

JEFFREY R. SMITH  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

AUGUST 21, 2012

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**JEFFREY R. SMITH**

Clerk to the Board



**August 21, 2012**

## **REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS**

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, August 21, 2012. Present were Chairman Gary C. Wheeler, Vice Chairman Peter D. O'Bryan, and Commissioners Wesley S. Davis, Joseph E. Flescher, and Bob Solari. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Maureen Gelfo.

### **1. CALL TO ORDER**

Chairman Wheeler called the meeting to order at 9:00 a.m.

### **2. INVOCATION**

Jeffrey R. Smith, Clerk of the Court and Comptroller, delivered the Invocation.

### **3. PLEDGE OF ALLEGIANCE**

Chairman Wheeler led the Pledge of Allegiance to the Flag.



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

Vice Chairman O'Bryan requested the following change to the Agenda:

##### **WITHDRAWN: ITEM 10.B.3. REQUEST TO SPEAK BY STEVEN PHILIPSON**

##### **REGARDING IMPACT FEE PER PARKING SPACE FOR R.V. CAMPGROUND**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Agenda as amended.

#### **5. PROCLAMATIONS AND PRESENTATIONS**

##### **5.A. PRESENTATION OF PROCLAMATION DESIGNATING SEPTEMBER AS**

##### **NATIONAL RECOVERY MONTH IN INDIAN RIVER COUNTY**

Commissioner Solari read and presented the Proclamation to Robin Dapp, Executive Director, and David Cavell, Prevention Coalition Coordinator, for the Substance Abuse Center of Indian River County. Mr. Cavell provided information on the first annual recovery event, Recovery Works, which will be held on September 15, 2012 from 8:00 a.m. to 1:00 p.m. at Riverside Park. He stated that further information was available at the website, <http://www.sacirc.org>, or by calling 770-4811.

##### **5.B. PRESENTATION OF PROCLAMATION DESIGNATING SEPTEMBER 7, 2012 AS**

##### **LITERACY DAY**

Vice Chairman O'Bryan read and presented the Proclamation to Board Member Barbara Hammond of the Learning Alliance, who was accompanied by Helene Caseltine, Lenora Ritchie, and Michael Kint. Ms. Hammond relayed that the School District has set a goal of having 90% of all third graders reading at grade level by the year 2018.

**5.C. PRESENTATION OF PROCLAMATION HONORING GLENN R. SCHUESSLER  
ON HIS RETIREMENT FROM INDIAN RIVER COUNTY HEALTH  
DEPARTMENT**

Commissioner Flescher read and presented the Proclamation to Glenn R. Schuessler.

**5.D. PRESENTATION ON FIRST ANNUAL TREASURE COAST BIRDING FESTIVAL  
BY DEBBIE AVERY, EVENTS & FUNDRAISING VOLUNTEER FOR THE  
CULTURAL COUNCIL OF INDIAN RIVER COUNTY**

**Debbie Avery** presented information on the First Annual Treasure Coast Birding Festival which will take place on October 26 through 28, 2012, with Bethel Creek House to be the staging location. She explained that festival goers will be shuttled to various sites around the County, and reported that there was a need for transport vans.

Commissioner Davis observed that the festival would be a great opportunity to stimulate the local economy.

County Administrator Joseph Baird asked Ms. Avery to meet with him to see what arrangements could be made regarding transportation needs.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF JUNE 19, 2012**

**6.B. REGULAR MEETING OF JULY 3, 2012**

The Chairman asked if there were any corrections or additions to the minutes. There were none.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved the minutes of the June 19 and July 3, 2012 meetings, as written.

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

**7.A. PROOF OF PUBLICATION OF UNCLAIMED MONIES FOR CASH BONDS  
DEPOSITED WITH THE CLERK OF THE CIRCUIT COURT PRIOR TO JANUARY  
1, 2011, IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD**

**7.B. PROPERTIES RECENTLY AUCTIONED AT TAX DEED SALE WHERE NO BIDS  
WERE RECEIVED**

Noted for the record were the properties auctioned at a tax deed sale, as listed on page 4 of the agenda package.

**8. CONSENT AGENDA**

Commissioner Flescher requested to pull Items 8.M., 8.N., and 8.O., from the Consent Agenda for discussion.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, Board unanimously approved the Consent Agenda, as amended.

**8.A. APPROVAL OF WARRANTS AND WIRES – JULY 6, 2012 TO JULY 12, 2012**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller’s Office for the time period of July 6, 2012 to July 12, 2012, as requested in the memorandum of July 12, 2012.

**8.B. APPROVAL OF WARRANTS AND WIRES – JULY 13, 2012 TO JULY 19, 2012**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller’s Office for the time period of July 13, 2012 to July 19, 2012, as requested in the memorandum of July 19, 2012.

**8.C. APPROVAL OF WARRANTS AND WIRES – JULY 20, 2012 TO JULY 26, 2012**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller’s Office for the time period of July 20, 2012 to July 26, 2012, as requested in the memorandum of July 26, 2012.

**8.D. APPROVAL OF WARRANTS AND WIRES – JULY 27, 2012 TO AUGUST 2, 2012**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller’s

Office for the time period of July 27, 2012 to August 2, 2012, as requested in the memorandum of August 2, 2012.

**8.E. APPROVAL OF WARRANTS AND WIRES – AUGUST 3, 2012 TO AUGUST 9, 2012**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller’s Office for the time period of August 3, 2012 to August 9, 2012, as requested in the memorandum of August 9, 2012.

**8.F. INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDING 06-30-2012**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously accepted the Investment Advisory Committee Quarterly Report for April 1, 2012 through June 30, 2012, as recommended in the memorandum of July 27, 2012.

**8.G. QUARTERLY SUMMARY REPORT FOR ASSESSMENT OF ADDITIONAL COURT COSTS IN ACCORDANCE WITH 318.18 (13) FLORIDA STATUTES**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously accepted the Assessment of Additional Court Costs Quarterly Summary Report for the quarter ending June 2012, as recommended in the memorandum of July 27, 2012.

**8.H. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT INDIAN RIVER  
COUNTY TRAFFIC EDUCATION PROGRAM TRUST FUND**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously accepted the Statement of Revenues, Expenditures, and Changes in Fund Balances for the Traffic Education Program, as recommended in the memorandum of July 27, 2012.

**8.I. OPEB TRUST REPORT FOR THE PERIOD 10/01/11 THROUGH 06/30/12**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Other Post Employment Benefits (OPEB) Trust Report for the period ending June 30, 2012, as recommended in the memorandum of July 27, 2012.

