

JEFFREY R. SMITH  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

JANUARY 8, 2013

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**JEFFREY R. SMITH**

Clerk to the Board



**January 8, 2013**

**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, January 8, 2013. 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 Maria I. Suesz.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Freddie Woolfork, Progressive Civic League of Gifford, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Vice Chairman Davis led the Pledge of Allegiance to the Flag.

## **CONSTITUTIONAL OFFICERS OATH OF OFFICE**

**THE HONORABLE JUDGE DAVID C. MORGAN, INDIAN RIVER COUNTY, 19<sup>TH</sup>**  
**JUDICIAL CIRCUIT COURT OF FLORIDA**

Judge Morgan administered individually the Oath of Office to elected Tax Collector Carole Jean Jordan, and Clerk of the Circuit Court and Comptroller Jeffrey R. Smith, re-elected Sheriff Deryl Loar, Property Appraiser David Nolte, and Supervisor of Elections Leslie Rossway Swan.

### **4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY** **ITEMS-NONE**

ON MOTION by Commissioner O'Bryan, SECONDED  
by Commissioner Solari, the Board unanimously approved  
the Agenda as presented.

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

#### **5.A. PRESENTATION ON LAGOON GREENWAY BY KEN GRUDENS, EXECUTIVE** **DIRECTOR, INDIAN RIVER LAND TRUST**

**Ken Grudens**, Executive Director, Indian River Land Trust, gave a presentation (copy on file) highlighting the features of the new Indian River Lagoon Greenway. This multiuse trail way begins at 8<sup>th</sup> Street and Indian River Boulevard, extends three miles to the Indian River Lagoon in Vero Beach. Mr. Grudens responded to questions from the Board.

#### **5.B. PRESENTATION OF PROCLAMATION DESIGNATING FEBRUARY 21, 2013 AS** **HARLEM AMBASSADORS BASKETBALL GAME AND SHOW NIGHT AT** **SEBASTIAN RIVER HIGH SCHOOL**

Chairman Flescher read and presented the Proclamation to Jim Davis, President, Indian River County National Alliance on Mental Illness (NAMI).

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF NOVEMBER 13, 2012**

**6.B. REGULAR MEETING OF NOVEMBER 20, 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 O'Bryan, the Board unanimously approved the minutes of the November 13, 2012 and November 20, 2012 meetings, as written.

**7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION - NONE**

## **8. CONSENT AGENDA**

Chairman Flescher requested to pull Item 8.K. from the Consent Agenda for discussion.

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

### **8.A. APPROVAL OF WARRANTS – DECEMBER 7, 2012 TO DECEMBER 13, 2012**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller's Office for the time period of December 7, 2012 to December 13, 2012, as requested in the memorandum of December 13, 2012.

### **8.B. APPROVAL OF WARRANTS – DECEMBER 14, 2012 TO DECEMBER 20, 2012**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller's Office for the time period of December 14, 2012 to December 20, 2012, as requested in the memorandum of December 20, 2012.



**8.C. APPROVAL OF WARRANTS – DECEMBER 21, 2012 TO DECEMBER 27, 2012**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O’Bryan, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller’s Office for the time period of December 21, 2012 to December 27, 2012, as requested in the memorandum of December 27, 2012.

**8.D. 2013 BLANKET AUTHORIZATION FOR COMMISSIONERS TO TRAVEL OUT OF COUNTY**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O’Bryan, the Board unanimously authorized the Board Members to travel out of County for all current and any future assigned committee meetings, including travel to Tallahassee, Florida, as requested in the memorandum dated November 29, 2012.

**8.E. PERMISSION TO ADVERTISE FOR PUBLIC HEARING FOR AMENDMENT TO SECTION 100.03(4) OF THE INDIAN RIVER COUNTY CODE, CODIFYING AND PUBLISHING THE ORDINANCES TO READOPT THE CODE UP TO AND INCLUDING SUPPLEMENT 94 AS PUBLISHED BY THE MUNICIPAL CODE CORPORATION**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O’Bryan, the Board unanimously authorized staff to advertise for a public hearing on February 5, 2013, to amend Section 100.03(4) of the Indian River County Code, as requested in the memorandum of December 26, 2012.

**8.F. AMENDMENT TO PURCHASING MANUAL**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved, with no objection, for the County Administrator to adopt the proposed new section 5.03 for inclusion in the Purchasing Manual dealing with the method of ranking competing firms responding to an RFP or RFQ, as recommended in the memorandum of December 21, 2012.

