

JEFFREY R. SMITH  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

SEPTEMBER 11, 2012

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**JEFFREY R. SMITH**

Clerk to the Board



**September 11, 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, September 11, 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**

Planning Director Stan Boling delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Vice Chairman O'Bryan led the Pledge of Allegiance to the Flag.

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

Commissioner Flescher requested the following change to the Agenda:

**ADD: ITEM 5.E. PRESENTATION ON INTERNATIONAL COASTAL CLEANUP EVENT  
BY VICKIE WILD, EXECUTIVE DIRECTOR OF KIRB**

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

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

**5.A. PRESENTATION OF PROCLAMATION DESIGNATING SEPTEMBER 18, 2012  
AS THE 4<sup>TH</sup> ANNUAL SYMPOSIUM FOR THE HIV/AIDS AWARENESS  
NETWORK OF INDIAN RIVER COUNTY DAY**

Commissioner Flescher read and presented the Proclamation to Indian River County Health Department employees John May, Alma Miller, and Andrea Naylor, who are also members of the HIV/AIDS Awareness Network. Freddie Woolfork, Co-Chairman of the HIV/AIDS Awareness Network, was also present.

**5.B. PRESENTATION ON THE NON-PROFIT ORGANIZATION - SOLAR AND ENERGY LOAN FUND (SELF) BY DOUG COWARD, EXECUTIVE DIRECTOR**

Solar and Energy Loan Fund (SELF) Executive Director **Doug Coward**, through a PowerPoint presentation (copy on file), provided an overview of St. Lucie County's non-profit organization, the Solar and Energy Loan Fund (SELF). He explained that SELF provides energy assessments and favorable financing for recommended clean energy technologies. He discussed SELF's plans to establish satellite offices in Martin, Indian River, and Okeechobee Counties, and requested that the County provide a non-binding letter of support for SELF's expansion into the County. Responding to the Board's questions and comments, Mr. Coward provided additional information on SELF's energy auditing and loan programs, in particular, the PACE Program.

County Administrator Joseph Baird noted that PACE representatives would be providing a presentation at a future County Commission meeting in October 2012.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously directed staff to draft a letter of support for the Solar and Energy Loan Fund (SELF) to expand into Indian River County, and bring it back for final Board approval.

**5.C. PRESENTATION ON ALZHEIMER & PARKINSON ASSOCIATION OF INDIAN RIVER COUNTY, INC., BY PEGGY CUNNINGHAM, EXECUTIVE DIRECTOR**

**Peggy Cunningham**, Executive Director, Alzheimer and Parkinson Association, gave a PowerPoint presentation (copy on file), highlighting the programs that are available to those suffering from memory and movement disorders, and to their caregivers. She advised that the organization's name will be changed from the "Alzheimer and Parkinson Association" to the



“Center for Memory and Motion,” and that the group will be adding services for autistic children. She thereafter invited the Board and public to participate in this year’s 9<sup>th</sup> Annual “Walk to Remember,” on November 10, 2012, at Riverside Park, and invited citizens to telephone 772-563-0505 for further information.

**5.D. PRESENTATION ON THE GREEN PATROL, INC., BY NANCY WOOD**

**Shawn Frost**, President of the Green Patrol, introduced Deputy Director Nancy Wood, and members Matt Moore, Laurie Rattray Sullivan, Blaise Frost, and Haddie Frost. Mr. Frost stated that the Green Patrol has three programs: (1) clean-ups, using the long-armed grabber tools and electric human transporters (EHT’s) that were displayed by the members; (2) green-ups; and (3) eco-tours. He explained that the organization consists of volunteers (with the exception of the Deputy Director), and that capital is raised from the sale of advertising space on the front of the EHT’s used for tours and patrols. He stated that further information was available at the Green Patrol’s website, <http://thegreenpatrol.org>.

