

**JEFFREY R. SMITH**

Clerk to the Board



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**OF BOARD OF COUNTY COMMISSIONERS**

**DECEMBER 4, 2012**

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**JEFFREY R. SMITH**

Clerk to the Board



**December 4, 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, December 4, 2012. Present were Chairman Joseph E. Flescher, Vice Chairman Wesley S. Davis, and Commissioners Peter D. O'Bryan, Bob Solari, and Tim Zorc. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Leona Adair Allen.

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

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

### **2. INVOCATION**

Vice Chairman Davis delivered the Invocation.

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

Attorney Polackwich led the Pledge of Allegiance to the Flag.

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

The Chairman requested the following changes to the Agenda:

**Addition: Item 10.C.3. Emergency Item - Notice of Scheduled Public Hearing for December 11, 2012: Request to Amend Ordinance 201.08(H)(1) and 201.08(H)(2) to Allow for Refunds of Deposits for Both Owners and Tenants Based on Their Payment History and to Proceed with Setting the Required Public Hearing Necessary to Change Ordinance to Allow for Such**

**Addition: Item 11.B. Emergency Item - Fellsmere Water Control District**

**Move: Item 14.C.2. Consideration to Award a One-Time Lump Sum Payment, to be heard following Item 9.B.**

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

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

**5.A. PRESENTATION ON JAKE OWEN FOUNDATION BENEFIT CONCERT BY MICHELLE COPE, C & H EVENTS, INC.**

Michelle Cope was not in attendance.

Commissioner O'Bryan announced that the Jake Owens concert is scheduled for Saturday, December 15, 2012, at Holman Stadium, and will benefit local children's charities, as well as the St. Jude Children's Research Hospital in Tennessee.

**6. APPROVAL OF MINUTES**

**6.A. MEETING OF OCTOBER 23, 2012**

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

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Solari, the Board unanimously approved the minutes of the October 23, 2012 meeting, as written.

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

**7.A. CITY OF VERO BEACH 2012-2013 COMMITTEE APPOINTMENTS**

Noted for the record were the 2013 Committee appointments for the City of Vero Beach (pages 2-4 of the Agenda Packet).

**7.B. CITY OF SEBASTIAN 2012-2013 COMMITTEE APPOINTMENTS**

Noted for the record were the 2013 Committee appointments for the City of Sebastian (pages 6-7 of the Agenda Packet).

**8. CONSENT AGENDA**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, the Board unanimously approved the Consent Agenda, as written.



**8.A. APPROVAL OF WARRANTS – NOVEMBER 9, 2012 TO NOVEMBER 15, 2012**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Zorc, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller’s Office for the time period of November 9, 2012 to November 15, 2012, as requested in the memorandum of November 15, 2012.

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

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Zorc, the Board unanimously accepted the Report of the Indian River County Traffic Education Program Trust Fund from the inception of the \$3 fee (October 1, 2002) through September 30, 2012, as recommended in the memorandum of November 16, 2012.

**8.C. FY 2011-2012 RECORDS DISPOSITION COMPLIANCE STATEMENT AND RECORDS MANAGEMENT LIAISON OFFICER FORM – BOARD OF COUNTY COMMISSIONERS**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Zorc, the Board unanimously authorized the Chairman to execute the Records Disposition Compliance Statement for the period October 1, 2011

through September 30, 2012, and return it to the Records Management Liaison Officer (RMLO) to be mailed to the Florida Department of State for the Indian River County Board of County Commissioners, as recommended in the memorandum of November 28, 2012.

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

**8.D. RESOLUTION CANCELING TAXES ON PROPERTY PURCHASED FROM THE NORTHERN TRUST COMPANY BY INDIAN RIVER COUNTY FOR A-1-A/17<sup>TH</sup> STREET RIGHT-OF-WAY**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, the Board unanimously approved **Resolution 2012-118**, cancelling certain taxes upon publicly owned lands, pursuant to section 196.28, Florida Statutes.

(The Northern Trust Company, A-1-A/17<sup>th</sup>Street right-away for road widening)

**8.E. RANGE ROAD MINE, LLC, HAMMOND SAND MINE, REQUEST FOR AUTHORIZATION FOR STAFF TO CALL LETTER OF CREDIT**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, the Board unanimously approved **Resolution 2012-119**, declaring default by Range Road Mine, LLC in its obligation to fulfill the performance of compliance with and restoration of site plan approval for Phase 2 of its sand mine (Hammond Sand Mine), and

authorizing staff to make sight draft against Northern Trust, N.A. Irrevocable Standby Letter of Credit No. SLC500481 dated October 16, 2008, as amended.

