

JEFFREY R. SMITH
Clerk to the Board



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BOARD OF COUNTY COMMISSIONERS

FEBRUARY 11, 2014

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JEFFREY R. SMITH

Clerk to the Board



February 11, 2014

**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, February 11, 2014. Present were Chairman Peter D. O'Bryan, Vice Chairman Wesley S. Davis, and Commissioners Joseph E. Flescher, Bob Solari, and Tim Zorc. Also present were County Administrator Joseph A. Baird, County Attorney Dylan Reingold, and Deputy Clerk Maureen Gelfo.

1. CALL TO ORDER

Chairman O'Bryan called the meeting to order at 9:00 a.m. He announced that he would be calling a recess between 11:30 a.m. and 3:00 p.m., because he and Vice Chairman Davis had other obligations at that time.

2. INVOCATION

Stan Boling, Indian River County Community Development Director, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

County Administrator Joseph A. Baird led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

- NONE

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION LOVE LIFE WALK APPRECIATION WEEK

Commissioner Solari read and presented the Proclamation to Tiffany Long, who accepted it on behalf of Steve Fugate. Ms. Long invited everyone to attend a walk supporting the Love Life Walk on Saturday, February 15, 2014, at 8:30 a.m., at the East Barber Bridge.

5.B. PRESENTATION OF PROCLAMATION HONORING 2-1-1 AWARENESS WEEK FEBRUARY 11 – 17, 2014

Commissioner Zorc read and presented the Proclamation to Page Woodward, Community Relations Specialist, and Susan Buza, Executive Director of 211 Palm Beach/Treasure Coast. Ms. Buza reported that 2-1-1, in conjunction with the Senior Resource Association, now has a Sunshine Telephone Reassurance Program to check on seniors who live alone. Ms. Woodward presented a short video on the 2-1-1 helpline.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF JANUARY 14, 2014

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

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the minutes of the January 14, 2014 meeting, as written.

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

7.A. ADOPTION OF REVISED PURCHASING MANUAL

Noted for the record was the County Administrator's approval of the revised Purchasing Manual. No additional action was required or taken by the Board.

8. CONSENT AGENDA

8.A. APPROVAL OF WARRANTS – JANUARY 24, 2014 TO JANUARY 30, 2014

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller's Office for the time period of January 24, 2014 to January 30, 2014, as requested in the memorandum of January 30, 2014.

8.B. 2014/2015 BUDGET WORKSHOP / HEARING SCHEDULE

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board approved the Budget Workshop for Wednesday, July 16, 2014 and Thursday, July 17, 2014 (as needed) at 9:00 a.m.; and the Budget Hearing for Wednesday, September 10, 2014 and Wednesday, September 17, 2014, at 5:01 p.m. The tentative and final budget hearing dates are preliminary in nature; once the Indian River County School District sets the dates for their budget hearings, the County may need to change the dates to ensure they do not conflict; as stated and recommended in the memorandum of February 4, 2014

8.C. APPROVAL OF FIRST EXTENSION TO AGREEMENT FOR PROVIDING AUCTION SERVICES

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board: (1) approved the First Extension to the Agreement for Providing Auctions Services for Indian River County, with Associate Auctions, LLC; and (2) authorized the Chairman to execute same after the required certificate of insurance has been received and approved by Risk Management, as recommended in the memorandum of February 3, 2014.

8.D. APPROVAL TO AUTHORIZE PAYMENT FOR SHULMAN, ROGERS, GANDAL, PORDY, AND ECKER, P.A. FOR 800 MHZ REBANDING

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the Incumbent Acknowledgement and authorization that services identified on the invoice submitted by Schulman, Rogers, Gandal, Pordy, and Ecker, P.A., have been performed, as recommended in the memorandum of January 30, 2014.

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

8.E. FINAL PAY REQUEST SIEMENS JAIL FIRE ALARM

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the final pay request to Siemens Industry, Inc., in the amount of \$27,570.00 which will complete the contract, as recommended in the memorandum of January 30, 2014.