**5.E. ADDITION: . PRESENTATION ON INTERNATIONAL COASTAL CLEANUP EVENT  
BY VICKIE WILD, EXECUTIVE DIRECTOR OF KIRB**

**Vickie Wild**, Executive Director of KIRB, read from a flyer (copy on file), she distributed to the Board, declaring KIRB’s goal to use volunteers to preserve and protect the environment. She advised that KIRB, in conjunction with the organization Ocean Conservancy, will be participating in the 27<sup>th</sup> Annual Coastal Cleanup on September 15, 2012. She explained that participants will be cleaning up trash at several sites in the County, and that further information may be found at KIRB’s website, <http://kirb.org>.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF JULY 10, 2012**

**6.B. PUBLIC HEARING – LDR’S JULY 10, 2012**

**6.C. REGULAR MEETING OF JULY 17, 2012**

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

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the minutes of the July 10, 2012 meeting; the July 10, 2012 Public Hearing – LDR’s; and the minutes of the July 17, 2012 meeting, as written.

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

**7.A. BOARD OF COUNTY COMMISSIONER APPOINTEE TO THE BEACH AND  
SHORE PRESERVATION ADVISORY COMMITTEE VACANCY**

Noted for the record was the vacancy of the County Commissioner Appointee to the Beach and Shore Preservation Advisory Committee, due to the resignation of Robert Lindsey, effective immediately.

**7.B. RESIGNATION OF THE ENGINEER APPOINTEE TO THE CODE ENFORCEMENT BOARD**

Noted for the record was the vacancy of the Engineer Appointee to the Code Enforcement Board, due to the resignation of John Owens, effective August 27, 2012.

**7.C. APPOINTMENT BY THE TOWN OF INDIAN RIVER SHORES TO THE METROPOLITAN PLANNING ORGANIZATION TECHNICAL ADVISORY COMMITTEE (MPO TAC)**

Noted for the record was the appointment of Sgt. Shawn Hoyt (following the retirement of Chief William Schauman) to the position of representative of the Town of Indian River Shores to the Metropolitan Planning Organization Technical Advisory Committee. Lt. Mike Jacobs will be the alternate.

**7.D. DISTRICT 1 APPOINTMENT TO THE PLANNING & ZONING COMMISSION**

Noted for the record was the appointment of Charles Rednour to the position of District 1 Representative to the Planning and Zoning Commission.

**8. CONSENT AGENDA**

Vice Chairman O'Bryan requested to pull Item 8.G from the Consent Agenda for discussion.

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

**8.A. APPROVAL OF WARRANTS – AUGUST 10, 2012 TO AUGUST 16, 2012**

ON MOTION by Commissioner Flescher, 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 10, 2012 to August 16, 2012, as requested in the memorandum of August 16, 2012.

**8.B. APPROVAL OF WARRANTS – AUGUST 16, 2012 TO AUGUST 23, 2012**

ON MOTION by Commissioner Flescher, 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 16, 2012 to August 23, 2012, as requested in the memorandum of August 23, 2012.

**8.C. APPROVAL OF WARRANTS – AUGUST 24, 2012 TO AUGUST 30, 2012**

ON MOTION by Commissioner Flescher, 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 24, 2012 to August 30, 2012, as requested in the memorandum of August 30, 2012.

**8.D. OUT OF COUNTY TRAVEL TO ATTEND THE 2012-13 FLORIDA  
ASSOCIATION OF COUNTIES POLICY COMMITTEE CONFERENCE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved out-of-County travel for Commissioners and staff to attend the 2012-13 Florida Association of Counties Policy Committee Conference in St. Petersburg, Florida on September 19–21, 2012, as recommended in the memorandum of August 27, 2012.

**8.E. CAROLE JEAN JORDAN, INDIAN RIVER COUNTY TAX COLLECTOR,  
CERTIFICATION OF TAX ROLL**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously ordered the 2012 tax roll to be extended prior to the completion of the Value Adjustment Board hearings, as requested in the memorandum of August 16, 2012.