Vice Chairman Davis sought and received an update from County Attorney Alan S. Polackwich, Sr. regarding why the County is calling the Letter of Credit.

**8.F. AWARD OF BID NO: 2013007, INDIAN RIVER BOULEVARD RESURFACING  
(41<sup>ST</sup> STREET TO 53<sup>RD</sup> STREET) IRC PROJECT NO. 1131**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, the Board unanimously: (1) approved the project be awarded to Community Asphalt Corporation, in the amount of \$776,945.42; (2) approved the sample agreement; and (3) authorized the Chairman to execute said agreement after receipt and approval of the required Public Construction Bond and Certificate of Insurance, and after the County Attorney has approved the agreement as to form and legal sufficiency, all as recommended in the memorandum of November 14, 2012.

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

**8.G. MISCELLANEOUS BUDGET AMENDMENT 003**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, the Board unanimously approved **Resolution 2012-120**, amending the fiscal year 2012-2013 Budget.

**8.H. APPROVAL OF CHANGE ORDER NO. 3 TO TECHNICAL ELECTRIC SYSTEMS, INC. FOR ADDITIONAL COSTS FOR INSTALLATION OF A NEW GENERATOR, MUFFLER AND DAY TANK AT THE SOUTH RO WATER PLANT**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, the Board unanimously: (1) approved Change Order No. 3 to Technical Electrical Systems, Inc. (TES, Inc.); (2) approved the payment of \$4,143.75; (3) approved the total cost of the project in the amount of \$66,490.99; and (4) authorized the Chairman to execute the Change Order, as recommended in the memorandum of November 16, 2012.

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

**8.I. SUPPORTIVE HOUSING PROGRAM GRANT # FL0418B4H091100**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, the Board unanimously: (1) approved the Supportive Housing Program Grant Agreement; (2) authorized the Chairman to execute the Agreement; and (3) allowed the Treasure Coast Homeless Services Council to submit the Grant Agreement on behalf of the County, as recommended in the memorandum of November 21, 2012.

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

**8.J. 24" FORCE MAIN CROSSING OF 27<sup>TH</sup> AVENUE NORTH OF 5<sup>TH</sup> STREET SW  
FOR THE PC SOUTH ALGAL TURF SCRUBBER, APPROVAL OF APPLICATION  
FOR FINAL PAYMENT NO. 1 TO LABOR CONTRACTOR, MELVIN BUSH  
CONSTRUCTION, INC., UCP #4086**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Zorc, the Board unanimously approved: (1) the total cost of the force main construction in the amount of \$24,760.14; and (2) the Application for Final Payment No. 1 to the Labor Contractor, Melvin Bush Contracting, Inc. for \$14,721.30, as presented and recommended in the memorandum of November 19, 2012.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

**9.A. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF - STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**

Harry Hall, Sheriff's Office Comptroller, requested the Board approve the request for the annual State Criminal Alien Assistance Program.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Solari, the Board unanimously authorized the issuance of a check in the amount of \$78,306.00, with the appropriate budget amendment, to the Corrections Operating Expenses, to pay the consulting firm of Justice Benefits, Inc., and to augment funds needed for inmate care, as requested in the letter dated November 29, 2012.

**9.B. CAROLE JEAN JORDAN, INDIAN RIVER COUNTY TAX COLLECTOR – YEAR  
END REPORT AND TAX COLLECTOR ACTIVITIES**

Indian River County Tax Collector Carole Jean Jordan updated the Commissioners on the operation of the Tax Collector’s Offices, and alerted them on the Florida Department of Highway Services and Motor Vehicles’ plan to redesign the Florida license plates. She supports the redesign, but strongly opposes the Department’s decision to centrally issue the plates. She said the plan would involve issuing 15 million plate registrations from a central location at a cost of \$31.4 million, which ignores the capabilities of the local Tax Collectors to issue the redesigned plates. She provided a copy of the Florida Tax Collector Association’s Task Force Report and its recommendations on license plate issuance (on file).

Ms. Jordan informed the Board that her office: (1) collected 64% of this year’s tax roll; (2) currently accepts Visa for all transactions, not just for taxes, as it was previously, which may decrease the traffic in Administration Building B; (3) is currently working on a bill with the Florida Legislature to allow citizens to apply for concealed weapons permits; and (4) is presenting the Board with a check in the amount of \$2,706,242.17.