**8.J. APPLICATION FOR BOARD OF COUNTY COMMISSIONER APPOINTEE TO  
THE METROPOLITAN PLANNING ORGANIZATION BICYCLE & PEDESTRIAN  
CITIZENS ADVISORY COMMITTEE (MPO BAC)**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously appointed Christy Joan Northfield to fill the vacant position on the Metropolitan Planning Organization Bicycle & Pedestrian Citizens Advisory Committee (MPO BAC), as requested in the memorandum of August 2, 2012.

**8.K. OUT OF COUNTY TRAVEL TO ATTEND THE NATIONAL CONFERENCE ON BEACH PRESERVATION TECHNOLOGY AT THE OMNI JACKSONVILLE DOWNTOWN**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved out-of-County travel for Commissioners and staff to attend the National Conference on Beach Preservation Technology at the Omni Jacksonville Downtown from February 13, 2013 through February 15, 2013, as requested in the memorandum of August 3, 2012.

**8.L. VERO BEACH SPORTS VILLAGE UTILITY EASEMENTS AND BILL OF SALE FOR UTILITIES RELATED TO THE CLOVERLEAF SITE**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the two utility easements and the Bill of Sale of Utility Facilities to the City of Vero Beach, and authorized the Chairman to execute the documents on behalf of the Board, as recommended in the memorandum of July 27, 2012.

DOCUMENTS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.M. PROCLAMATION AND RETIREMENT AWARD HONORING WILLIAM P.**

**STAPLES ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF  
COUNTY COMMISSIONERS DEPARTMENT OF GENERAL SERVICES PARKS  
DIVISION FOR TEN YEARS SERVICE**

*(Clerk's Note: Commissioner Flescher addressed Items 8.M., 8.N., and 8.O conjointly).*

Commissioner Flescher recognized William P. Staples, Crestial E. Stansel, and Harry F. Hicks for their dedication to the General Services Parks Division.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Retirement Award honoring William P. Staples on his retirement from Indian River County Board of County Commissioners Department of General Services Parks Division.

**8.N. PROCLAMATION AND RETIREMENT AWARD HONORING CRESTIAL E.**

**STANSEL ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF  
COUNTY COMMISSIONERS DEPARTMENT OF GENERAL SERVICES PARKS  
DIVISION FOR THIRTEEN YEARS SERVICE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Retirement Award honoring Crestial E. Stansel on his retirement from Indian River County Board of County Commissioners Department of General Services Parks Division.



**8.O. PROCLAMATION AND RETIREMENT AWARD HONORING HARRY F. HICKS  
ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY  
COMMISSIONERS DEPARTMENT OF GENERAL SERVICES PARKS DIVISION  
FOR SEVENTEEN YEARS SERVICE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Retirement Award honoring Harry F. Hicks on his retirement from Indian River County Board of County Commissioners Department of General Services Parks Division.

**8.P. M.A.C.E. (MULTI-AGENCY CRIMINAL ENFORCEMENT UNIT) PROJECT  
GENERATED INCOME (PGI) MISCELLANEOUS BUDGET AMENDMENT 015**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the utilization of Project Generated Income (PGI) totaling \$15,664; and (2) **Resolution 2012-065**, amending the fiscal year 2011-2012 budget.

**8.O. RESOLUTION REQUESTING FUNDING ASSISTANCE FROM STATE OF  
FLORIDA BEACH EROSION CONTROL PROGRAM – FY 2013/14**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2012-066**, requesting assistance from the State of Florida Beach Erosion Control Program – FY 2013/14.

**8.R. WORK ORDER NO. 1 FINAL PAY AND RELEASE OF RETAINAGE, CARTER ASSOCIATES, INC. OLD DIXIE HIGHWAY RIGHT-OF-WAY MAPPING OSLO ROAD NORTH TO EAST BOUND SR 60, IRC PROJECT NO. 1101**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved payment of Carter Associates, Inc., Invoice No. 11204-5, dated July 19, 2012, in the amount of \$15,437.50 for final payment and release of retainage for Work Order No. 1, as recommended in the memorandum of July 24, 2012.

**8.S. RELEASE OF RETAINAGE – DESIGN SERVICES, AGREEMENT FOR PROFESSIONAL CIVIL ENGINEERING SERVICES WITH BRIDGE DESIGN ASSOCIATES, INC. FOR IRC PROJECT NO. 0517, OSLO ROAD PHASE III FROM 43<sup>RD</sup> AVENUE TO 58<sup>TH</sup> AVENUE**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved payment of Bridge Design Associates, Inc., Invoice No. 11-583/R, dated June 4, 2012, for return of retainage in the amount of \$4,443.51, as recommended in the memorandum of July 23, 2012.

**8.T. RELEASE OF RETAINAGE, WORK ORDER NO. 1 WITH BRIDGE DESIGN ASSOCIATES, INC., 13<sup>TH</sup> STREET S.W. BRIDGE OVER THE SUB-LATERAL B-8 CANAL, IRC PROJECT NO. 0530**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved payment of Bridge Design Associates, Inc. Invoice No. 06-624/Ret, dated 07/24/2012 in the amount of \$1,602.50 for release of retainage and authorized staff to cancel the balance of Work Order No. 1, as recommended in the memorandum of July 31, 2012.

**8.U. RELEASE OF RETAINAGE, WORK ORDER NO. 1 WITH BRIDGE DESIGN ASSOCIATES, INC., FOR 66<sup>TH</sup> AVENUE BRIDGE OVER THE IRFWCD MAIN RELIEF CANAL, IRC PROJECT NO. 98110-B**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved payment of Bridge Design Associates, Inc., Invoice No. 12-525/R, dated May 1, 2012, in the amount of \$198.00 for return of retainage, as recommended in the memorandum of July 26, 2012.

**8.V. AMENDMENT NO. 17 TO THE PROFESSIONAL SERVICES AGREEMENT WITH CARTER ASSOCIATES, INC., IRC PROJECT NO. 9810B, 66<sup>TH</sup> AVENUE PAVING IMPROVEMENTS (4<sup>TH</sup> STREET TO SR 60)(ADDITIONAL UTILITY IMPROVEMENTS)**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute Amendment No. 17 for a lump-sum amount of \$4,040.00 for Carter Associates, Inc., as outlined in the Scope of Services (Exhibit "A") dated July 27, 2012, as recommended in the memorandum of July 27, 2012.

AMENDMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.W. CHANGE ORDER NO. 1 – FINAL PAYMENT AND RELEASE OF RETAINAGE, ROAD WIDENING OF 20<sup>TH</sup> AVENUE SW FROM 25<sup>TH</sup> STREET SW TO 21<sup>ST</sup> STREET SW, IRC PROJECT NO. 0541**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 1 and payment of Timothy Rose Contracting, Inc. Application for Payment No. 8 in the amount of \$40,002.92 for final payment and release of retainage, as recommended in the memorandum of August 3, 2012.

**8.X. PURCHASE ORDER RATIFICATION, BRACKETT LIBRARY**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously ratified the Purchase Order to Belfor Property Restoration for books/content remediation in the amount of \$71,250.00, as well as the previous Purchase Orders listed (page 147 of the agenda package) that are integral to this restoration

project, as recommended in the memorandum of August 7, 2012.

**8.Y. FINAL PAYMENT AND FULL RELEASE OF RETAINAGE, APPLIED  
TECHNOLOGY & MANAGEMENT – WORK ORDER #18, SECTORS 1 & 2  
POST CONSTRUCTION MONITORING 2011**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved final payment and full release of retainage for Work Order No. 18 with Applied Technology and Management, Inc. (ATM), in the amount of \$17,212.85, as recommended in the memorandum of August 7, 2012.

**8.Z. STATE AID APPLICATION/AGREEMENT**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to execute the State Aid to Libraries Grant Agreement with the Florida Department of State, Division of Library and Information Services, and return them to the Library Services Director to be forwarded to the appropriate State Library staff, as recommended in the memorandum of August 7, 2012.

AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.AA. APPROVAL OF RENEWAL FOR A CLASS E1 CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY FOR THE PLACE AT VERO BEACH, INC. TO  
PROVIDE NON-EMERGENCY WHEELCHAIR SERVICES**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved renewal of the Class E1 Certificate of Public Convenience and Necessity for The Place at Vero Beach, Inc., to be effective for a period of two (2) years from August 10, 2012 to August 10, 2014, as recommended in the memorandum of July 19, 2012.

**8.BB. APPROVAL OF 2012/2013 STATE FUNDED SUBGRANT AGREEMENT TO  
UPDATE INDIAN RIVER COUNTY'S HAZARDS ANALYSIS**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the State-Funded Subgrant Agreement with the State of Florida, Division of Emergency Management and acceptance of the funding provided in the agreement, as recommended in the memorandum of July 30, 2012.

AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.CC. MISCELLANEOUS BUDGET AMENDMENT 016**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2012-067**, amending the fiscal year 2011-2012 budget.

**8.DD. APPROVAL OF REMAINDER OF RELEASE OF RETAINAGE FOR TASK 2 OF  
WORK ORDER NO. L-1 AND CHANGE ORDER NO. 3 TO WORK ORDER NO.  
L-1 WITH G.K. ENVIRONMENTAL, INC. FOR EGRET MARSH STORMWATER  
PARK**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved: (1) Alternative A1, release of remaining retainage from Work Order No. L-1, Task 2, with G.K. Environmental, Inc., and partial retainage release for landscape maintenance and exotic control service work; and (2) Alternative B1, Change Order No. 3 to Work Order No. L-1 with G.K. Environmental, Inc., and authorized the Chairman to execute it on behalf of the County, all as recommended in the memorandum of July 24, 2012.

CHANGE ORDER ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.EE. J.T. WAKELAND & JORDAN LYNN WAKELAND'S REQUEST FOR PARTIAL  
RELEASE OF AN EASEMENT AT 1300 RIVER RIDGE DRIVE (RIVER RIDGE  
ESTATES SUBDIVISION)**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2012-068**, releasing a portion of an easement on Lot 9, River Ridge Estates Subdivision.

**8.FF. HIGHLANDS MANHOLE REPAIR ON 21<sup>ST</sup> STREET SW AT 4<sup>TH</sup> AVENUE SW,  
APPROVAL OF APPLICATION FOR FINAL PAYMENT NO. 1 TO LABOR  
CONTRACTOR, MELVIN BUSH CONSTRUCTION, INC., UCP #4091**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the total cost of the installation of the manhole repair in the amount of \$8,396.52; and (2) Application for Final Payment No. 1 to the labor contractor, Melvin Bush Contracting, Inc., for \$8,396.52, as presented, and as recommended in the memorandum of August 15, 2012.

**8.GG. 16<sup>TH</sup> STREET 8" WATER MAIN REPLACEMENT FROM 58<sup>TH</sup> AVENUE TO  
ROSEWOOD COURT, APPROVAL OF APPLICATION FOR FINAL PAYMENT  
NO. 1 TO LABOR CONTRACTOR, MELVIN BUSH CONSTRUCTION, INC.,  
UCP #4074**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the total cost of the water main replacement in the amount of \$113,244.60; and (2) Application for Final Payment No. 1 to the labor contractor, Melvin Bush Contracting, Inc., for \$81,348.24 as presented, and as recommended in the memorandum of August 15, 2012.



**8.HH. THOMPSON ELEMENTARY SCHOOL FIRE HYDRANT ADDITION, APPROVAL  
OF APPLICATION FOR FINAL PAYMENT NO. 1 TO LABOR CONTRACTOR,  
MELVIN BUSH CONSTRUCTION, INC., UCP #4089**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the total cost for the installation of the fire hydrant in the amount of \$4,685.76; and (2) Application for Payment No. 1 to the labor contractor, Melvin Bush Contracting, Inc., for \$2,796.16, as presented, and as recommended in the memorandum of August 15, 2012.

**8.II. RELEASE OF RETAINAGE UNDER A CONTRACT AGREEMENT WITH  
TIMOTHY ROSE CONTRACTING, INC. FOR CONSTRUCTION OF PUBLIC  
ACCESS IMPROVEMENTS ON THE FLINN TRACT OF THE LAGOON  
GREENWAY**

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved: (1) release of retainage under the Lagoon Green Phase I Construction Agreement with Timothy Rose Contracting, Inc., and (2) authorized staff to process a retainage payment of \$1,595.10 to Timothy Rose Contracting using funding from the account referenced on page 276 of the agenda package, as recommended in the memorandum of August 13, 2012.

**8.JJ. POINTE WEST EAST VILLAGE PHASE 1 PD – TERMINATION OF COVENANT  
DEFERRING MAINTENANCE SECURITY FOR DEVELOPMENT**

ON MOTION by Vice Chairman O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Termination of Covenant Deferring Maintenance Security for Development with Pointe West of Vero Beach, Ltd., and The Links at Pointe West, L.L.C., and authorized the Chairman to execute same for recordation in the Public Records of Indian River County, as recommended in the memorandum of August 9, 2012.

DOCUMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL  
AGENCIES**

**9.A. INDIAN RIVER COUNTY SHERIFF DERYL LOAR:**

**9.A.1. REQUEST THAT \$63,000 FROM LAW ENFORCEMENT TRUST FUND BE  
APPLIED TO PURCHASE OF A RADPRO SECURPASS WHOLE BODY  
SECURITY SCANNING SYSTEM**

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Davis, to approve the application of \$63,000.00 from the Law Enforcement Trust Fund to the purchase of a RadPro SECURPASS Whole Body Security Scanning System, with the total cost of the system at \$195,000.00, as requested in the memorandum of August 13, 2012.

Sheriff Loar described the scanning system, which he said would prevent contraband from being brought into the jail. He noted that the system would be used on inmates as well as certain professional visitors.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

**9.A.2. REQUEST THAT \$69,974.00 FROM CRIMINAL AND SEX OFFENDER REGISTRANT FEE ACCOUNT BE APPLIED TO PURCHASE OF A RADPRO SECURPASS WHOLE BODY SECURITY SCANNING SYSTEM**

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, the Board unanimously approved to apply \$69,974.00 from the Criminal and Sex Offender Registrant Fee account to the purchase of a RadPro SECURPASS Whole Body Security Scanning System, with the total cost of the system at \$195,000.00, as requested in the memorandum of August 13, 2012.

**9.A.3. REQUEST THAT PROCEEDS FROM PUBLIC AUCTION OF SURPLUS PROPERTY AND EQUIPMENT BE APPLIED TO PURCHASE OF A RADPRO SECURPASS WHOLE BODY SECURITY SCANNING SYSTEM**

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, the Board unanimously approved to apply \$62,026.00 from the public auction of surplus property and equipment to the purchase of a RadPro SECURPASS Whole Body Security Scanning System,

with the total cost of the system at \$195,000.00, as requested in the memorandum of August 13, 2012.

## **10. PUBLIC ITEMS**

### **10.A. PUBLIC HEARINGS**

#### **10.A.1. STEVE SHIEDER'S REQUEST TO ABANDON A PORTION OF 1<sup>ST</sup> COURT SW LYING SOUTH OF 22<sup>ND</sup> STREET SE BETWEEN LOT 5 BLOCK 6 AND LOTS 1 & 2, BLOCK 2 OF THE PLAT OF FLORIDA RIDGE NO. 2 (LEGISLATIVE)**

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

Planning Director Stan Boling provided background and analysis on the request of Steve Shieder for the County to abandon a 70' right-of-way located at the south end of the Florida Ridge Subdivision in the south part of the County. He revealed that the subject right-of-way is not needed by the County; however, the Utilities Department has requested that a 15' wide utility easement be retained. He thereafter recommended Board approval of the proposed Resolution which provides for the right-of-way abandonment and stipulates the retention of the 15' utility easement.

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

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman O'Bryan, the Board unanimously approved **Resolution 2012-069**, providing for the closing, abandonment, vacation and discontinuance of a portion of 1<sup>st</sup> Court SE (Avenue D) lying south of 22<sup>nd</sup> Street SE (Waters Street) between Lot 5 Block 6 and Lots 1 & 2

Block 2 as shown on the plat of Florida Ridge No. 2, recorded in Plat Book 4, Page 80, public records of Indian River County, Florida, and amended plat recorded in OR BK 8, Pages 178 and 179, of the public records of Indian River County, Florida.

**10.A.2. PUBLIC HEARING TO AMEND INDIAN RIVER COUNTY ORDINANCE NO. 98-27 PERTAINING TO SURETY BOND REQUIREMENTS FOR CERTAIN CONSTITUTIONAL OFFICERS (LEGISLATIVE)**

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

County Attorney Alan Polackwich, Sr. explained that this matter relates to an old regulation found in Ordinance 98-27, which states that certain constitutional officers who are required to post a surety bond must pay for it out of their own budgets. He conveyed that Ordinance 98-27 needs to be amended to bring it into compliance with the current statute and practice of paying the bond premiums out of County funds.

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

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2012-033**, amending Ordinance No. 98-27 pertaining to surety bond requirements for certain Constitutional Officers.

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK BY IMPACT FEE CONSULTANTS REGARDING  
IMPACT FEE DENIAL 8770 65<sup>TH</sup> STREET VERO BEACH**

*(Clerk's Note: The following two items were heard after Item 10.B.4. and are placed here for continuity).*

**Charles Wilson**, representing Impact Fee Consultants, addressed the Board concerning a situation involving his clients, Tammy and Ryan Haffield, who had been notified by the County that they were eligible for an impact fee refund. He explained that due to a processing delay on the County's end, Impact Fee Consultants decided to advance the refund money to the Haffields. Subsequently, Impact Fee Consultants was notified that the County had already paid the refund associated with the Haffields' property, and the Haffields were therefore not eligible for the compensation. He declared that the County made a mistake by putting the Haffields on the refund list, and wondered: (1) what action the Board would take to mitigate the error; and (2) whether the refund that did not go to the Haffields would be returned to the impact fee balance and enable another fee payer to receive a refund.

A lengthy discussion followed, with input from Attorney Polackwich and Director Keating, regarding the timelines for the impact fee refund process.

Director Keating explained why denying an impact fee refund to the Haffields would not affect the number of people who qualify for a refund. He also clarified that the impact fee payment associated with the Haffield property had been refunded to the Haffields' contractor.

Director of Budget and Management Jason Brown emphasized that the Haffields' refund money had already been disbursed and removed from the impact fee fund balance, and the County cannot refund the money twice.

**Mr. Wilson** wished to know how the County will handle future mistakes, and what he should tell the Haffields.

Vice Chairman O'Bryan responded that the Haffields did not really pay the impact fees, and although he was sorry the notice was sent, if they never paid the money, they did not lose it.

Director Keating relayed that staff is running an additional report to identify all refunds that have been given in a particular time frame. Additionally, the notification letter no longer states that an individual is eligible for refund; it states that an individual may be entitled to a refund.

Administrator Baird pointed out that the key to this matter is that the Haffields did not remit the impact fee, their contractor had paid it.

