

JEFFREY R. SMITH
Clerk to the Board



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BOARD OF COUNTY COMMISSIONERS

MARCH 4, 2014

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JEFFREY R. SMITH

Clerk to the Board



March 4, 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, March 4, 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.

2. INVOCATION

Reverend Steve Jones, Vero Christian Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

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

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman O'Bryan requested the following change to the Agenda:

**Add: Emergency Item 11.A. County Administrator Matters: House Bill 301 Regarding
Office of Medical Examiner**

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

5. PROCLAMATIONS AND PRESENTATIONS

**5.A. PRESENTATION AND CAMPAIGN UPDATE BY MICHAEL KINT, CEO,
UNITED WAY OF INDIAN RIVER COUNTY**

Michael Kint, CEO, United Way of Indian River County, disclosed the value of the donations made by County personnel, and thanked everyone for their support. He disclosed that further information about United Way or volunteering opportunities is available at 567-8900.

6. APPROVAL OF MINUTES - NONE

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

**7.A. FLORIDA PUBLIC SERVICE COMMISSION NOTICE OF
COMMERCIAL/INDUSTRIAL SERVICE RIDER HAS BEEN RECEIVED AND IS
AVAILABLE FOR REVIEW IN THE OFFICE OF THE CLERK TO THE BOARD**

7.B. 2014 ELECTION OF PLANNING AND ZONING COMMISSION (P&Z)
CHAIRMAN AND VICE CHAIRMAN

Noted for the record was the 2014 appointment to the Planning and Zoning Commission of Sam Zimmerman as Chairman, and Todd Brognano as Vice Chairman.

8. CONSENT AGENDA

Althea McKenzie requested to pull item 8.L. for discussion/comments.

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

8.A. APPROVAL OF WARRANTS – FEBRUARY 8, 2014 TO FEBRUARY 13, 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 February 8, 2014 to February 13, 2014, as requested in the memorandum of February 13, 2014.

8.B. APPROVAL OF WARRANTS – FEBRUARY 14, 2014 TO FEBRUARY 20, 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 February 14,

2014 to February 20, 2014, as requested in the memorandum of February 20, 2014.

8.C. CHANGE ORDER NO. 1 AND RELEASE OF RETAINAGE CR 512
RESURFACING (EAST BOUND) ROSELAND ROAD TO EASY STREET – IRC
PROJECT NO. 1132 FDOT SCOP FM NO. 427572-1-58-01

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved: (1) Change Order No. 1 to Ranger Construction Industries, Inc., decreasing the contract total to \$889,088.25; and (2) Ranger Construction Industries Inc. Pay Application No. 5 in the amount of \$44,454.41 for release of retainage, as recommended in the memorandum of January 16, 2014.

8.D. CHANGE ORDER NO. 2, FINAL PAYMENT AND RELEASE OF RETAINAGE
SOUTH COUNTY REGIONAL PARK MULTI-PURPOSE FIELDS – IRC
PROJECT NO. 1126 BID NO. 2013009

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved: (1) Change Order No. 2 to Barth Construction, Inc., decreasing the contract total to \$1,576,881.12; and (2) Barth Construction, Inc. Pay Application No. 11 in the amount of \$130,488.83 for final payment and release of retainage, as recommended in the memorandum of February 7, 2014.

**8.E. CLOSE-OUT AND FINAL PAYMENT OF WORK ORDER NO. PCM-2 FOR
SEDIMENT REMOVAL AT PC MAIN SCREENING FACILITY**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the final (prorated) payment of Work Order No. PCM-2 with EMC Divers, Inc., for \$6,780.02, as recommended in the memorandum of February 11, 2014.

**8.F. CONSULTANT SELECTION FOR REQUEST FOR QUALIFICATIONS (RFQ)
NO. 2014016 – PROFESSIONAL ARCHITECTURAL/ENGINEERING (A/E)
SERVICES FOR INDIAN RIVER COUNTY GO LINE BUS TRANSFER HUB
FACILITY – IRC PROJECT NO. 1330**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously: (1) approved the selection committee's final ranking: 1. Schulke, Bittle and Stoddard, LLC; 2. Bacon Group, Inc.; 3. Edlund, Dritenbas, Binkley Architects and Associates, PA; and 4. Masteller and Moler, Inc; and (2) authorized negotiations in accordance with Florida Statutes 287.055 (FS 287.055), Consultant's Competitive Negotiation Act, as recommended in the memorandum of February 21, 2014.

8.G. REQUEST FOR AUTHORIZATION TO ADVERTISE FOR A REQUEST FOR QUALIFICATIONS (RFQ) FOR HOUSING INSPECTION SERVICES

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously authorized the Community Development Director or his designee to coordinate with the Purchasing Division to make any formatting changes needed and to advertise for the Housing Program Inspection Services Request for Qualifications (RFQ), as recommended in the memorandum of February 24, 2014.

