

JEFFREY R. SMITH
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

NOVEMBER 6, 2012

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JEFFREY R. SMITH

Clerk to the Board



November 6, 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 27th Street, Vero Beach, Florida, on Tuesday, November 6, 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

Chaplain Ann Taylor Owen, VNA Hospice of Indian River County, 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

- NONE

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION HONORING THE RECIPIENTS OF THE 2012 DAN K. RICHARDSON AWARD, RICHARD CHAMPLIN "CHAMP" SHERIDAN & BEVERLY "DEBBIE" SHERIDAN

Commissioner Davis read and presented the Proclamation to Beverly "Debbie" Sheridan, who was accompanied by Freddie Woolfork, Administrator of Development and Marketing, Gifford Youth Activities Center.

5.B. PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER AS PANCREATIC CANCER AWARENESS MONTH

Commissioner Flescher read the Proclamation into the record. No one from the Pancreatic Cancer Action Network was in attendance to receive the Proclamation.

5.C. PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 12, 2012 AS VETERANS DAY

Commissioner Solari read and presented the Proclamation to Colonel Martin Zickert, Retired U.S.A.F., who thanked the Board for supporting the veterans. Colonel Zickert disclosed that the Veterans Council now has two busses providing transportation to the West Palm Beach

Department of Veterans Affairs Medical Center, and that seven modular homes have been donated and are being offered to veterans.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF OCTOBER 9, 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 Davis, the Board unanimously approved the minutes of the October 9, 2012 meeting, as written.

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

7.A. NOTICE OF VACANCY OF MEMBER-AT-LARGE APPOINTEE – ALARM REVIEW BOARD

Noted for the record was the vacancy of the Member-At-Large appointee to the Alarm Review Board.

8. CONSENT AGENDA

Attorney Polackwich, responding to Vice Chairman O'Bryan's query, provided a brief explanation of Item 8.F. Settlement Offer on Abazis Trial, and confirmed staff's recommendation to reject the Abazis' offer of settlement. No amendments were made to the agenda.

8.A. APPROVAL OF WARRANTS OCTOBER 12, 2012 TO OCTOBER 18, 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 October 12, 2012 to October 18, 2012, as requested in the memorandum of October 18, 2012.

8.B. APPROVAL OF WARRANTS OCTOBER 19, 2012 TO OCTOBER 25, 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 October 19, 2012 to October 25, 2012, as requested in the memorandum of October 25, 2012.

8.C. INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDING 09/30/2012

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Investment Advisory Committee Quarterly Report for July 1, 2012 through September 30, 2012, as recommended in the memorandum of October 26, 2012.

8.D. OTHER POST EMPLOYMENT BENEFITS (OPEB) TRUST REPORT FOR THE PERIOD 10/01/11 THROUGH 09/30/12

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the quarterly Other Post Employment Benefits (OPEB) Trust Report for the period ending September 30, 2012, as recommended in the memorandum of October 26, 2012.

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

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Assessment of Additional Court Costs Quarterly Summary for the period ending September 2012, as recommended in the memorandum of October 26, 2012.

8.F. SETTLEMENT OFFER ON ABAZIS TRIAL

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously rejected the Abazis' offer of settlement in the amount of \$753,000, excluding expert witness costs and attorney fees, as recommended in the memorandum of October 30, 2012.

**8.G. CHANGE ORDER NO. 1 AND RELEASE OF RETAINAGE, MISCELLANEOUS
DRAINAGE CULVERT REPLACEMENTS IRC PROJECT NO. 1142 – BID NO.
2012037**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 1, and payment of Timothy Rose Contracting, Inc.'s Application for Payment No. 6 in the amount of \$19,029.74, for release of retainage, as recommended in the memorandum of October 25, 2012.

**8.H. CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT FOR BRIDGE
REPLACEMENTS AND WIDENING OF 66TH AVENUE FROM SOUTH OF STATE
ROAD 60 (SR60) TO NORTH OF 57TH STREET, AMENDMENT NO. 12, IRC
PROJECT NO. 0545**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute Amendment No. 12 with Arcadis US, Inc., for a total fee of \$60,822.12, authorizing the professional services as outlined and recommended in the memorandum of October 18, 2012.