A lengthy discussion ensued regarding the logic behind the new proposal of central issuance, the opposition to it, and the local Tax Collector’s office wanting to remain as “one-stop shopping.”

ON MOTION by Commissioner Solari, SECONDED by  
Vice Chairman Davis, the Board unanimously:  
(1) approved the Year End Report and Tax Collector  
Activities; (2) directed the County Attorney to send letters  
to the Governor and his Cabinet regarding the new license  
plates and to share the concerns of the Tax Collector,

County, and Sheriff's Office; and (3) authorized the County Administrator to add the license plate issue to the Legislative Priority List.

## **10. PUBLIC ITEMS**

### **10.A. PUBLIC HEARING(S)**

#### **10.A.1. INDIAN RIVER COUNTY'S REQUEST FOR MAJOR SITE PLAN AND SPECIAL EXCEPTION USE APPROVAL FOR THE SOUTH COUNTY ALGAL TURF SCRUBBER STORMWATER TREATMENT FACILITY (QUASI-JUDICIAL)**

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

*(Clerk's note: This item was heard following Item 14.C.2., and is placed here for continuity.)*

The Commissioners, as requested by Chairman Flescher, divulged ex parte site visits, investigations, communications, and affirmed that their decisions would be based on the evidence presented and applicable law.

In accordance with the Chairman's declaration that this meeting was quasi-judicial, the Deputy Clerk administered the Oath to all persons who wished to speak at the hearing.

Planning Director Stan Boling, using a PowerPoint presentation (on file), recapped his memorandum dated November 13, 2012. He provided description, conditions, and analysis regarding the County's request for a site plan and special exception use application to construct a 12.81-acre Stormwater Treatment Facility at the southwest corner of 12<sup>th</sup> Avenue SW and 5<sup>th</sup> Street SW, adjacent to the Reverse Osmosis Water Treatment Plant. He noted that under the

County's Land Development Regulations, the proposed facility constitutes a limited utility use, and as a limited utility use, the proposed algal turf scrubber requires special exception use approval for the proposed facility on the RS-6 zoned property. Director Boling recommended the Board grant the special exception use approval for the algal turf scrubber with the conditions outlined in staff's report.

Commissioners sought and received details from staff regarding: (1) the quality of the water after it passes through the system and using it to irrigate buffer plants; (2) public access and security for the algal turf scrubber area; and (3) monitoring the water quality.

The Chairman opened the Public Hearing.

**Bob Johnson**, Coral Wind Subdivision, requested and received information pertaining to the goals, warranty, and funding of the project.

There being no other speakers, the Chairman closed the Public Hearing.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously found that in conjunction with the recommended conditions:

1. The Board is empowered under the provisions of Chapter 971 to review the special exception use applied for;
2. Granting special exception use approval will not adversely affect the public interest;
3. The application satisfies the general and specific criteria required for special exception approval; and



4. The conditions stated below are adequate to ensure compatibility between the special exception use and surrounding land uses; and

The Board also granted special exception use approval for the Algal Turf Scrubber Stormwater Treatment facility with the following conditions:

A. Prior to issuance of a land clearing permit, the applicant shall obtain documentation from the U.S. Fish and Wildlife Agency confirming that construction of the proposed improvements will not contravene Scrub Jay related regulations.

B. Prior to site plan release, the applicant shall:

- (1) Obtain a right-of-way permit for the proposed off-site piping work;
- (2) Record a unity of title, satisfactory to the County Attorney's Office, that combines the existing water plant (R.O.) site and the site of the new facility into a single, overall water plant site; and

C. Prior to the issuance of a Certificate of Occupancy (C.O.), all required buffers and opaque features shall be constructed, all as stated and recommended in the memorandum of November 13, 2012.

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

**10.A.2. CONSIDERATION OF AMENDMENTS TO LAND DEVELOPMENT REGULATIONS (LDRs) CHAPTERS 904 AND 917 TO ALLOW USE OF AN ACCESSORY STRUCTURE SERVING A PRINCIPAL STRUCTURE DAMAGED OR DESTROYED BY A DISASTER (LEGISLATIVE)**

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

Director Boling, using a PowerPoint presentation (on file) recapped his memorandum dated November 15, 2012, providing background and analysis regarding the proposed amendment to the County's Land Development Regulations (LDRs) to add an exception for situations where a natural disaster destroys a principal structure, while an accessory structure on the property remains useable.