**8.F. DEVELOPER: DiVOSTA HOMES, L.P., ACCEPTANCE OF TEMPORARY  
DRAINAGE EASEMENT UNTIL PROPERTY IS PLATTED DEPICTING A  
PERPETUAL EASEMENT**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute the temporary drainage easement with DiVosta Homes, L.P., for

recording in the public records of Indian River County,  
as recommended in the memorandum of August 21, 2012.

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

**8.G. CONDITIONAL APPROVAL OF REQUEST FOR USE OF HOLMAN STADIUM  
FOR THE ANNUAL JAKE OWEN FOUNDATION BENEFIT CONCERT EVENT  
TO BE HELD DECEMBER 15, 2012**

Vice Chairman O'Bryan advised that country music star Jake Owen would be bringing an all-star musical lineup to his annual benefit concert on December 15, 2012 at Holman Stadium (within the Vero Beach Sports Village). He mentioned that tennis professional Mardy Fish would also be conducting his annual fundraiser in December, and expressed appreciation for the contributions of Mr. Owen and Mr. Fish, who both grew up in Vero Beach.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved the Holman Stadium Use Agreement by and between Indian River County and the Jake Owen Foundation (*Section 6.04 of the Agreement is between Indian River County and VeroTown, LLC*) granting the User Group's request for reduction of the standard security deposit and deletion of the alcohol prohibition required under Section E of Exhibit 1 to the Standard Stadium Use Agreement, and authorized the Chairman to execute same, upon receipt of the fully executed original Agreement including proof of liability insurance, as recommended in the memorandum of August 30, 2012.

AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO BOARD

**8.H. GHO HOLDINGS CORPORATION'S REQUEST FOR FINAL PLAT APPROVAL FOR A REPLAT OF THE SPYGLASS (SUBDIVISION) AFFIDAVIT OF EXEMPTION (~~ACE~~)-(AOE)**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously granted to GHO Holdings Corporation, final plat approval of the replat of the Spyglass Subdivision Affidavit of Exemption (AOE), as recommended in the memorandum of August 23, 2012.

**8.I. CONSIDERATION OF INDIAN RIVER COUNTY'S 2012 SHIP PROGRAM ANNUAL REPORTS**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the State Housing Initiatives Partnership Program (SHIP) Annual Reports, and authorized the Chairman to execute the reports' certification pages, as recommended in the memorandum of August 24, 2012.

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

**8.J. MISCELLANEOUS BUDGET AMENDMENT 017**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2012-071**, amending the Fiscal Year 2011-2012 Budget.

**8.K. MISCELLANEOUS BUDGET AMENDMENT 018**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2012-072**, amending the Fiscal Year 2011-2012 Budget.

**8.L. 2012-2013 STATE OF FLORIDA DEPARTMENT OF HEALTH CONTRACT**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the 2012-2013 contract with the State of Florida Department of Health for Operation of the Indian River County Health Department, as recommended in the memorandum of September 4, 2012.

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

**8.M. PRANGE ISLANDS CONSERVATION AREA ADOPTION AGREEMENT**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute the Prange Islands Conservation Area Adoption Agreement, as recommended in the memorandum of August 20, 2012.

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



**8.N. INVITATION FROM JOHN'S ISLAND GOLF CLUB FOR STAFF TO PARTICIPATE IN A "PUBLIC SAFETY DAY" GOLF OUTING**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the invitation from John's Island Club and authorized Emergency Services staff to participate in the "Public Safety Day" Golf Outing on Sunday, September 23, 2012, as recommended in the memorandum of August 29, 2012.

**8.O. APPROVAL OF WORK ORDER NO. GFA-2 WITH ~~FGA~~ GFA INTERNATIONAL, INC. FOR GEOTECHNICAL SERVICES FOR THE PC SOUTH NUTRIENT RECOVERY FACILITY'S NEW SITE ABUTTING THE SOUTH COUNTY REVERSE OSMOSIS SITE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. GFA-2 with GFA International, Inc., for a not-to-exceed fee of \$23,960, as recommended in the memorandum of August 23, 2012.