8.F. MARY RUTZ'S REQUEST FOR FINAL PLAT APPROVAL FOR A COMMERCIAL SUBDIVISION TO BE KNOWN AS RUTZ 27TH AVENUE SW RETAIL CENTER

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously granted final plat approval for the Rutz 27th Avenue SW Retail Center and authorized the Chairman to execute the final

plat, as recommended in the memorandum of February 3, 2014.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

9.A. JEFFREY R. SMITH, INDIAN RIVER COUNTY CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PRESENTATION OF COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) AWARD BY JEFFREY R. SMITH

Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller, announced that for the 30th consecutive year, the Government Finance Officers Association of the United States and Canada (GFOA) has awarded Indian River County with the Certificate of Achievement for Excellence in Financial Reporting for its CAFR for the fiscal year ended September 30, 2012. He elaborated on the CAFR's importance to taxpayers, and discussed its use by granting, rating, and government regulatory agencies. He thanked the Clerk's Finance staff, the County's Budget and Management Office, the County Administrator, and the Constitutional Officers for their work and support, and presented the award plaque to the Board.

County Administrator Joseph Baird commended Mr. Smith and his staff on their professionalism and excellent work.

9.B. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF
POTENTIAL PURCHASE AND FUNDING SOURCES FOR REPLACEMENT OF HIGH MILEAGE VEHICLES

Sheriff Deryl Loar addressed the Board with his proposal to purchase fifty-three vehicles at a total cost of \$1,514,762, as outlined in his report. He discussed the current condition of his fleet, revealing that over 68 patrol cars had to be towed last year, and stressed the critical

importance of having reliable transportation to respond to emergency situations. He noted that the 24 Dodge Chargers that were purchased in 2013 have served the County well, and asked the Board to consider a funding allocation to purchase replacements for the high mileage vehicles currently in the fleet.

Commissioner Flescher spoke to the importance of keeping the Sheriff's fleet primed for emergency situations.

Commissioner Solari acknowledged the need to replenish the Sheriff's fleet. However, he advised that he would not support more than \$750,000, until these types of capital expenditures are included in the Sheriff's annual budget request.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Solari, to approve funding in the amount of \$750,000 or 50% of the Sheriff's request of \$1,500,000, to fund the purchase of replacement vehicles for the Sheriff's fleet.

Discussion ensued between the Board and Sheriff Loar as to the most cost effective way to update the fleet, and whether the Sheriff would be able to supplement the \$750,000 to purchase the vehicles he requires at this time.

Sheriff Loar advised that he would be including a large amount of capital expenditures in his upcoming annual budget request; however, he did not at this time see surplus funds that could supplement the Board's allocation.

County Administrator Joseph Baird, in response to Chairman O'Bryan's query, advised that Optional Sales Tax would be the funding source for the vehicle purchases.

Further discussion ensued, after which Vice Chairman Davis suggested allocating \$800,000, rather than the suggested \$750,000, in an effort to revitalize the fleet, and then begin replacing 20% of the high mileage vehicles on an annual basis in a five-year rotation cycle.

Commissioner Flescher announced he would amend his Motion to reflect an allocation of \$800,000, and Commissioner Solari withdrew his second.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Vice Chairman Davis, to approve funding in the amount of \$800,000 for the purchase of replacement vehicles for the Sheriff's fleet; funding will be provided by the Optional Sales Tax fund.

Fred Luongo, 725 10th Court SW, commented on the importance of proper vehicle maintenance.

Commissioner Flescher confirmed that the Sheriff's office has its vehicles serviced every 3,000 miles.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner Solari opposed), the Amended Motion carried.

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS - NONE

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM GIFFORD ECONOMIC DEVELOPMENT COUNCIL REGARDING FOLLOW-UP

Reverend William Mosley, Acting Executive Director and Chairman of Gifford Economic Development Council, Inc. (“the Council”), continued with his January 7, 2014 appeal to the Board to work with the Council to revitalize the Gifford community. He presented the Commissioners with a petition (copy on file) from multiple Gifford residents, asking that the Council be involved in decisions affecting Gifford. He stated that thus far, the County and the other citizen groups from Gifford have not remediated the impoverished conditions in the community. Reverend Mosley noted that certain proposed initiatives to improve the community have not yet come to fruition, and that members of the Council are raising their own dollars to try to effect improvements in the community.