**8.G. WORK ORDER NO. 17 – BRIDGE DESIGN ASSOCIATES, INC. – RELEASE OF RETAINAGE PEDESTRIAN BRIDGE – OLD DIXIE HIGHWAY SIDEWALK FROM 38<sup>TH</sup> LANE TO 65<sup>TH</sup> STREET, IRC PROJECT NO. 0845**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved payment of Bridge Design Associates, Inc., Invoice No. 10-542/R, dated November 8, 2012 in the amount of \$482.00 for final release of retainage, as recommended in the memorandum of December 11, 2012.

**8.H. 66<sup>TH</sup> AVENUE – PHASE 2 (4<sup>TH</sup> STREET TO 16<sup>TH</sup> STREET) SUBORDINATION OF UTILITY INTERESTS AND AGREEMENT FOR REIMBURSEMENT FOR ADDITIONAL FACILITY RELOCATIONS FOR FPL, IRC PROJECT NO. 9810B**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O’Bryan, the Board unanimously approved and authorized the Chairman to execute the Subordination of Utility Interests and Agreement for Reimbursement for Additional Facility Relocations with Florida Power & Light Company, as recommended in the memorandum of December 13, 2012.

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

**8.I. AWARD OF BID No: 2013007 CORRECTION, INDIAN RIVER BOULEVARD RE-SURFACING (41<sup>ST</sup> STREET TO 53<sup>RD</sup> STREET), IRC PROJECT NO. 1131**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O’Bryan, the Board unanimously approved the revised funding amount of \$306,882.42 for the County’s portion of costs for Project No. 1131, as recommended in the memorandum of December 14, 2012.

**8.J. MISCELLANEOUS BUDGET AMENDMENT 005**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O’Bryan, the Board unanimously approved **Resolution 2013-001**, amending the Fiscal Year 2012-2013 budget.

**8.K. MENTAL HEALTH ASSOCIATION FUNDING FOR FISCAL YEAR 2012-13**

Chairman Flescher suggested tabling this item because he believed the Mental Health Association's new Board of Directors was taking proper steps in the right direction, and he had concerns of services being interrupted.

County Administrator Joseph Baird advised that the funds had already been suspended and that the letter had been sent out in the best interest of the County. He preferred the Board approve this item now, and he would bring the item back when they know that the Association's Board was on sound footing.

Commissioner Solari agreed with Administrator Baird and appreciated the steps staff had already taken. He believed it was appropriate to ratify this item now, and later the Board could welcome the Association's new Board of Directors when they come to the County Commission.

Commissioner O'Bryan voiced that the State investigation of settling the Association's financial affairs was a larger concern, and felt that the Board should suspend funds until the investigation is over. He suggested as a compromise, to approve staff's recommendation, and to consider invoices on a case by case basis.

Vice Chairman Davis agreed with Commissioner O'Bryan and suggested the County Attorney make contact with his colleagues at the hospital to find out the Association's plan of action and where the funding is going. Then meet with the Association's new Board of Directors, establish a comfort level, and reinstate the funds.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved: 1) to ratify the suspension of funding for the Mental Health Association for Fiscal Year 2012-2013 with the condition to consider invoices on a case by case basis; and 2) authorized staff to release the funding once the Department of Children and Families (DCF) investigation is completed, and once staff has established a comfortable level with the Association's plan of action.

**8.L. WORK ORDER NO. 3 FINAL PAY AND RELEASE OF RETAINAGE, MASTELLER, MOLER, REED & TAYLOR, INC. – 87<sup>TH</sup> STREET RIGHT-OF-WAY AND TOPOGRAPHIC SURVEY, IRC PROJECT NO. 1205**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved payment of Masteller, Moler, Reed & Taylor, Inc., Invoice No. 3544-11473, Final, dated December 14, 2012 in the amount of \$4,027.05 for final payment and release of retainage for Work Order No. 3, as recommended in the memorandum of December 18, 2012.

**8.M. WORK ORDER NO. 3 TO THE CONTINUING CONTRACT AGREEMENT FOR PROFESSIONAL SERVICES WITH SCHULKE, BITTLE & STODDARD, LLC FOR ENGINEERING DRAWINGS AND SCOPE OF WORK FOR ROOF REPLACEMENT OVER THE INDIAN RIVER COUNTY FAIRGROUNDS AGRICULTURAL PAVILION, INDIAN RIVER COUNTY PROJECT NO. 1238**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved and authorized the Chairman to execute Work Order No. 3 with Schulke, Bittle & Stoddard, LLC, authorizing the tasks outlined in the scope of services, for a lump sum amount of \$1,750.00, as recommended in the memorandum of December 17, 2012.