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

**8.P. FINAL PAYMENT FOR CONTINUING CONSULTING SERVICES FOR WORK  
ORDER NO. 8 WITH BRIDGE DESIGN ASSOCIATES, INC. FOR DESIGN OF  
FORCE MAIN RELOCATION ON 16<sup>TH</sup> STREET BRIDGE AT 74<sup>TH</sup> AVENUE –  
UCP 3079**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved payment of Invoice No. 05-624/FR from Bridge Design Services, Inc., in the amount of \$481.40 for retainage held from the engineering design of the force main crossing of the 16<sup>th</sup> Street Bridge at 74<sup>th</sup> Avenue, as presented, and as recommended in the memorandum of August 28, 2012.

**8.Q. AMENDMENT NO. 18 TO THE PROFESSIONAL SERVICES AGREEMENT WITH  
CARTER ASSOCIATES, INC. IRC PROJECT NO. 9810B, 66<sup>TH</sup> AVENUE  
PAVING IMPROVEMENTS, PHASE 2 (4<sup>TH</sup> STREET TO 16<sup>TH</sup> STREET)  
(ADDITIONAL UTILITY IMPROVEMENTS)**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute Amendment No. 18 for a not-to-exceed amount of \$3,370.00 for Carter Associates, Inc., as outlined in the Scope of Services (Exhibit “A”) dated August 24, 2012, as recommended in the memorandum of August 31, 2012.

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

**8.R. APPROVAL OF BID AWARD FOR IRC BID NO. 2013004, ANNUAL BID FOR ALUMINUM SULFATE, UTILITIES DEPARTMENT/UTILITIES OPERATIONS CENTER**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved the Bid Award to General Chemical Performance Products, LLC as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2012 through September 30, 2013 with the recommended bidder; and (3) authorized the Purchasing Manager to renew this Bid for two (2) additional one (1) year periods subject to satisfactory performance, Bidder acceptance, and the determination that renewal of this annual Bid is in the best interest of Indian River County, as recommended in the memorandum of August 30, 2012.

**8.S. RELEASE OF RETAINAGE FOR WORK ORDER NO. PCS-1 (AND CHANGE ORDER NO. 1) WITH -HYDROMENTIA, INC.**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved final payment and release of retainage for Work Order No. PCS-1 and Change Order No. 1 with HydroMentia, Inc., as recommended in the memorandum of September 4, 2012.

**8.T. RESOLUTION REQUESTING FUNDING ASSISTANCE FROM THE STATE OF  
FLORIDA AGRICULTURE EDUCATION AND PROMOTION FACILITIES  
PROGRAM – FY 2013-2014**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2012-073**, requesting assistance from the State of Florida Agriculture Education and Promotion Facilities Program – FY 2013-2014.

**8.U. TRAVEL AUTHORIZATION**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously authorized the County Administrator to attend: (1) the Regions Business and Commercial Client Forum in Orlando, Florida on Thursday, September 27, 2012; and (2) the Public Trust Advisors Public Funds Investment Seminar in Orlando, Florida on Friday, October 12, 2012, as requested in the memorandum of September 6, 2012.

*The Chairman called a recess at 10:19 a.m., and reconvened the meeting at 10:30 a.m., with all members present.*

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL  
AGENCIES - NONE**

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARING(S) - NONE**

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM CHARLES JOHNSON REGARDING  
DEMOLITION OF STRUCTURE AT 4765 34<sup>TH</sup> AVENUE**

*(Clerk's Note: This item was heard following Item 10.B.2, and is placed here for continuity).*

Deputy County Attorney Bill DeBraal recalled the Board's decision on May 15, 2012 to allow Charles Johnson 90 days to repair a property that had been slated for demolition at 4765 34<sup>th</sup> Avenue. He explained that subsequent to the expiration of the 90-day period on August 15, 2012, Mr. Johnson was unable to pull a permit to do the repairs.

**Charles Johnson**, PO Box 657, addressed the Board with his request for additional time to repair the subject property.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to extend the original 90-day period that was granted to Charles Johnson to perform repairs on the property located at 4765 34<sup>th</sup> Avenue.