The Chairman opened the Public Hearing.

**Ruth Teston**, questioned whether a variance could solve the situation.

Director Boling said there are variances in the regulations that apply to setbacks, unusually shaped lots, and questionable characteristics of the property. He conveyed staff's desire to structure the ordinance so it will apply to everyone, regardless of setbacks and lot size.

There being no other speakers, the Chairman closed the Public Hearing.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Solari, the Board unanimously adopted **Ordinance 2012-038**, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 904, Nonconformities, and Chapter 917, Accessory Uses and Structures, by amending Reconstruction of Nonconformities Section 904.07, and by amending Use Limitations (Accessory Uses) Section 917.04; and by providing for repeal of conflicting provisions, codification, severability, and effective date.

*The Chairman called for a break at 10:12 a.m., and reconvened the meeting at 10:19 a.m., with all members present.*

### **10.B.PUBLIC DISCUSSION ITEMS**

#### **10.B.1. REQUEST TO SPEAK FROM PHYLLIS FREY REGARDING SEVERING AGREEMENTS OR CONTRACTS WITH SEVEN50/SOUTH FLORIDA REGIONAL PLANNING**

**Phyllis Frey**, 275 Date Palm Road, read her notes (on file) to the Board to explain why she thought the Board should remove itself as a member of the Southeast Florida Regional Partnership and the Sustainable Communities Initiative, known as Seven50.

#### **10.B.2. REQUEST TO SPEAK FROM NANCY COOK REGARDING REQUEST TO STOP INDIAN RIVER COUNTY PARTICIPATION IN SEVEN50**

Speaker was not in attendance.

**10.B.3. REQUEST TO SPEAK FROM STEPHANIE AUSTIN REGARDING SEVEN50  
REGIONAL PLANNING, BACKGROUND INFORMATION ON REGIONAL  
PLANNING, AND THE REASONS FOR DISSOLVING MEMBERSHIP**

**Stephanie Austin**, 6250 Arrowhead Lane, provided information from the October 2012 Seven50 Regional Planning meeting, held in Indian River County, and listed the reasons why she believed the Board should dissolve membership in Seven50, and all affiliated organizations.

A lengthy discussion ensued as Commissioners Davis, Solari, and Zorc voiced concerns over regionalism, the planning process, the Treasure Coast Regional Planning Council's funding and budget, and withdrawing from the Seven50 process/program.

Commissioner O'Bryan voiced concerns over saving the Lagoon, and did not think that isolation from the Seven50 program was the answer. He felt it to be a planning process, and since the plan has not yet been written, finds it hard to believe that property rights have been taken away. He said the County could opt out at any time, and preferred to wait to see what the plan provides.

**Paul Tanner**, 5265 Sapphire Lane, expressed concerns over the sustainability initiative, density issues, and goals. He requested the Board remove themselves from the Seven50 Initiative while there is still a chance to do so.

Chairman Flescher believed this topic was an important and emotional decision, and did not think it would be fair to the public to have a vote today. He wanted to give the general public an opportunity to speak on this issue, at another time, before making a decision.

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Davis, the Board unanimously directed staff to place this item on the December 18, 2012 Agenda for public discussion and vote.

**10.B.4. REQUEST TO SPEAK FROM TOBIAS WILLIAMS REGARDING CODE ENFORCEMENT ACTIVITY/DEMOLITION OF STRUCTURES**

**Tobias Williams**, 2291 SE Braddock Street, Port St. Lucie, provided history regarding code enforcement activities and the demolition of his two structures, located at 303 SW 8<sup>th</sup> Avenue and 319 SW 8<sup>th</sup> Avenue. After the structures had been demolished, he realized that since the Tax Collectors Office was using an incorrect address of 2295 SW Braddock Street, he had not been receiving correspondence from either Code Enforcement regarding the liens, nor the Building Department regarding demolition. Mr. Williams believed that if his correct address had been used, this situation would not have occurred. He said he still has a lien of about \$9,800 for demolition, and requested it be waived.

Commissioner Solari, recognizing that errors had been made, suggested Mr. Williams meet with the County Attorney and Administrator to decide how the errors occurred so they can be corrected, and to decide what can be done about the liens.