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

**8.N. ADDENDUM NO. 1 TO THE AGREEMENT FOR OLD DIXIE HIGHWAY  
SIDEWALK FROM 8<sup>TH</sup> STREET TO SR 60, IRC PROJECT NO. 1102, BID NO.  
2012052**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved and authorized the Chairman to execute Addendum No. 1 to the original agreement with Timothy Rose Contracting, Inc., as recommended in the memorandum of December 20, 2012.

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

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

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARINGS - NONE**

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM ROBERT L. SMITH REGARDING INITIATING A CHANGE TO THE NON-CONFORMITIES REGULATIONS TO ELIMINATE THE ONE YEAR CESSATION OF USE RULE (RE-ESTABLISH GRANDFATHERED IN STATUS FOR 4380 38<sup>TH</sup> AVENUE)**

Robert L. Smith was not present. This item was tabled until the Board of County Commission meeting of January 15, 2013.

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

**11. COUNTY ADMINISTRATOR MATTERS -NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT**

**12.A.1. CONSIDERATION OF MEETING DATES FOR PROPOSED AMENDMENTS TO THE COUNTY'S LAND DEVELOPMENT REGULATIONS (LDRS) TO ALLOW OUTDOOR VEHICLE STORAGE USE IN THE CL (LIMITED COMMERCIAL) AND CG (GENERAL COMMERCIAL) ZONING DISTRICTS**

Planning Director Stan Boling presented the proposed LDR amendment ordinance as directed by the Board on October 23, 2012 to allow outdoor vehicle storage in the CL and CG districts as a special exception use. Pursuant to Florida Statutes Chapter 125.66, he requested the Board set two required public hearing dates, ten days apart from each other, to move forward with this item.

There was a brief discussion regarding holding an evening meeting to allow the public to attend the public hearing.

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Flescher, the Board unanimously approved one public hearing date to be held at the regular morning Board meeting of Tuesday, January 22, 2013 at 9:05 a.m., and the second public hearing date to be held as a Special Call meeting on Tuesday, February 5, 2013, at 5:01 p.m. for the review and approval process for proposed amendments to the County’s Land Development Regulations (LDRs) to allow outdoor vehicle storage use in the Limited Commercial (CL) and General Commercial (CG) Zoning Districts, as recommended in the memorandum of December 17, 2012.

**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**

**12.I.1. RESOLUTIONS FOR PAVING (MILLINGS) IMPROVEMENTS AND TO SET A PUBLIC HEARING FOR 7<sup>TH</sup> PLACE PETITION MILLINGS PROJECT FROM 63<sup>RD</sup> AVENUE TO 60<sup>TH</sup> AVENUE IN THE PINE TREE PARK SUBDIVISION – IRC PROJECT No. 1212**



Public Works Director Chris Mora presented this item to the Board.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved: (1) **Resolution 2013-002**, providing for certain asphalt milling improvements to 7<sup>th</sup> Place West of 63<sup>rd</sup> Avenue to 60<sup>th</sup> Avenue, in Pine Tree Park Subdivision, providing the total estimated cost, method of payment of assessments, number of annual installments, and legal description of the area specifically benefitted; and (2) **Resolution 2013-003**, setting a time and place at which the owners of property on 7<sup>th</sup> Place West of 63<sup>rd</sup> Avenue to 60<sup>th</sup> Avenue, in the Pine Tree Park Subdivision, County Project No. 1212 and other interested persons may appear before the Board of County Commissioners and be heard as to the propriety and advisability of making asphalt milling improvements to said property as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be specifically assessed against each property benefitted thereby.

**12.J. UTILITIES SERVICES**

**12.J.1. APPROVAL OF AMENDMENT 1 TO WORK ORDER NO. 3 WITH KIMLEY-HORN AND ASSOCIATES, INC.**

County Utility Services Director Vincent Burke presented this item to the Board.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute Amendment No. 1 to Work Order No. 3 with Kimley-Horn and Associates, Inc., in the amount of \$17,700.00, as recommended in the memorandum of December 11, 2012.

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

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

#### **13.A. POSSIBLE NEW INCENTIVES IN THE ENTERPRISE ZONE**

Attorney Polackwich recalled that on September 4, 2012, at the City of Vero Beach Council meeting, new incentives were discussed which the County could adopt in the Enterprise Zone. At that meeting the County Attorney's office was tasked to list possible incentives for the Board to consider. He provided eight incentives, and asked for the Board to identify those which they were willing to consider for adoption.