Commissioner Davis asked Mr. Johnson how much time would be required to repair the structure.

**Mr. Johnson** responded that he would need about six months to effect the repairs. He advised that he plans to begin working on the exterior of the home.

**Vernon Reason** stated that he is a family friend who is assisting Mr. Johnson with the repairs. He divulged that he has secured the services of George & Associates, Inc., to pull the

permit so the work can commence, and that he (Mr. Reason) is a certified contractor for air conditioning and refrigeration, and will be performing those repairs.

After a brief discussion with Commissioner Davis, Mr. Johnson agreed to accept a three-month extension at this time.

MOTION WAS AMENDED by Commissioner Davis,  
SECONDED by Commissioner Flescher, to extend the  
original 90-day period for an additional three months.

Commissioner Solari voiced support for the three-month extension. He advised Mr. Johnson that he need not finish the project within this time frame, but he must show some improvements.

**Mr. Johnson** assured the Board he would make some progress.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved the three-month extension of the original 90-day period that was granted to Charles Johnson to perform repairs on the property located at 4765 34<sup>th</sup> Avenue.

**10.B.2. REQUEST TO SPEAK FROM GEORGE SIGLER REGARDING CHANGE IN  
ORDINANCE TO ALLOW OUTDOOR STORAGE IN AREAS ZONED LIMITED  
COMMERCIAL**

*(Clerk's Note: Item 10.B.2. was heard following Item 13.A, and is placed here for continuity).*

**George Sigler**, 155 31<sup>st</sup> Avenue SW, presented his request to create an outdoor self-storage facility for vehicles (such as boats and RV's) on Limited Commercial (CL) property he owns on 27<sup>th</sup> Avenue and the corner of 6<sup>th</sup> Street SW. He explained that self-service storage facilities are permitted as a special exception use in the CL District, but outdoor storage and vehicle storage lots are not allowed. He thereafter asked the Board to amend the Land Development Regulations (LDR's) so that the storage of vehicles on a CL-zoned property would be allowed. He wanted to retain the option to have his proposed vehicle self-storage facility paved or unpaved, or a combination of both.

Director Keating suggested that Mr. Sigler apply to Community Development for an LDR change.

Discussion ensued wherein the Board discussed whether the facility described by Mr. Sigler would have negative impacts on the neighborhood, and if it would be possible to accommodate Mr. Sigler without necessarily changing the policy throughout the County.

Commissioner Davis wanted to explore the possibility of including outdoor storage as a permitted special exception use in Light Commercial Zoning Districts.

ON MOTION by Commissioner Davis, SECONDED by Chairman Wheeler, the Board unanimously directed staff to re-evaluate the special exception use allowances that are permitted in Light Commercial (CL) Zoning Districts, with regards to the possibility of adding to the list of permitted uses, an unenclosed outdoor storage/self-service storage facility; and to report back to the Board.

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

#### **11. COUNTY ADMINISTRATOR MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT - NONE**

**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**

**12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE**

**12.H. RECREATION - NONE**

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

**12.J. UTILITIES SERVICES - NONE**

**13. COUNTY ATTORNEY MATTERS**

**13.A. ATTORNEY-CLIENT SESSION - TIME CERTAIN: 10:30 A.M.**

*(Clerk's Note: This item occurred following Item 8.U. and the ensuing break, and is placed here for continuity).*



The Chairman announced that the regular Board of County Commission meeting would recess at 10:30 a.m. for the Attorney-Client session.

Attorney Polackwich read into the record the opening remarks of the Attorney-Client Session scheduled for 10:30 a.m. The estimated time of this session is 30 minutes. Those attending will be Commissioners Wesley S. Davis, Joseph E. Flescher, Peter D. O'Bryan, Bob Solari, and Gary C. Wheeler. Also present will be Deputy County Attorney William DeBaal, County Administrator Joseph A. Baird, outside counsel Anthony V. Policastro and John M. LeRoux (via telephone), and certified court reporter Greg Campbell.