Community Development Director Bob Keating provided background and acknowledged that staff had been following the correct procedures throughout the process. He described the actions that had been taken on the properties, acknowledged that staff had used the official address from the Property Appraiser's office to send certified correspondence, and clarified that the Notice was posted on the property in August of 2011 – with demolition in July of 2012. He also told the Board that Mr. Williams was aware that the process was taking place, and that the liens against him were substantial.

Environmental Planning and Code Enforcement Chief Roland DeBlois was confident that the notification procedures were followed, and conveyed that Mr. Williams had signed for the Notice of Hearing early in the process, but thereafter the notices were left unclaimed. He said that even though the structures were demolished in November, property maintenance still has not been resolved. He also divulged that in addition to the Code Enforcement Order, which is still unresolved, there has been a \$100 per day fine accruing since September 26, 2009, which totals about \$116,500.

In response to Commissioner Solari, Director Keating disclosed that the lien and associated costs for the demolition are \$4,660.86 for each property, and the assessed value for the vacant land is about \$7,000 on one, and \$6,800 on the other.

Discussion ensued regarding Code Enforcement fines, the incorrect address, and the costs associated with administration and demolition.

**Mr. Williams** said he had never signed anything.

**Ann Marie** (surname inaudible) told the Board that she was with Mr. Williams, in March, when he went to the Property Appraiser's office to update the address because he was not receiving his tax notices, then again a couple weeks later when the manager said they did an update in their computer system in April. She reported that the Property Appraiser's office acknowledged that they had made a mistake on several properties, which included Mr. Williams' two parcels. She also conveyed that the County Attorney's office provided her copies showing where the Post Office crossed off "2295" and annotated the correct address on the return request receipt, which she believed to be a communication error. She requested the demolition fees be reversed for Mr. Williams.

County Administrator Joseph Baird advised Mr. Williams that the Legal Office would need to make the final decision. He told the Board that after Mr. Williams had left the property in an unsatisfactory condition, the County was obligated to do something.

Attorney Polackwich announced that he became aware of this yesterday, and after investigating the situation, learned that Mr. Williams owns about eight different properties in the County, and most of them are in the same unkempt condition. He said the problem started when the Property Appraiser's records showed the "2295" incorrect address on five of the properties, and "2291" on three. He believed the Notice was valid because the Indian River County Code directs staff to send Notice on demolition to the last known address, and if it is not signed for, then a Notice is posted on the property, which is what staff did. He suggested his office review the details to decide whether the demolition liens are sustainable.

A lengthy discussion ensued regarding the Satisfaction of Lien for demolition, maintaining the properties, and Mr. Williams being proactive and addressing some of the issues before bringing this back to the Board for determination.

Commissioner O'Bryan suggested that Mr. Williams take care of all pending liens and bring the properties into compliance, to show good faith in paying his bills, before the Board considers waiving the demolition liens.

**Bea Nelson**, Beneducci Real Estate, conveyed that Mr. Wilson is trying to request a partial Code Enforcement lien release to sell the property located at 358 8<sup>th</sup> Avenue, and in turn, the proceeds that he receives will pay the utility lien and partial taxes. She revealed that there is currently a contract on this property, and they are trying to close on or before December 31<sup>st</sup>, but the Code Enforcement lien is tied to all the properties and holding up the closing.

Chief DeBlois explained that Code Enforcement liens are tied to all properties, even though this one was partially released to allow for the sale of property located at 358 8<sup>th</sup> Avenue; and Demolition liens are tied directly to the property on which the demolition took place.

Attorney Polackwich reiterated that Demolition liens do not expand to other properties, and clarified that Code Enforcement liens do because Chapter 162, which deals with Code Enforcement Liens, allows it to happen. He felt the Title Insurance Company is taking an overly cautious approach, and asked Ms. Nelson to have the Title Company contact him.