No Board Action Required or Taken

**10.B.2. REQUEST TO SPEAK BY OPEN PERMIT SEARCH REGARDING OPEN PERMIT SOLUTION**

**Mr. Wilson** brought up an issue that he feels is negatively impacting the economy, specifically in the area of home sales. He stated that building permits that have expired and never been closed out ("open permits") create problems for home sellers and real estate professionals, because an existing open permit gets passed onto the homebuyer. He relayed that his new company, Open Permit Search, helps individuals look for open permits, and that other Florida counties have a searchable computer database. He deemed the County Building Department's database largely unusable because it requires information that is available only to the person who pulled the permit. He also observed that because the computer systems used by the Building Department and Property Appraiser are incompatible, taxable improvements might not appear on the Property Appraiser's database.

Director Keating disclosed that currently, the public can access the County's permitting database by entering an address into the computer in the Building Department's lobby. He reported that staff is trying to facilitate an online permit search application, but some difficulties have arisen due to security issues. He noted that Mr. Wilson and his staff have been given training to access the information from the County's computer.

The Board acknowledged the importance of ensuring that the County and the Property Appraiser's computer systems are compatible after the Property Appraiser gets his new computer system and upgrades have been made to the Building Department's system. Several Commissioners also expressed concerns about homeowners not realizing they are ultimately responsible for closing out a permit, and suggested that the homeowners sign an informational statement acknowledging that it is their responsibility to do so if the contractor does not.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Davis, the Board unanimously directed staff to review the problems that are associated with open permits, with the goal of upgrading within the next few months, the Community Development Department's E-Permitting system to provide an online permit search application that will be compatible with the Property Appraiser's computer system.

**10.B.3. WITHDRAWN: REQUEST TO SPEAK BY STEVEN PHILIPSON REGARDING  
IMPACT FEE PER PARKING SPACE FOR R.V. CAMPGROUND**

Commissioner Flescher relayed that Mr. Philipson had withdrawn his request to speak.



**10.B.4. REQUEST TO SPEAK BY BRIAN CARMAN, MARINE RESOURCES COUNCIL**  
**REGARDING FERTILIZER ORDINANCE**

**Brian Carman**, 1190 Ainsley Avenue SW, Indian River Neighborhood Association and Marine Resources Council Board Member, played a videotape featuring Sarasota County Commissioner Jon Thaxton reporting on the beneficial impacts that adopting a fertilizer ordinance has had upon Sarasota County waterways and marine life. After the video presentation, Mr. Carman relayed the request of the Marine Resources Council for the Board to adopt a similar fertilizer ordinance, which he felt would educate the public and set the standard for fertilizer use. He stressed that the proposed ordinance would not solve all the pollution issues affecting the Indian River Lagoon, but many Counties have found that enacting the ordinance has resulted in cleaner waterways. Mr. Carman implored the Commissioners to have staff draft the proposed ordinance and hold a public hearing before making their decision.

Commissioner Davis observed that although he did not disagree with the intent of the ordinance, he deemed it unenforceable. He preferred to use education, rather than regulation, to inform the public about the best practices for fertilizer usage.

Commissioner Solari pointed out that Scotts Miracle-Gro Company is voluntarily removing phosphorous from their fertilizer, and did not feel an ordinance was warranted. He outlined some projects that the County has successfully implemented to remove nutrients and prevent contamination from entering the Lagoon, and noted that today's Agenda Item, 12.J.1, (pages 369-376 of the agenda package) is related to another pollution control project. He affirmed the Commissions' dedication to preserving the Lagoon, but stressed that education, not regulation, is the best way to accomplish that goal.

Chairman Wheeler believed that the ordinance would be unenforceable, and would create conflict between those following the law and those ignoring it. He remarked that education would work better, with less conflict between people, and that much more focus has been placed on the fertilizer ordinance than on what the County has already accomplished.

**Mr. Carman** proposed that the Commissioners talk to Commissioner Thaxton and/or other people in counties such as Hillsborough, who have successfully implemented the ordinance.

Commissioner Solari offered to visit Sarasota and speak with Commissioner Thaxton in the upcoming months.

Vice Chairman O'Bryan also advocated using education to help people develop environmentally sound practices, and suggested mailing out flyers (copy on file) developed by Scotts Miracle-Gro, outlining best practices for lawn care and fertilizer use. He affirmed that there is concrete evidence that the County's pollution control projects have enhanced the health of the Lagoon.

Commissioner Flescher agreed with fellow Commissioners that Sarasota's ordinance was unenforceable. He advocated utilizing instead, the Florida Department of Environmental Protection's (FDEP) Model Ordinance for Florida-Friendly Use of Fertilizer on Urban Landscapes.

Attorney Polackwich advised that the FDEP encourages, but does not mandate, local governments to adopt and enforce an ordinance based upon their model.

County Administrator Joseph Baird felt that it would be beneficial to have a workshop meeting highlighting the projects that the County has undertaken to clean up the Lagoon.

Commissioner Davis requested that information be relayed at the workshop on how much pollution is being kept out of the Lagoon.

Commissioner Flescher supported the idea of holding a workshop meeting, and welcomed further input on the fertilizer ordinance at that session.

MOTION WAS MADE by Commissioner Flescher, for the Board to hold a Workshop Meeting relative to preservation of the Indian River Lagoon, outlining projects that have been undertaken, and continuing to explore the feasibility of implementing a fertilizer ordinance. MOTION DIED for lack of a second.

Chairman Wheeler was in favor of having staff make a presentation at a regular County Commission meeting. He wished to have the report include information on what has been done towards Lagoon restoration, why it was successful, and projections for future accomplishments.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Solari, the Board unanimously directed staff to give a presentation at a future County Commission meeting on the pollution control projects undertaken by the County relative to the conservation of the Indian River Lagoon, and what staff's projections are for future conservation measures.

*The Chairman called a recess at 10:33 a.m., and reconvened the meeting at 10:46 a.m., with all members present.*

**10.C. PUBLIC NOTICE ITEMS - NONE**

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

## **12. DEPARTMENTAL MATTERS**

### **12.A. COMMUNITY DEVELOPMENT**

#### **12.A.1. CONSIDERATION OF A REQUEST FOR A LOCAL JOBS GRANT BY A TARGET INDUSTRY COMPANY (BRIDGEVINE, INC.)**

Community Development Director Robert Keating provided background on Bridgevine, Inc.'s request for a local jobs grant. He stated that Bridgevine is an existing information technology company that intends to create 25 new jobs, which are all eligible for the jobs grant. He revealed that County staff and the Chamber of Commerce have performed the due diligence process and found no indications that the company should not receive the grant. He thereafter confirmed that in accordance with the Economic Development Council, staff recommends that the Board approve the local jobs grant to Bridgevine, in the amount of \$129,000, and authorize the Chairman to execute the agreement after approval by appropriate County staff and the County Attorney's office.