The Board returned to the Chambers at 11:16 a.m. The Chairman announced the termination of the Attorney-Client Session, and the resumption of the County Commission meeting.

### **13.B. REPORT ON OUTCOME OF ABAZIS TRIAL**

Attorney DeBaal stated that the trial was related to a 9.8 acre parcel the County acquired from the Abazis through eminent domain, for the 66<sup>th</sup> Avenue Road Improvement Project. He noted that eminent domain attorneys Policastro and LeRoux had represented the County, and that the Court's final judgment of the parcel's value was \$630,000, far below the County's offer of \$750,000 (approved at the April 5, 2011 County Commission meeting). Attorney DeBaal thereafter advised that the County would not be responsible for paying any of the costs or fees incurred by the Abazis subsequent to the expiration of the County's offer.

No Board Action Required or Taken

**13.C. REQUEST TO PURCHASE A PARCEL OF PROPERTY OFF THE LIST OF LANDS**  
**AVAILABLE**

Attorney DeBraal provided background information on staff's request for the County to purchase a small parcel on 41<sup>st</sup> Street that could be used for future right-of-way. He explained that no bid was received at the tax deed sale, so the property was put on the List of Lands Available, and is available for purchase by the County within a 90-day period, (expiring September 24, 2012). He explained that after that time, the property would be available to the public and the price would increase, and recommended that the Board approve the purchase for an estimated cost of \$3,700.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Solari, the Board unanimously authorized the purchase, from the List of Lands Available, of the parcel of property identified as 2550 41<sup>st</sup> Street, Tax Parcel I.D. No. 32392600000300000047.0 (*Holly Jackson assessed owner*); and (2) authorized staff to bring back to the Board of County Commissioners for adoption, a resolution cancelling taxes on the property from the date of purchase, as recommended in the memorandum of September 4, 2012.

**13.D. SETTLEMENT/DISMISSAL OF MEDICAID LAWSUIT**

Attorney Polackwich provided background and analysis regarding a lawsuit that was filed by the Florida Association of Counties ("FAC") and 55 Florida counties, including Indian River. The purpose of the lawsuit was to challenge House Bill 5301 ("HB 5301") which authorizes the State to collect on Medicaid bills that were disputed and not paid by the counties. He conveyed that as a result of the Agency for Health Care Administration's ("AHCA") examination of the

bills, Indian River County's final balance was reduced from \$1,395,168 to \$790,433 (inclusive of the 15% credit for payment in full). He revealed that FAC now plans to dismiss the still pending lawsuit, and any County who wishes to continue the litigation must act on an individual basis. Attorney Polackwich thereafter presented staff's recommendation for the Board to: (1) approve the proposed settlement stipulation, which would dismiss Indian River County from the lawsuit; and (2) not file a new, separate statute of limitations claim. He added that the Medicaid billing procedures have been significantly improved and the County will not face this problem in the future.

Commissioner Davis questioned whether the revised billing procedures are effectively resolving the billing errors that previously occurred.

Attorney Polackwich explained that formerly there was a discrepancy between the databases used by the County and State to verify a patient's residency; the County now has access to the same database used by the State.

Management and Budget Director Jason Brown affirmed that based on input from the FAC, Florida counties, and Governor Scott's office, the State has made positive improvements to its Medicaid billing procedures.

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

Responding to Board questions, Director Brown explained that when the County contests a Medicaid charge, a written refund request is sent to the State.

The Chairman CALLED THE QUESTION, and the  
Motion carried unanimously. The Board: (1) approved  
and authorized the County Attorney to execute the

settlement stipulation with Elizabeth Dudek, in her official capacity as Secretary of the State of Florida Agency for Health Care Administration; and Marshall Stranburg, in his official capacity as Interim Executive Director (*in place of former Executive Director, Lisa Vickers*) of the State of Florida Department of Revenue, on behalf of Indian River County; and (2) decided not to file a new, separate statute of limitations claim, as recommended in the memorandum of September 4, 2012.