NO BOARD ACTION REQUIRED OR TAKEN

### **10.C.PUBLIC NOTICE ITEMS**

**10.C.1. REVISED NOTICE OF SCHEDULED PUBLIC HEARING FROM DECEMBER 4, 2012 TO DECEMBER 11, 2012: MCDONALDS CORP.'S REQUEST TO AMEND LAND DEVELOPMENT REGULATIONS (LDRS) CHAPTERS 911 AND 956 TO MODIFY THE NON-CONFORMING FREE STANDING SIGN REGULATIONS IN THE ROSELAND AND OTHER CORRIDORS (LEGISLATIVE)**

**10.C.2. NOTICE OF SCHEDULED PUBLIC HEARING DECEMBER 18, 2012: COUNTY INITIATED REQUEST TO AMEND THE TEXT OF THE FUTURE LAND USE, AND RECREATION AND OPEN SPACE ELEMENTS AND THE POTABLE WATER SUB-ELEMENT OF THE COUNTY'S COMPREHENSIVE PLAN (LEGISLATIVE)**



**10.C.3. ADDITION: NOTICE OF SCHEDULED PUBLIC HEARING FOR  
DECEMBER 11, 2012: REQUEST TO AMEND ORDINANCE 201.08(H)(1) AND  
201.08 (H)(2) TO ALLOW FOR REFUNDS OF DEPOSITS FOR BOTH OWNERS  
AND TENANTS BASED ON THEIR PAYMENT HISTORY (LEGISLATIVE)**

Attorney Polackwich read the notices into the record.

**11. COUNTY ADMINISTRATOR MATTERS**

**11.A.1. DISCUSSION LEGISLATIVE PRIORITIES**

Administrator Baird summarized the Legislative Priorities List for the 2013 Legislative Session (draft on file).

Discussion ensued and the Board requested Administrator Baird to add the following items to the Legislative Priorities list for the 2013 Legislative Session: License Plates/Tax Collector, Treasure Coast Regional Planning Council's Mandatory Funding, Local Fertilizer Ordinance, Communications Services Tax/Prepaid Services, and Juvenile Justice Changes in Fees.

**11.A.2. ADDITION: FELLSMERE WATER CONTROL DISTRICT**

Administrator Baird informed the Board that the Fellsmere Water Control District is making a request to the Florida Legislature to be granted status as a special district under Florida Statutes Chapters 189 and 298, and felt this needed to be addressed by the Board.

**Michael O'Haire**, Fellsmere Water Control District Representative, requested that the Board provide a letter of support for consideration at the Legislative Delegation's December 17<sup>th</sup> meeting regarding Indian River County measures.

Attorney Polackwich explained why it would make sense to change the archaic 298 districts to a modern day 189 type of district. He also clarified that Mr. O'Haire represented the Sebastian River Water Control District when it changed to 189 and became an Improvement District. He said there is a significant expansion of the Water Control District's authority, and thereafter listed the expansions of authority. He stressed that if the intent is to follow the Sebastian River model, the Board would need to understand that this would be changing from a very limited to a much broader authorization.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Chairman Flescher, to direct the County Attorney to send a letter of support to the Legislative Delegation, as requested in the memorandum dated December 3, 2012.

Commissioner O'Bryan opposed the motion. He understood the concerns of wanting to improve the roads, but found that dealing with other Water Control Districts was very frustrating because of the lack of responsiveness to the general public. He said it is hard to find out who their directors are; believed it would give them very broad powers; and felt that if the goal is to fix roads, that it could be accomplished separately.

The Chairman CALLED THE QUESTION, by a 4-1 vote (Commissioner O'Bryan opposed), the Motion carried.

## **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**

**12.J.1. CONSULTING ENGINEERING SERVICES WORK ORDER NO. 2 WITH  
SCHULKE, BITTLE & STODDARD, L.L.C. FOR PROFESSIONAL SERVICES FOR  
ENGINEERING DESIGN AND PERMITTING FOR CONFLICT RESOLUTIONS  
BETWEEN WATER AND SEWER MAINS AND PROPOSED DRAINAGE ON U.S. 1  
SOUTH OF 11<sup>TH</sup> STREET TO THE COUNTY LINE – UCP 4096**

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

Vice Chairman Davis confirmed that the improvement project went as far north as 11<sup>th</sup> Street SW (south of Oslo), and wanted to ensure that the gravity-feed systems would be available so businesses can tap in without needing individual force mains, which will defray costs and lower the level of entry fees for the businesses on US 1.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved Work Order No. 2 with Schulke, Bittle and Stoddard L.L.C. in the amount of \$59,500.00 for professional services associated with the US 1 South Project for road improvements and utility conflict relocations, and authorized the Chairman to execute same as presented, and as recommended in the memorandum of November 27, 2012.