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

**8.I. SANDRIDGE GOLF COURSE – DRIVING RANGE TEE RENOVATIONS FINAL
PAYMENT, RELEASE OF RETAINAGE AND CHANGE ORDER No. 1 IRC
PROJECT No. 1210, BID No. 2012040**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved Change Order No. 1 to Ag-Scape Services, Inc., decreasing the contract total to \$108,592.69; and (2) payment of Ag-Scape Services, Inc., Pay Application No. 4 in the amount of \$13,835.71 final payment and release of retainage, as recommended in the memorandum of October 19, 2012.

**8.J. CHANGE ORDER No. 1 – 27TH AVENUE MILLING AND RESURFACING
(OSLO ROAD TO S.R. 60), IRC PROJECT No. 0391 BID No. 2012029**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 1 to Ranger Construction Industries, Inc., increasing the contract total to \$1,348,929.31, as recommended in the memorandum of October 25, 2012.

**8.K. FLORIDA DEPARTMENT OF LAW ENFORCEMENT FY 2012/2013 EDWARD
BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Certificate of Acceptance of Subgrant Award for the Multi-Agency Criminal Enforcement (MACE) Unit Grant

in the amount of \$57,934, as recommended in the memorandum of October 29, 2012.

CERTIFICATE OF ACCEPTANCE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.L. REQUEST FOR BOARD APPROVAL TO SELL FORMER FLEMING PROPERTY BY SEALED BID

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously authorized the sale of the former Fleming property (*located at 6880 16th Street*) by sealed bid, as recommended in the memorandum of October 30, 2012.

8.M. SHADY ACRES SUBDIVISION PETITION WATER SERVICE ASSESSMENT PROJECT, RESOLUTION IV AND APPROVAL OF APPLICATION FOR FINAL PAYMENT NO. 1 TO LABOR CONTRACTOR, MELVIN BUSH CONSTRUCTION, INC., UCP #4082

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved: (1) **Resolution 2012-110**, certifying “as-built” costs for installation of water service to Shady Acres Subdivision in Indian River County, Florida, and such other construction necessitated by such project; providing for formal completion date, and date for payment without penalty and interest; and (2) Application for Final Payment No. 1 to the labor contractor, Melvin Bush

Contracting, Inc., for \$7,739.38 as presented in the subject application; as recommended in the memorandum of October 26, 2012.

8.N. WORK ORDER NO. 2 TO THE CONTINUING CONTRACT AGREEMENT FOR PROFESSIONAL SERVICES WITH BRIDGE DESIGN ASSOCIATES, INC. FOR 66TH AVENUE BRIDGE REPLACEMENTS FOR 41ST STREET, 45TH STREET, 49TH STREET, 33RD STREET AND 37TH STREET BRIDGES IRC PROJECT NO. 0545

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute Work Order No. 2 with Bridge Design Associates, Inc., for a lump sum amount of \$102,745.00, authorizing the tasks outlined in the Scope of Services, as recommended in the memorandum of October 16, 2012.

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

8.O. REQUEST FOR AUTHORIZATION TO ISSUE INVITATION TO BID TO REPLACE SAFETY BAFFLES AT INDIAN RIVER COUNTY SHOOTING RANGE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously directed staff to issue an Invitation to Bid for the needed repairs to the range baffles, as recommended in the memorandum of October 30, 2012.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES-NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARING

10.A.1. CONSIDERATION OF AMENDMENTS TO CHAPTER 901, DEFINITIONS, AND CHAPTER 930, STORMWATER MANAGEMENT AND FLOOD PROTECTION, OF THE COUNTY'S LAND DEVELOPMENT REGULATIONS AND AMENDMENTS TO CHAPTER 401, BUILDING CODES, OF THE COUNTY'S LAWS AND ORDINANCES TO ADOPT NEW FLOOD MAPS, TO INCORPORATE NEW FLOOD REGULATIONS, AND TO MAINTAIN CONSISTENCY WITH THE 2010 FLORIDA BUILDING CODE (LEGISLATIVE)

