inform the residents that such an ordinance exists and that it will be enforced within the local government's jurisdictional territory. An ordinance referred to in this section must apply only to an unlicensed driver.

(b) Golf cart operation on sidewalks adjacent to specific segments of municipal streets, county roads, or state highways within the jurisdictional territory of the local governmental entity if:

1. The local governmental entity determines, after considering the condition and current use of the sidewalks, the character of the surrounding community, and the locations of authorized golf cart crossings, that golf carts, bicycles, and pedestrians may safely share the sidewalk;
2. The local governmental entity consults with the Department of Transportation before adopting the ordinance;
3. The ordinance restricts golf carts to a maximum speed of 15 miles per hour and permits such use on sidewalks adjacent to state highways only if the sidewalks are at least 8 feet wide;
4. The ordinance requires the golf carts to meet the equipment requirements in subsection (6). However, the ordinance may require additional equipment, including horns or other warning devices required by s.

316.271<http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0316/Sections/0316.271.html>; and 5. The local governmental entity posts appropriate signs or otherwise informs residents that the ordinance exists and applies to such sidewalks.

(9) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as a moving violation for infractions of subsections (1)-(5) or a local ordinance corresponding thereto and enacted pursuant to subsection (8), or punishable pursuant to chapter 318 as a nonmoving violation for infractions of subsection (6), subsection (7), or a local ordinance corresponding thereto and enacted pursuant to subsection (8).

History.—s. 2, ch. 83-188; s. 1, ch. 84-111; s. 2, ch. 88-253; s. 322, ch. 95-148; s. 4, ch. 96-413; s. 168, ch. 99-248; s. 7, ch. 2000-313; s. 6, ch. 2005-164; s. 3, ch. 2008-98; s. 46, ch. 2010-223; s. 2, ch. 2015-163.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0316/Sections/0316.212.html

Captiva golf cart ordinance (for reference):

- Sec. 24-11. - Use of golf carts upon designated county roads on Captiva Island.

(1) Golf carts may be operated on those county roads on Captiva Island or portions thereof as designated by Lee County Department of Transportation. These designations shall be in accordance with F.S. § 316.212 and shall be made in accordance with Lee County Administrative Code 11-3, Traffic Regulation Orders and Control Measures.

(2) In addition to the requirements of F.S. § 316.212, which is applicable to the operation of golf carts on the aforementioned designated roads, the following restrictions shall also apply:

- a. No persons shall operate golf carts on designated county roads on Captiva Island without a valid driver's license issued in his or her home state or country.
 - b. All golf carts operated under this division shall be restricted to a maximum attainable speed of twenty (20) miles per hour.
 - c. All golf carts operating subject to this division must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear at all times while operated on the designated roads.
 - d. Golf carts may only be operated on the designated county roads on Captiva Island during the hours between sunrise and sunset, unless otherwise designated by Lee County Department of Transportation.
 - e. Golf carts equipped with headlights, brake lights, turn signals, and windshields may operate at night, if nighttime operation is designated by the Lee County Department of Transportation. In accordance with the provisions of F.S. § 322.16, a person who holds a driver's license and who is under seventeen (17) years of age, when operating a golf cart after 11:00 p.m. and before 6:00 a.m., must be accompanied by a driver who holds a valid license to operate the type of vehicle being operated and is at least twenty-one (21) years of age, unless that person is driving directly to or from work. In accordance with the provisions of F.S. § 322.16, a person who holds a driver's license who is seventeen (17) years of age, when operating a golf cart after 1:00 a.m. and before 5:00 a.m., must be accompanied by a driver who holds a valid license to operate the type of vehicle being operated, and is at least twenty-one (21) years of age, unless that person is driving directly to or from work.
- (b) Violations of this section shall constitute a noncriminal infraction enforceable by all duly authorized law enforcement officers pursuant to the provisions of F.S. § 316.212(8) and ch. 318.
- (c) The Lee County Department of Transportation shall post signs along the designated roads where golf cart operation is allowed advising motorists of the possible presence of golf cart traffic and alerting the public that the operation of such golf carts is subject to the various requirements of this division.

(Ord. No. 09-22, § 2, 6-23-2009)