**Helene Caseltine**, Economic Development Director, Indian River County Chamber of Commerce, 1216 21<sup>st</sup> Street; revealed that Bridgevine has been in the community for about 10 years, as well as maintaining an office in Atlanta. She stated that with the jobs that will be created, over \$1 million in paychecks will be circulating in the local economy.

**Terence Channon**, representing Bridgevine, through a PowerPoint presentation, provided an overview of his company. He said that clients include Comcast, AT&T, ADT Security, and Bounce Energy, and explained how Bridgevine helps them attract customers.

Commissioner Davis discussed with Mr. Channon the opportunities for local residents to find jobs with Bridgevine. Mr. Channon relayed the company's intention to hire local residents, and said that employment information is available at their website, <http://bridgevine.com>.

Commissioner Flescher endorsed Bridgevine as a great place to work, and voiced his support for the jobs grant.

Vice Chairman O'Bryan relayed that Ms. Caseltine has set up a meeting between Bridgevine and Indian River State College, relative to training students. He also mentioned that outside visitors coming into the local Bridgevine offices will have a positive impact on the economy.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved: (1) a local jobs grant of up to \$129,000 for Company (*Bridgevine, Inc.*); and (2) authorized the Chairman to execute the Jobs Grant Agreement with Company (*Bridgevine, Inc.*) after approval of the agreement by appropriate County staff and the County Attorney's office, as recommended in the memorandum of August 8, 2012.

AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**12.A.2. CONSIDERATION OF A REQUEST FOR A LOCAL JOBS GRANT BY A TARGET INDUSTRY**

Director Keating provided background information on a new company's request for a local jobs grant. He reported that because the company ("the Company") has requested confidentiality, he cannot reveal their name; however, the business is related to the aquaculture industry. He stated that 52 new jobs will be created, 23 of which are eligible for a jobs grant in the amount of \$73,000. He affirmed that County staff and the Chamber of Commerce have performed their due diligence, with no indications that the County should not proffer the jobs grant. He thereafter advised that the Economic Development Council supports the jobs grant, and gave staff's recommendation for the Board to approve the local jobs grant to the Company in the amount of \$73,000, and authorize the Chairman to execute the agreement after approval by appropriate County staff and the County Attorney's office.

**Ms. Caseltine** reported that the Chamber of Commerce has been working with the Company, which will be located in Fellsmere, for the last three years. She stated that their primary focus will be on producing restaurant quality shrimp, and invited the Board and public to visit their demonstration site at the Tracking Station Park.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved a local jobs grant of up to \$73,000 for the Company; and (2) authorized the Chairman to execute the Jobs Grant Agreement with the Company after approval of the agreement by appropriate County staff and the County Attorney's office, as recommended in the memorandum of August 8, 2012.

AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

Commissioner Davis mentioned that Martin County was considering the installation of a customs facility at Witham Field Airport in Stuart, and wondered if there was a way for this County to pursue that facility. He also mentioned that Martin County was discussing doing some defunding of their Business Development Board, and wondered if the County could "buy that number" and have it forwarded.

**12.B. EMERGENCY SERVICES - NONE**

**12.C. GENERAL SERVICES - NONE**

**12.D. HUMAN RESOURCES - NONE**

**12.E. HUMAN SERVICES - NONE**

## **12.F. LEISURE SERVICES - NONE**

*The Chairman called a recess at 12:11 p.m., and reconvened the meeting at 12:19 p.m., with all members present.*

## **12.G. OFFICE OF MANAGEMENT AND BUDGET**

### **12.G.1. HB 5301 – MEDICAID BACKLOG UPDATE AND RECOMMENDATION**

Management and Budget Director Jason Brown provided background and analysis pertaining to House Bill 5301 (HB 5301), which authorizes the State to collect back payments on Medicaid bills that were disputed and not paid by Florida counties. He explained that the Agency for Health Care Administration (AHCA) was directed to verify the accuracy of the State's claims, and after reviewing Indian River County's bills, the original backlog amount of \$1,395,169 was reduced to \$997,851. Staff then submitted further challenges on claims that were deemed incorrect; after AHCA reviewed the figures again, they agreed to make another adjustment after August 1, 2012, bringing the County's new total to \$939,270. Director Brown thereafter presented staff's recommendation for the Board to approve the Medicaid Backlog certified amount of \$939,269.58, which will come to \$790,433.61 after the 15% credit for full payment is applied.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, the Board unanimously approved the payment of 85% of the Agency of Health Care Administration's (AHCA) August 1, 2012 certification figure (less subsequent credits), in the amount of \$790,433.61. This amount will be deducted from the County's State Revenue Sharing payments over a five-year period, as stated and recommended in the memorandum of August 14, 2012.

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS - NONE**

**12.J. UTILITIES SERVICES**

**12.J.1. REQUEST TO PURCHASE 13 ACRES OF LAND, PARCEL ID # 33-39-23-00001-0090-00001.0, ADJACENT TO THE SOUTH WATER PLANT, BEALE ENTERPRISE HOLDINGS, INC. OWNER**

Director of Utilities Erik Olson, referencing Item 10.B.4. (*related to Marine Resources Council's request for a fertilizer ordinance*), elaborated on the County's commitment with respect to restoration of the Indian River Lagoon. He described pollution control projects that are situated at the Main Relief Canal; the Egret Marsh Regional Stormwater Park ("Egret Marsh"), and Spoonbill Marsh, and affirmed that the three projects have proven effective in enhancing the water quality of the Lagoon.

Director Olson recalled that at the July 17, 2012 County Commission meeting, the Board approved (conditioned upon a property appraisal and Phase I Environmental Audit) the purchase from Beale Holdings, Inc., of 13 acres of land adjacent to the South County Reverse Osmosis Water Treatment Plant. He explained that the land would be used to construct the Pollution Control (PC) South Phase 1 Algal Turf Scrubber Project, which will be identical to the PC project at Egret Marsh. He revealed that subsequent to the July 17, 2012 meeting, Beale Holdings decided to increase their purchase price from \$650,000 to \$750,000. Director Olson explained why it still made economic sense to acquire the property, and recommended that the Board move forward with the land acquisition and development of the pollution control project.

MOTION WAS MADE by Commissioner Solari,  
SECONDED by Vice Chairman O'Bryan, to approve  
staff's recommendation.



Commissioner Solari requested that staff incorporate additional pollution control measures at the site, such as polishing ponds and plant mats. He observed that people would enjoy touring the water treatment facility, and asked staff to investigate the cost for installing a path between the site and the future South County Regional Park Intergenerational Recreation Facility, which is being constructed adjacent to the area.