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

Roland DeBlois, Chief of Environmental Planning and Code Enforcement, stated that construction in County flood zones is regulated by the County's Land Development Regulations (LDRs), Chapter 901, Definitions; Chapter 930, Stormwater Management and Flood Protection; and Chapter 401, Building Codes; and that the LDR's must be amended for consistency with the flood protection standards for construction design that have been put into the 2010 Florida Building Code (FBC). He used a PowerPoint presentation (on file), to outline the proposed revisions to the LDR's, noting that certain structures that are exempt from building permit requirements must still be reviewed for flood protection compliance. Chief DeBlois also disclosed that on or before December 4, 2012, the County is required to adopt the Federal Emergency Management Agency's (FEMA's) revised Flood Insurance Rate Maps (FIRMs); this will be done by reference in the proposed ordinance. He thereafter conveyed the

recommendations of the Planning & Zoning Commission and staff for the Board to adopt the proposed Ordinance, which is based on a model floodplain ordinance developed by the Florida Department of Emergency Management (DEM) and the Florida Building Commission (FBC).

Discussion ensued regarding the proposed revision to Chapter 930 relating to structures that are exempt from permitting under the Florida Building Code, but still need to be reviewed for flood protection compliance (if located in a flood hazard area).

Vice Chairman O'Bryan asked what would be involved in obtaining a flood plain permit for the above structures.

Land Development Manager David Hays, County Engineering, with input from Chief DeBlois, elaborated on the flood plain permitting procedures and the types of structures for which the permits would be required.

Vice Chairman O'Bryan voiced concerns about how the proposed amendment to Chapter 930 might affect an individual who wanted to construct a non-residential structure, such as a pole barn or chickee hut. He asked that staff apply as much common sense as possible when these matters are under consideration.

Mr. Hays, responding to Commissioner Davis's query, stated that an unenclosed building would not require a permit or soil impaction study.

Commissioner Davis wondered why the County can't effectuate the changes to the County Code (LDR amendments) by just adopting an ordinance that mirrors the state's model ordinance.

County Administrator Joseph Baird explained that the proposed ordinance must include local administrative and technical amendments to Chapter 401, in order to preserve the flood insurance premium reductions that result from the County's adoption of flood protection standards that are higher than the minimum requirements.

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

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2012-036**, concerning amendments to its Land Development Regulations (LDRs) and Code of Laws and Ordinances; providing for amendments to Chapter 901, Definitions, and Chapter 930, Stormwater Management and Flood Protection; to adopt Flood Hazard Maps, to designate a Floodplain Administrator, to adopt procedures and criteria for development in flood hazard areas, and for other purposes; providing for amendments to County Code Chapter 401, Building Codes, to adopt local administrative amendments and local technical amendments to the Florida Building Code; and by providing for repeal of conflicting provisions; codification; severability; and effective date.

10.B. PUBLIC DISCUSSION ITEMS - NONE

10.C. PUBLIC NOTICE ITEM

10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING NOVEMBER 13, 2012:

**COUNTY INITIATED REQUEST TO AMEND THE 5 YEAR CAPITAL
IMPROVEMENTS PROGRAM AND SUPPORTING DATA AND ANALYSIS OF
THE CAPITAL IMPROVEMENTS ELEMENT OF THE COMPREHENSIVE PLAN
(LEGISLATIVE)**

County Attorney Alan S. Polackwich, Sr. read the notice into the record.

11. COUNTY ADMINISTRATOR MATTERS

**11.A.1. DECLARATION AS SURPLUS PROPERTY PER FSS CHAPTERS 125.35,
125.37, 125.38, CITY OF VERO BEACH RECREATION ADMINISTRATIVE
OFFICES, 1725 17TH AVENUE, "OLD JAIL PROPERTY"**

Mayor Pilar Turner, City of Vero Beach ("the City"), provided a handout (on file) and review of the City's expenditures relative to the maintenance and upgrading of the old jail property during its ownership of same. She thereafter thanked Administrator Baird for his suggestion that the Board consider sharing the proceeds from the sale of said property 50/50 (*subsequent to its purchase*), with the City.

(Clerk's Note: The City no longer has need of the property for use as a City-County Recreational Facility, and the ownership will revert back to the County).