Commissioner Solari pointed out that new businesses in the Enterprise Zone, such as Oculina Bank and Girard Equipment, have brought some jobs to the community, and invited Mr. Mosley to meet with him for further discussions.

Reverend Mosley accepted Commissioner Solari’s invitation.

Wanda Scott, Gifford Marketing Firm and Mosley Family Grocery, LLC, addressed the Board with her request for the tax revenues paid by Gifford citizens to be put back into the heart of the community. She also told the Commissioners that when it comes to decisions involving Gifford, she does not want others speaking for her.

Chairman O’Bryan asked Commissioner Solari to report back to the Board after his meeting with Reverend Mosley.

No Board Action Required or Taken

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR MATTERS

11.A.1. RENEWAL OF EMPLOYMENT AGREEMENT

Administrator Baird announced that his employment agreement with the Board of County Commissioners expires on March 22, 2014, and that the proposed renewal agreement will be from March 23, 2014 through June 30, 2016. He noted that all terms remain the same, with the exception of the contract term, which has been reduced from three years to 27 months.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Zorc, to approve the renewal of the employment agreement between County Administrator Joseph A. Baird and the Indian River Board of County Commissioners, with a 27-month contract term, beginning March 23, 2014 and ending June 30, 2016, with no renewal options, as requested in the memorandum of February 5, 2014.

Charlie Wilson questioned why a contract was necessary since the County Administrator has declared his retirement date and no longer needs the protections that are put into a contract. He sought and received further details about the agreement, and voiced concerns about the provision that will allow the County Administrator to cash in accrued sick and vacation time upon his departure.

(Clerk's Note: At 10:30 a.m., the Chairman requested that discussion on this item be continued following the Attorney-Client Session and the recess that followed the Session; discussion resumed when the Board reconvened at 3:00 p.m.).

Mr. Wilson resumed his commentary on this item, reiterating his objections to the existence of the contract as well as the cash payout for sick/vacation leave. He suggested that the County Administrator be required to use his leave before the end of his term, so the County does not have to pay him those monies.

Joseph Paladin, President, Black Swan Consulting and Atlantic Coast Construction and Development, felt it would be in the County's best interests for the County Administrator to remain on duty through the end of his contract term, and commended him (Administrator Baird) on his stewardship of the County's resources.

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

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

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. SEWER FEASIBILITY STUDY FOR THE NORTH SEBASTIAN AREA - RESULTS

Director of Utilities Vincent Burke recalled the Board's approval on August 20, 2013 of a sewer feasibility study to investigate the possibility of installing a centralized sewer system in the North Sebastian area for the purpose of deterring septic tank seepage from entering the Indian River Lagoon. He gave a Prezi presentation (copy on file) to provide a description and analysis of the study area, and the three types of sewer collection systems: vacuum-based, low pressure, and gravity-based, which the consultant recommends as the preferred method. He stated that moving forward, staff will explore grants and funding mechanisms for people who want to connect to the sewer; present the study results to the City of Sebastian (the City) Council Members on February 12, 2014; and undertake public outreach and education.

Discussion followed as Director Burke addressed the Board's questions about possible grant sources; Florida Department of Environmental Protection (FDEP) permits; and the serviceable life of the engineering plans, once they have been designed.

Vice Chairman Davis mentioned that the County and City will have to work closely on the proposed sewer initiative, as the City itself does not have the capability to install it. He also stressed that if the project goes forward, he does not want it to be an assessment sewer project.

Chairman O'Bryan noted that at some point, it would be prudent for the County Administrator and the Management and Budget Director to evaluate potential funding sources for the project, should grants be unavailable.

Commissioner Zorc inquired about the possibility of the City having its own grant avenues, and Administrator Baird relayed that the City might be able to contribute funds from their Community Reinvestment Act (CRA).

Commissioner Solari sought and received confirmation from Director Burke that he would request a copy of Dr. Brian LaPointe's study on potential impacts to the Lagoon from septic systems.