Director Olson affirmed that staff had plans to incorporate polishing ponds in the new PC project.

Commissioner Davis wondered if it would be possible to also provide an opportunity for the public to do some fishing onsite.

Director Olson responded that staff would explore that possibility.

Administrator Baird affirmed that the County was planning to have pedestrian trails at the new recreational facility. He agreed that the public would enjoy viewing the water operations, but advised that staff would have to ensure compliance with Homeland Security regulations.

**Bob Johnson**, Coral Wind Subdivision, requested information on the funding sources for the project.

Administrator Baird revealed that 80% of the revenue will come from the Utility Fund; grant money will provide the remaining 20%.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board: (1) found that the pollution control project is needed to accommodate new growth in the County, and that new growth will benefit from the cleaner water in the Indian River Lagoon

which will result from the project; and (2) approved the contract to purchase the property owned by Beale Holdings, Inc., as recommended in the memorandum of August 13, 2012.

CONTRACT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

### **13. COUNTY ATTORNEY MATTERS**

#### **13.A. REQUEST FOR CLOSED ATTORNEY-CLIENT SESSION RELATING TO INDIAN RIVER COUNTY VS. TURNER CONSTRUCTION COMPANY, ET AL (ROOF CASE)**

Attorney Polackwich provided background information on the lawsuit between the County and Turner Construction Company, et al. He explained that there has been an ongoing problem with roof leaks at the County Administrative Complex, and the defendants in the lawsuit have come up with a scope of services to permanently remedy the problem. He reported that staff would be meeting with all the interested parties on Monday, August 27, 2012, to see if the lawsuit can be settled based on the proposed remediation plan, and requested that a closed attorney-client session be scheduled on Tuesday, September 18, 2012 at 10:30 a.m., so staff can obtain input from the Board regarding this matter.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Solari, the Board unanimously approved to hold a closed Attorney-Client session regarding *Indian River County vs. Turner Construction Company, et al (Roof Case)*, to occur at 10:30 a.m., on Tuesday, September 18, 2012, as recommended in the memorandum of August 14, 2012.

**13.B. REQUEST FOR ATTORNEY-CLIENT SESSION CONCERNING EMINENT DOMAIN LITIGATION FOR THE MARY CHARLENE BROWN CASE**

Deputy County Attorney William DeBaal relayed the request of the County's outside counsel, Anthony Policastro and John LeRoux, to meet with the Board to discuss the results of the mediation session that was held on the Mary Charlene Brown case. He recalled that the case is associated with property located at 5145 and 5115 66<sup>th</sup> Avenue that was owned by Ms. Brown and acquired by the County through eminent domain. He thereafter requested that the Board approve the request and hold a closed attorney-client session on Tuesday, September 11, 2012 at 10:30 a.m., with Attorneys Policastro and LeRoux participating by telephone.

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman O'Bryan, the Board unanimously approved to hold a closed Attorney-Client session between the Board and its attorneys concerning the Indian River County vs. Mary Charlene Brown lawsuit, and schedule the session for September 11, 2012 at 10:30 a.m., as recommended in the memorandum of August 15, 2012.

**13.C. REQUEST FROM PNC FINANCIAL SERVICES RE SUBSTITUTION OF SECURITY ON DEFAULTED DEVELOPMENT PROJECTS**

Attorney DeBaal provided background and conditions on PNC Financial Service's ("PNC") request, which pertains to required sidewalk improvements that were never made at two foreclosed subdivisions, Citrus Springs Village G and Serenoa Phase 1. He conveyed that PNC has two prospective buyers for the subject properties and would like the County to return to PNC the security funds that were collected and intended for the sidewalk improvements (but never used), and allow the new purchasers to post substitute security for the sidewalks. He suggested that the Board allow the substitution of acceptable security, provided that the deed restrictions stipulate that the sidewalk improvements must be constructed before the projects receive the

Certificate of Occupancy. He noted that some lots are still privately owned, and PNC and the new developers will see if those owners will agree to the aforesaid deed restriction. He thereafter clarified that staff's recommendation would include directing the bank and the new developers to get approval from the lot owners about the deed restriction stipulating the construction of the sidewalks prior to the Certificate of Occupancy.

*(Clerk's Note: During his presentation, Attorney DeBraul pointed out that his recommendation was a fourth option that was not included with the three options provided on page 381 of the agenda package).*

Commissioner Davis wanted to see the deed restriction structured so that it would become null and void upon completion of the sidewalk improvements.

Attorney DeBraul agreed that the deed restriction could include language to that effect, as long as the remaining deed restrictions and covenants provide for maintenance of the sidewalk.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Davis, to: (1) allow the substitution of acceptable security from the successor developers, based upon inclusion of a stipulation in the deed restriction that the required sidewalk improvements at Citrus Springs Village G and Serenoa Phase 1 must be constructed before the projects receive the Certificate of Occupancy, with the deed restriction becoming null and void upon completion of the sidewalks; and (2) direct PNC Financial Services and the new developers to seek approval from the lot owners in Citrus Springs Village G and Serenoa Phase 1 whose properties have not been acquired by PNC, to agree to said deed restriction.

Commissioner Davis addressed a question about whether PNC was obligated to take on the sidewalk improvements.

Vice Chairman O'Bryan felt the deed restriction was rather open-ended, and suggested imposing a 10-year deadline for the developers to build the sidewalk improvements.

**Barry Segal P.A.**, representing developer, GHO Homes, spoke in support of Attorney DeBraal's recommendation. He assured the Board that it is in his clients' economic interest to move this project forward quickly.

A brief discussion ensued among the Commissioners, staff, and Attorney Segal, during which it was decided to give the successor developers 10 years and a five-year grace period to complete the sidewalk construction.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Commissioner Davis, to stipulate a timeframe of 10 years and a five-year grace period for the successor developers to complete the sidewalk improvements.

**Attorney Segal** stated that the deal breaker would be if his clients decide they cannot make the required improvements in 15 years.

Commissioner Davis told Attorney Segal to let the Board know if it is a deal breaker.

Commissioner Solari suggested stipulating the time frame as 15 years, omitting the verbiage about the five-year grace period.

AMENDED MOTION was changed by Commissioner Flescher, SECONDED by Commissioner Davis, to

stipulate a timeframe of 15 years for the successor developers to complete the sidewalk improvements.