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

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

##### **14.B. COMMISSIONER PETER D. O'BRYAN, VICE CHAIRMAN**

##### **14.B.1. REORGANIZATION OF THE BOARD OF COUNTY COMMISSION OFFICE**

Vice Chairman O'Bryan reviewed the structural changes that have occurred in the County Commission office subsequent to the Executive Aide's resignation in January 2007. He described the scheduling issues that have arisen now that staff has been reduced to three Commissioner Assistants, and stressed the importance of having the office fully staffed during business hours. He thereafter described the advantages of returning to a "pool arrangement" and suggested placing the Commissioner Assistants under the supervision of the current County Administrator or his designee.

MOTION WAS MADE by Vice Chairman O'Bryan, SECONDED by Chairman Wheeler, to reorganize the Board of County Commission administrative staff (Commissioner Assistants) into a "pool arrangement", and to place them under the overall supervision of the County Administrator or his designee.

Discussion and debate ensued as individual Board members opined on the best way to restructure the County Commission office, and whether it would be best to designate one of the Commissioner Assistants, or the County Administrator, as the overall supervisor.

Attorney Polackwich explained that current County Code would need to be amended. He also pointed out that the key question is who will become the supervisor of the Commissioner Assistants.

Commissioners Wheeler, O'Bryan, and Solari supported having the County Administrator or his designee oversee administrative staff; whereas, Commissioner Davis preferred to structure operations within the Commission office.

Commissioner Flescher wanted to see a broader scale of reorganization for the County Commission office, and suggested having additional meetings on this matter.

The Chairman CALLED THE QUESTION, and by a 3-2 vote (Commissioners Davis and Flescher opposed), the Motion carried. The Board approved to reorganize the Board of County Commission administrative staff into a pooled format, and to place that staff under the overall supervision of the County Administrator or his designee, as requested in the memorandum of September 4, 2012.

Attorney Polackwich stated that along with changes in the employment policy that do not require approval, staff would be drafting an ordinance amending Sections 100.02(4), 101.05, and 101.08 of County Code, to effect the changes discussed today; he would return with the proposed ordinance for Board approval.

County Administrator Joseph Baird affirmed that he would meet with the Commissioner Assistants to discuss protocol.

**14.C. COMMISSIONER WESLEY S. DAVIS**

**14.C.1. APPOINTMENT TO VERO LAKE ESTATES MUNICIPAL SERVICE TAXING**

**UNIT ADVISORY COMMITTEE (VLE MSTUAC)**

Commissioner Davis asked the Board to approve the applicants for the seven (7) Interested Citizen vacancies on the Vero Lake Estates Municipal Service Taxing Unit Advisory Committee (VLE MSTUAC).

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman O'Bryan, the Board unanimously approved the appointments of the following applicants for the seven (7) Interested Citizen vacancies on the Vero Lake Estates Municipal Service Taxing Unit Advisory Committee (VLE MSTUAC): William "Allen" Green II; Janet Wood; James M. Howard; Steven R. Hoke; Albert R. Tetreault; Teunie R. Kranenburg; and Mark E. Wehr; as requested in the memorandum of August 27, 2012.

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

**14.E. COMMISSIONER BOB SOLARI**

**14.E.1. PROPOSED RESOLUTION OF SUPPORT**

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to approve **Resolution 2012-074**, expressing the Board of County

Commissioners' support for the sale of the City of Vero Beach Electric Utility to Florida Power & Light.

Commissioner Solari clarified that the proposed resolution reconfirms the Board's support for Florida Power & Light to acquire the City of Vero Beach Electric Utility. He pointed out that currently, no conclusive deal between the two parties has been reached.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously.

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

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

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

The Board of the Emergency Services District 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 17, 2012**

#### **15.B.2. MEMORANDUM OF UNDERSTANDING WITH INEOS NEW PLANET**

#### **BIOENERGY (INPB) AND WORK ORDER No. 5 TO CDM SMITH, INC. FOR FILLING OF SWDD WETLAND**

### **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 12:19 p.m.

ATTEST:

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

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

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

BCC/MG/2012 Minutes