Chairman O'Bryan affirmed that no formal Board action was required at this time, and suggested having a joint workshop meeting with the City after the Utility Director gives his presentation.

13. COUNTY ATTORNEY MATTERS

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

PELICAN ISLAND AUDUBON SOCIETY, DR. RICHARD BAKER, AND DR. DAVID COX V. INDIAN RIVER COUNTY AND ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, PENDING WITH THE STATE OF FLORIDA DIVISION OF ADMINISTRATIVE HEARINGS, DOAH CASE No. 13-3601

The Chairman read into the record the opening remarks of the Attorney-Client Session scheduled for 10:30 a.m. The estimated time of this session was 30 minutes. Those in attendance were Commissioners Peter D. O'Bryan, Wesley S. Davis, Joseph E. Flescher, Bob Solari, and Tim Zorc. Also present were Deputy County Attorney William K. DeBaal, County Administrator Joseph A. Baird, and Certified Court Reporter Greg Campbell.

(Clerk's note: the session lasted for 65 minutes, extending beyond the estimated time of 30 minutes).

The Board reconvened in the Chambers at 11:34 a.m., and the Chairman terminated the Attorney-Client Session and opened the regular Board meeting.

The Chairman called for a recess at 11:35 a.m. (due to other Board obligations), and reconvened the meeting at 3:00 p.m., with discussion resuming on Item 11.A. County Administrator Matters.

13.B. CITY OF VERO BEACH (“CITY”) WATER, WASTEWATER AND RECLAIMED WATER AGREEMENT

County Attorney Dylan Reingold provided background, conditions, and analysis regarding the County’s 1987 agreements with the City of Vero Beach (the City) granting it franchises to provide water and wastewater service to certain unincorporated areas of the County, including the south barrier islands. The franchises will expire in 2017, and pursuant to the Board’s direction in September 2013, a proposed water, wastewater, and reclaimed water renewal agreement was presented (on January 21, 2014) requesting that the City: (1) charge County rates; (2) drop the 10% surcharge; (3) split their equalization charge and the County’s franchise fee to 3% each; and (4) transfer the system to the County if County rates cannot be maintained. He disclosed that the City Council only agreed to the first two conditions, and in deference to the City’s preference, Attorney Reingold recommended that the Board model the renewal agreement after the water, wastewater, and reuse water franchise agreement between the City and the Town of Indian River Shores. Due to certain disagreements between the County and City, he advocated including “whereas” clauses affirming that the agreement does not waive either party’s stance as to who owns the utility facilities and the City’s alleged right to permanently serve the unincorporated areas.

Commissioner Zorc wondered whether the proposed agreement stipulates that any fees or charges other than the base rate must also conform to those charged by the County.

Attorney Reingold responded that there is language in the agreement, Section 6. Utility Rates and Fees, that states that all fees and charges established and imposed by Vero Beach shall correspond to such fees and charges imposed by the Indian River Department of Utilities.

Commissioner Solari applauded the County Attorney's presentation to the City, and felt that the proposed agreement with the "whereas" clauses will be fine. He did, however, want staff to discuss the proposed agreement with South Beach residents before the Board takes its final vote.

Vice Chairman Davis noted that the main consideration is to lock in the County's utility rates for those residents of the unincorporated County who currently pay City rates. He also commended the entire County Attorney's office on their work.

Chairman O'Bryan requested an additional "whereas" clause stating that regardless of who owns it, some of the utility equipment sits in County-owned right-of-way.

Following discussion on Chairman O'Bryan's suggestion to change the franchise term in the proposed agreement from 15 to 10 years, it was the Board consensus to leave the term at fifteen years.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, the Board unanimously directed the County Attorney to discuss with South Beach residents, the proposed water, wastewater, and reuse water franchise agreement with the City of Vero Beach (the City) before negotiating a franchise agreement with the City that is similar to the water, wastewater, and reuse water franchise agreement between the City and the Town of Indian River Shores, with the caveat that Indian River County's franchise agreement with the City should include "whereas" clauses: (1) that certain equipment is situated in County-owned right-of-way; and (2) that acknowledges that neither party is waiving its rights to their respective positions with regards to ownership of the utility facilities

and the City's alleged right to permanently serve the Unincorporated Areas; such a franchise agreement would bind the City to its commitments to our constituents and at the same time avoid protracted, expensive litigation between the two public entities.