The Chairman CALLED THE QUESTION, and the final amended Motion carried unanimously. The Board: (1) approved the substitution of acceptable security from the successor developers, based upon inclusion of a stipulation in the deed restriction that the required sidewalk improvements at Citrus Springs Village G and Serenoa Phase 1 must be constructed before the projects receive the Certificate of Occupancy, AND within the timeframe of 15 years, with the deed restriction becoming null and void upon completion of the sidewalks; and (2) directed PNC Financial Services and the new developers to seek approval from the lot owners in Citrus Springs Village G and Serenoa Phase 1 whose properties have not been acquired by PNC, to agree to said deed restriction.

**13.D. NOTICE OF INTENT TO SELL SURPLUS STATE LAND – INDIAN RIVER  
CORRECTIONAL INSTITUTION**

Attorney DeBraal provided background and analysis regarding the State's intention to sell surplus land at the site of the former Indian River Correctional Institution, consisting of approximately 99 acres adjacent to Interstate 95. He advised that the County had a 40-day window in which to act, and recommended that the Board obtain the required appraisal and then render a decision on whether or not to purchase the subject property.

Attorney Polackwich explained that the State allows educational institutions, State agencies, and counties to bid on the land before the public. He told Board members that they would not be making a decision on whether to purchase the land today, but on whether they

would commit to pay for the required appraisal. He reiterated that this was a time-sensitive matter.

Chairman Wheeler wished to know whether the County would be allowed to purchase a portion of the property.

Attorney Polackwich responded that the State was looking for a buyer for the entire parcel.

Vice Chairman O'Bryan wanted to know whether, if the County purchases the land, there would be any restrictions on what can be done with the parcel, and if the County would be allowed to sell the land.

Attorney Polackwich stated the property must be used for a public purpose, and explained the regulations relative to the resale of the property.

Vice Chairman O'Bryan suggested that the County consider selling some of the land to a non-profit organization to be used for shelter-type housing.

Chairman Wheeler felt that a part of the facility could be used for law enforcement activities, such as training sessions.

Attorney Polackwich clarified that the Board's action today would be to approve a Resolution expressing the County's desire to move forward with a purchase of the State's surplus property, subject to the appraisal. He advised that there would not be time for staff to return with the Resolution, but that it would encapsulate today's discussion.

ON MOTION by Vice Chairman O'Bryan, SECONDED  
by Commissioner Davis, the Board unanimously  
authorized staff to draft and send to the State of Florida,  
Bureau of Public Land Administration, Division of State

Lands, **Resolution 2012-070**, proposing to acquire State-owned lands from the Board of Trustees of the Internal Improvement Trust Fund.

**13.E. AGREEMENT FOR WITHDRAWAL FROM PARTICIPATION IN THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP)**

Attorney DeBraal provided background on the request of the Indian River County Housing Authority to withdraw as the County's subgrantee/subrecipient in the Neighborhood Stabilization Program (NSP). He related that the Housing Authority was in possession of three remaining properties which would be conveyed to the County for sale to a qualified buyer, and that the County would pay their attorney's outstanding fees for work that has already been performed. Attorney DeBraal thereafter relayed staff's recommendation for the Board to approve the Housing Authority's withdrawal from the NSP Program.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute the Agreement for Withdrawal from Participation in the Neighborhood Stabilization Program by the Indian River County Housing Authority, as recommended in the memorandum of August 15, 2012.

AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**13.F. PERMISSION TO ADVERTISE FOR AMENDMENTS TO INDIAN RIVER COUNTY CODE CHAPTER 302 – ANIMAL CONTROL**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman O'Bryan, the Board unanimously approved amending Indian River Code Section 302.04, to



include an exemption from the licensure requirement of an animal from rabies vaccination due to age or medical condition when verified in writing from a veterinarian, as recommended in the memorandum of August 15, 2012.

#### **14. COMMISSIONER ITEMS**

##### **14.A. COMMISSIONER GARY C. WHEELER, CHAIRMAN - NONE**

##### **14.B. COMMISSIONER PETER D. O'BRYAN, VICE CHAIRMAN - NONE**

##### **14.C. COMMISSIONER WESLEY S. DAVIS - NONE**

##### **14.D. COMMISSIONER JOSEPH E. FLESCHER - NONE**

##### **14.E. COMMISSIONER BOB SOLARI**

##### **14.E.1. RESIDENTIAL BEST MANAGEMENT PRACTICES**

Commissioner Solari reported that he and Vice Chairman O'Bryan have individually been working on developing Best Management Practices for residential use of yard fertilizer. He was seeking the Board's consensus to compile information with regards to yard care, recycling, water resources, and septic tanks, and make it available as an educational resource on the County's website. He requested that this matter be brought up again at the County Commission meeting of September 18, 2012, and asked staff to report at that meeting on a price for inserting a Best Management Practices flyer into the County's utility bills.

Vice Chairman O'Bryan noted that he had a flyer on Best Management Practices from Scotts Miracle-Gro Company that contained some excellent information, and he would provide a copy (*on file*) to the Commissioners.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Davis, the Board unanimously: (1) approved to develop and promulgate a set of Best Management Practices for County residents with regards to yard care, recycling, water resources, and septic tanks, and make it available on the County's website; and (2) directed staff to report at the September 18, 2012 County Commission meeting on the costs of including a Best Management Practices flyer with the utility bills.

## **15. SPECIAL DISTRICTS AND BOARDS**

### **15.A. EMERGENCY SERVICES DISTRICT - NONE**

### **15.B. SOLID WASTE DISPOSAL DISTRICT**

The Regular Board of County Commissioners reconvened as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are available separately.

#### **15.B.1. APPROVAL OF MINUTES MEETING OF JULY 3, 2012**

#### **15.B.2. AMENDMENT NO. 2 TO WORK ORDER NO. 2 TO GEOSYNTEC TO UTILIZE KESSLER CONSULTING FOR TECHNICAL ASSISTANCE WITH RECYCLING AGREEMENT**

#### **15.B.3. APPROVAL FOR BID AWARD TO MANCIL'S TRACTOR SERVICE, INC. FOR CUSTOMER CONVENIENCE CENTER PAVEMENT IMPROVEMENTS (BID NO. 2012047**

**15.B.4. RECYCLABLES TRANSFER, PROCESSING, AND MARKETING SERVICES**  
**AGREEMENT**

**15.C. ENVIRONMENTAL CONTROL BOARD - NONE**

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

**16. ADJOURNMENT**

There being no further business, the Chairman declared the Board of County Commission meeting adjourned at 1:22 p.m.

ATTEST:

\_\_\_\_\_  
Jeffrey R. Smith  
Clerk of Circuit Court & Comptroller

\_\_\_\_\_  
Gary C. Wheeler, Chairman

Minutes Approved: \_\_\_\_\_

BCC/MG/2012 Minutes