Administrator Baird noted that his recommendation to split the proceeds was based on the fact that the County deeded the land to the City; however, they (the City) made all the improvements, including \$400,000 worth of renovations to the old dilapidated jail building.

Attorney Polackwich added that when the County deeded the property to the City in 1988, there was a stipulation that should the City cease using the property as a recreational

facility, the property would revert to the County. He also revealed that there was nothing in the deed about sharing the proceeds, should the County sell the property at such time.

Commissioners Solari, Wheeler, and Flescher outlined their objections to the suggestion to share with the City the proceeds from the pending sale of the surplus property. Discussion points included: (1) the lack of information regarding how much value, if any, the improvements made by the City would add to the surplus property; (2) the example of renters who invest in making improvements during their tenancy, for which they receive no recompense; and (3) for consistency, if the County was to share the proceeds with the City, the City's lessees who make improvements should be entitled to the same break proposed for the City.

Administrator Baird acknowledged that the recommendation for splitting the proceeds was his idea; he was trying to build a cooperative relationship with all the municipalities.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, the Board by a 4-1 vote (Commissioner Davis opposed), declared as surplus, the property located at 1725 17th Avenue ("Old Jail Property"), and approved to sell said property by auction or sealed bid.

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

12.G.1. QUARTERLY BUDGET REPORT (FOR FISCAL YEAR 2011-2012)

Budget and Management Director Jason Brown reviewed his PowerPoint presentation (on file) to provide an overview of the Fourth Quarter Budget Report for Fiscal Year 2011-2012. He noted that certain revenues and expenses in the General Fund have not yet been finalized for Fiscal Year 2011-2012, and year-end adjustments will be made. He reported that there is a slight decrease in the General Fund balance due to pay off of the Land Acquisition Bonds; however, in the financial statements, the Municipal Service Taxing Unit (M.S.T.U.) and General Funds are combined into one fund for a surplus of approximately \$600,000. He advised that due to a positive cash flow of around \$4 million in the Utilities Department, there is the possibility of paying off some bonds that are callable in 2015, thus reducing the debt burden, realizing a substantial interest savings, and potentially allowing for a slight decrease in utility rates.

Administrator Baird remarked that he was not alarmed by the small loss in the General Fund, because despite the recession, there has been a surplus for the last five years. He commented on the gains in the Golf Course, and spoke about early payment of the outstanding construction bonds. He reported that he was comfortable with cuts made mid-year in Fleet Management, and that the budget would continue to be monitored and adjusted as required.

Commissioner Davis sought and received confirmation that funds have been included in the budget for two potential liabilities: (1) the Federal Emergency Management Agency's (FEMA's) demand to be paid back grant money they awarded for the Rockridge Sewer Project

(after the 2004 hurricanes); and (2) the case between FVP Miami Lakes, LLC and the County involving impact fees.

12.H. RECREATION - NONE

12.I. PUBLIC WORKS - NONE

12.J. UTILITIES SERVICES - NONE

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 on his request to tentatively schedule on December 4, 2012 at 10:30 a.m., a closed attorney-client session regarding pending litigation on the roof leaks occurring at the two County Administration Buildings (*Building "A" and Building "B"*). He pointed out the defendants in the case are still making certain decisions, after which the County Attorney's office might require advice.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved to schedule a closed attorney-client session to be held at 10:30 a.m. on December 4, 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 - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT

The Regular Board reconvened as the Board of Commissioners of the Emergency Services District. Those Minutes are available separately.

15.A.1. APPROVAL OF MINUTES MEETING OF OCTOBER 16, 2012

**15.A.2. APPROVAL OF FY 2012/13 EMS COUNTY AWARDS GRANT: PURCHASE
OF CAPITAL/OPERATING EQUIPMENT USING NON-MATCHING
EMERGENCY MEDICAL SERVICES (EMS) GRANT FUNDS AND GRANT
RESOLUTION**

15.B. SOLID WASTE DISPOSAL DISTRICT- NONE

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 10:14 a.m.

ATTEST:

Jeffrey R. Smith,
Clerk of Circuit Court & Comptroller

Joseph E. Flescher, Chairman

Minutes Approved: _____

BCC/MG/2012Minutes