1. Subsidize (in whole or in part) County Impact Fees
2. Finance Impact Fees on More Favorable Terms
3. Waive or Subsidize (in whole or in part) Development Fees
4. Subsidize (in whole or in part) Water and Sewer Connection Charges
5. Infrastructure Improvement Program
6. Modify the Job Grants Program
7. Waive or Subsidize the Local Business Tax Receipt for a Limited Period of Time
8. Waive (in whole or in part) the Franchise Fee or Fee-in-Lieu-of-Franchise Fee for a Limited Period of Time

Attorney Polackwich responded to questions from the Board.

The Commissioners individually voiced their preferences on the eight incentives, and discussed looking at additional incentives - expanding opportunities throughout the County, developing strategies to modify the Enterprise Zone area, and finding out how to be competitive.

Commissioner Solari wanted a better idea of the potential cost of all of the incentives before making any decision.

Commissioner O'Bryan suggested increasing funding to the Economic Development Office to do a better job promoting what our County has to offer.

**Helene Castletine** stated that she did reach out to the State Coordinator, who sent out a survey to all the Enterprise Zones through the Chamber of, and only a handful of responses were received back. From that survey, a couple of responses were that other counties do not offer anything within their Enterprise Zones. The City of Fort Myers uses the business tax receipt program, which is the most widely used incentive at the local level. They also have a water and sewer impact fee waiver. She did reach out to other colleagues, but did not get a lot of feedback. She felt the Board could look into expanding boundaries, but the County still has to meet the minimum threshold that the State has required.

MOTION WAS MADE by Vice Chairman Davis, to direct staff to move forward to analyze all eight incentives, SECONDED by Chairman Flescher, for discussion.

Chairman Flescher clarified that the Board was not approving the incentives today; they were only directing staff to analyze them further.

MOTION WAS AMENDED by Vice Chairman Davis, SECONDED by Chairman Flescher, to look at examination of applications Countywide, not just within the Enterprise Zone.

Discussion continued regarding how to examine applications for various types of industries.

The Chairman CALLED THE QUESTION, and the Motion carried. The Board unanimously directed the County Attorney to fully analyze all incentives for future consideration and possible adoption, and to look at examination of applications Countywide and for the Enterprise Zone.

**13.B. SALE OF SURPLUS STATE LAND – INDIAN RIVER CORRECTIONAL INSTITUTE**

Deputy County Attorney William DeBral presented this item seeking a decision from the Board to obtain an appraiser for possibly purchasing the surplus State land that once was the Indian River Correctional Institute. The lowest responsible bidder was Steven Boyle of Boyle & Drake of Vero Beach. A purchase would not have any restrictions tacked on by the State; however, should the County not purchase the land and lease the property, the County would be subject to a host of restrictions on the use of the property, and be under continuous monitoring by the State.

Attorney Polackwich advised that he had been in discussion with Scott Wilham, Director of State land, regarding leasing the property. He suggested the Board first proceed in getting the appraisal to determine the purchase price, and then make their decision to purchase the property, or lease the property and be subjected to State regulations.

MOTION WAS MADE by Commissioner Solari,  
SECONDED by Vice Chairman Davis, to have the  
property appraised.

Discussion ensued regarding the Board having the option to obtain the appraisal and then  
not purchase the property.

**Captain Rick Lane** from the Sheriff's Office stated that the Sheriff endorsed the concept  
of pursuing the appraisal before making a determination, and there are some aspects of lease  
requirements that Sheriff Loar would not be in favor of pursuing.

**Gene Waddell**, Chairman of the Charter High School Board, stated he had been in  
contact with Sheriff Loar, and at this time he felt they could cohabitate this property and not  
infringe on each other.

Commissioner O'Bryan wanted a plan put together in anticipation of moving forward  
after the appraisal was acquired, should there be some time restraints.

Both Captain Lane and Mr. Waddell stated that if the Board decides to not purchase the  
land and to lease the property instead from the State, they would withdraw.

The Chairman CALLED THE QUESTION and the  
Motion carried. The Board unanimously authorized staff  
to hire Steven Boyle of Boyle & Drake of Vero Beach,  
Florida, to perform an appraisal of the former Indian River  
Correctional Institute property for staff to bring back to  
the Board.

## **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 - NONE**

**14.D. COMMISSIONER BOB SOLARI - NONE**

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

**15. SPECIAL DISTRICTS AND BOARDS**

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

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

The Board of the Solid Waste Disposal 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 NOVEMBER 13, 2012**

**15.B.2. CHANGE ORDER NO. 1 TO MANCIL'S TRACTOR SERVICE, INC. FOR CUSTOMER CONVENIENCE CENTER PAVING IMPROVEMENTS (BID NO. 2012047)**

**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 10:59 a.m.

ATTEST:

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

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

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

BCC/MS/2013Minutes