In response to Chairman O'Bryan's request, Attorney Reingold confirmed that in addition to discussing the proposed franchise agreement, he would explain the County's rate structure to the South Beach residents. He also affirmed that he would return to the City Council for further negotiations on the proposed franchise.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER PETER D. O'BRYAN, CHAIRMAN - NONE

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

14.C. COMMISSIONER JOSEPH E. FLESCHER - NONE

14.D. COMMISSIONER BOB SOLARI

14.D.1. OSLO BOAT RAMP

Commissioner Solari observed that the County Commissioners have not had a thorough discussion on the Oslo Boat Ramp Project since April 2007, prior to his and Commissioner Zorc's tenure on the Board. He noted that some residents were concerned about possible impacts of the Project on the Indian River Lagoon, and asked whether his fellow Commissioners wanted to put the project in abeyance for three to five years.

MOTION WAS MADE by Commissioner Solari to table the Oslo Boat Ramp Project for a period of three to five years. MOTION DIED for lack of a second.

Commissioner Solari acknowledged that after hearing Attorney DeBaal's update and comments from the other Board Members at the shade session earlier today, he deemed that the Lagoon would be unharmed by the Project.

14.E. COMMISSIONER TIM ZORC

14.E.1. OPTIONAL ONE-CENT SALES TAX FUND

Commissioner Zorc said that he had noticed a number of front line emergency vehicles that had broken down and were being towed. He was concerned that 11 vehicles have to cover a large territory, and that although one new ambulance and one new fire engine have been ordered, there is a lag before the vehicles are delivered.

Emergency Services Director John King provided details on the current fire rescue fleet, affirming that some of the emergency vehicles are breaking down more often. He noted that ESD's capital expenditure program has fallen behind due to budget cuts, and conveyed the need to have a comprehensive capital replacement plan activated.

Commissioner Flescher affirmed that the "catch up" time for ESD's capital replacement program should be expedited.

Commissioner Solari suggested that staff report back on a proposed capital replacement program, with analysis on the One-Cent Optional Sales Tax; whether the ESD millage rate will remain the same; and whether the purchase of fire rescue vehicles can be staggered.

Administrator Baird confirmed that if the Board wishes, staff can allocate \$700,000 for the purchase of three replacement ambulances. He stated that on February 18, 2014, staff will return with an update and proposed replacement schedule for the Fire Rescue fleet.

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT - NONE

15.B. SOLID WASTE DISPOSAL DISTRICT

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

15.B.1. APPROVAL OF MINUTES MEETING OF DECEMBER 3, 2013

15.B.2. APPROVAL OF MINUTES MEETING OF DECEMBER 17, 2013

15.B.3. APPROVAL OF MINUTES MEETING OF JANUARY 7, 2014

15.B.4. REQUEST TO APPLY TO THE FLORIDA GREEN BUILDING COALITION (FGBC) FOR GREEN LOCAL GOVERNMENT RECERTIFICATION

15.B.5. FINAL PAY FOR CDM SMITH WORK ORDER NO. 7 – 2013 ANNUAL PERMIT COMPLIANCE MONITORING & REPORTING

15.B.6. WORK ORDER NO. 8 TO CDM SMITH, INC. FOR ENGINEERING SERVICES WITH THE 2014 ANNUAL PERMIT COMPLIANCE MONITORING AND REPORTING

**15.B.7. WORK ORDER No. 9 TO CDM SMITH, INC. FOR ENGINEERING
SERVICES WITH THE 2014 ANNUAL FINANCIAL REPORTS**

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 4:30 p.m.

ATTEST:

Jeffrey R. Smith, CPA, CGFO, CGMA
Clerk of Circuit Court and Comptroller

Peter D. O'Bryan, Chairman

By: _____
Deputy Clerk

Approved: 03/18/2014

BCC/MG/2014Minutes