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

**13. COUNTY ATTORNEY MATTERS - NONE**

**14. COMMISSIONER ITEMS**

**14.A. COMMISSIONER JOSEPH E. FLESCHER, CHAIRMAN - NONE**

**14.B. COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN - NONE**

**14.C. COMMISSIONER PETER D. O'BRYAN**

**14.C.1. CONSIDERATION TO SELL OLD COUNTY JAIL**

Commissioner O'Bryan asked the Commissioners to reconsider selling the old County Jail after it reverts back from the City of Vero Beach. He conveyed that St. Francis Manor has

expressed an interest in adding the property to their current lease and using the property for expansion. He also noted that on the adjoining side of the jail is the Boys and Girls Club, who has expressed interest in working with St. Francis Manor to come up with a solution where the property could be utilized better.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, to postpone selling the old County Jail property to give St. Francis Manor and the Boys and Girls Club time to decide if they are interested in leasing the old County Jail property.

Commissioner Solari was not in favor of giving County tax money to charities, and wanted the price negotiated at fair market value.

Discussion ensued regarding the delay of the sale to allow the nonprofits organizations more time for lease negotiations and to decide whether it is feasible to expand the property.

MOTION WAS AMENDED by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, to postpone selling the old County Jail for 90 days to allow St. Francis Manor and the Boys and Girls Club time to present a plan to the Board of County Commissioners.

Attorney Polackwich clarified that Florida Statute 125.38 allows the sale or lease of County owned property for which there is no longer a need, to either another governmental entity or to a nonprofit, and "...for such price, whether nominal or otherwise, as the Board may fix, regardless of the actual value of such property."

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

**14.C.2. CONSIDERATION TO AWARD A ONE-TIME LUMP SUM PAYMENT**

*(Clerk's note: This item was heard following Item 9.B., and is place here for continuity.)*

Commissioner O'Bryan wanted to know if the Board would consider supporting a one-time lump sum payment to all County employees earning less than \$50,000 per year.

MOTION WAS MADE by Commissioner O'Bryan to approve, in concept, awarding a one-time lump sum payment to all County employees earning less than \$50,000 per year. MOTION DIED for lack of a Second.

After a brief discussion, the Board's consensus was to take no action at this time.

**14.D. COMMISSIONER BOB SOLARI**

**14.D.1. CORRESPONDENCE TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) REGARDING INDIAN RIVER LAGOON**

Commissioner Solari requested the Commissioners review and authorize sending the sample draft letter shown on pages 151 and 152 of the Agenda Packet, to Chief Thomas Frick, Bureau of Watershed Restoration, Florida Department of Environmental Protection, regarding the health of the central Indian River Lagoon area.

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Davis, to authorize staff to send the draft letter to the Florida Department of Environmental Protection, as requested in the memorandum of November 27, 2012.

Discussion ensued among the Board regarding the Lagoon's loss of seagrasses; the damage to the Lagoon caused by nitrogen, phosphorous, and fresh water pulses; reversing the flow of water from the three relief canals; and Indian River County's association with the regional organizations.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

#### **14.E. COMMISSIONER TIM ZORC - NONE**

*(Clerk's Note: Before adjourning the Board of County Commission meeting, Chairman Flescher informed the Commissioners and public that Veteran Ernie Heaton had passed away last week. He was the voice of the memory of the four Chaplains who gave up their life jackets to save others during the sinking of the USS Dorchester during World War II, and the guest of honor at the dedication of the Four Chaplains Monument near Riverview Park in Sebastian. He asked everyone to take a minute to reflect on this American hero and local icon, whose funeral service will be held on December 5, 2012, at 10:00 a.m., at the Thomas S. Lowther Funeral Home.)*

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

#### **15.A. EMERGENCY SERVICES DISTRICT**

The 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 2, 2012**

**15.A.2. FY 2011-2012 RECORDS DISPOSITION COMPLIANCE STATEMENT  
AND RECORDS MANAGEMENT LIAISON OFFICER FORM – EMERGENCY  
SERVICES DISTRICT**

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

The Board 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 OCTOBER 23, 2012**

**15.B.2. FY 2011-2012 RECORDS DISPOSITION COMPLIANCE STATEMENT  
AND RECORDS MANAGEMENT LIAISON OFFICER FORM – SOLID WASTE  
DISPOSAL DISTRICT**

**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 meeting adjourned at 12:29 p.m.

ATTEST:

\_\_\_\_\_  
Jeffrey R. Smith,  
Clerk of Circuit Court and Comptroller

\_\_\_\_\_  
Joseph E. Flescher, Chairman

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

BCC/LA/2012 Minutes