8.H. APPROVAL OF STATE OF FLORIDA REQUEST TO CHANGE A WORD IN THE FEDERALLY FUNDED 2013 COMMUNITY EMERGENCY RESPONSE TEAM (CERT) SUB-GRANT # 14-CI-K1-10-40-02-XXX

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously accepted and approved: (1) the change in wording requested by the State of Florida, Division of Emergency Management, substituting the word "SHALL" for the word "MAY" in Subsection 11 REMEDIES of the Federally Funded Community Emergency Response Team (CERT) grant contract that was approved by the Board of County Commissioners on January 7, 2014; and (2) a new signature page executed by the Chairman, as recommended in the memorandum of February 11, 2014.

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

8.I. FLORIDA INLAND NAVIGATION DISTRICT FY 2014 WATERWAYS ASSISTANCE PROGRAM AUTHORIZING RESOLUTION FOR THE OSLO BOAT RAMP IMPROVEMENTS

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution 2014-013**, Attachment E-6, Resolution for Assistance 2014 under the Florida Inland Navigation District Waterways Assistance Program.

8.J. SERENOA HOMEOWNERS ASSOCIATION, INC. REQUEST FOR RELEASE AND REPLACEMENT OF A CONSERVATION EASEMENT IN SERENOA SUBDIVISION IN ACCORDANCE WITH A RECENTLY APPROVED PRELIMINARY PLAT FOR SERENOA PHASES 2, 3, 4 AND 5

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously: (1) approved **Resolution 2014-014**, releasing Conservation Easement Tract C-5 in Serenoa Phase I Subdivision; and (2) accepted the proposed replacement conservation easement, and authorized staff to have the replacement easement and resolution recorded in the public records, as recommended in the memorandum of February 24, 2014.

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

8.K. FACILITY LEASE AGREEMENT WITH GIFFORD YOUTH LITTLE LEAGUE, INC.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the Facility Lease Agreement with Gifford Youth Little League, Inc., and authorized the Chairman to execute all documents necessary to complete the transaction, as recommended in the memorandum of February 25, 2014.

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

8.L. MISCELLANEOUS BUDGET AMENDMENT 007

Althea McKenzie wondered whether there was a Small County Outreach Program (SCOP) grant or other funding available to add curbing and other improvements to the 45th Street project.

Director of Public Works Chris Mora, with input from Commissioners O'Bryan and Davis, addressed Ms. McKenzie's question.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution 2014-015**, amending the Fiscal Year 2013-2014 budget.

8.M. FOURTH OF JULY FIREWORKS FUNDING – MISCELLANEOUS BUDGET
AMENDMENT 008

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved: (1) funding the fireworks displays for the Cities of Sebastian and Vero Beach in the amount of \$2,500 each; each of the cities (Vero Beach and Sebastian) will appropriate and pay an equal amount up to \$2,500 and the County will match that amount, up to \$2,500 each, after the City of Vero Beach and Sebastian pay their share; and (2) **Resolution 2014-016**, amending the Fiscal Year 2013-2014 budget.

8.N. CONSULTANT SELECTION FOR REQUEST FOR QUALIFICATIONS (RFQ)
No. 2014020 FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING
(A/E) SERVICES FOR INDIAN RIVER COUNTY ARCHIE SMITH FISH HOUSE
RESTORATION

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously: (1) approved the selection committee's final ranking: 1. ATELIER; 2. MBV Engineering, Inc.; 3. R.L. Reeger, Architect/Roof Consultant; and (2) authorized negotiations in accordance with Florida Statutes 287.055 (F.S. 287.055), Consultant's Competitive Negotiation Act, as recommended in the memorandum of February 21, 2014.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

9.A. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF: FORFEITURE TRUST FUND

Sheriff Deryl Loar explained that the Florida Contraband Forfeiture Act (F.S. 932.7055) requires the Sheriff's Office to return a certain percentage of seized monies to local non-profit organizations. He thereafter requested that the Board approve the disbursement of \$56,000 from the Law Enforcement Trust Fund to purchase equipment and support the programs and agencies listed in his letter to the Chairman dated February 24, 2014.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the allocation of \$56,000 from the Law Enforcement Trust Fund to purchase equipment and support the following programs and agencies: 1. \$30,000 to Executive Roundtable of Indian River County, Inc.; 2. \$2,000 to 2-1-1 Palm Beach/Treasure Coast Agency; 3. \$1,000 to Crime Stoppers of the Treasure Coast; 4. \$1,000 to A Child is Missing; 5. \$13,000 to Mental Health Collaborative; 6. \$1,000 to annual Florida Missing Children's Day ceremony; 7. \$2,000 to Homeless Family Center; 8. \$1,500 to Safe Space; and (9) \$4,500 to Narcotics Overdose Prevention & Education Task Force, Inc., as requested in the letter of February 24, 2014.

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS

10.A.1. WINDSOR PROPERTIES REQUEST FOR ABANDONMENT OF A PORTION OF SAVANNAH DRIVE WITHIN THE WINDSOR DEVELOPMENT (LEGISLATIVE)

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

Community Development Director Stan Boling used a PowerPoint presentation (copy on file) to provide description and conditions on Windsor Properties' request for the County to abandon a portion of ± 343 square feet of right-of-way for Savannah Drive within the Windsor Development. He presented staff's recommendation for the Board to abandon its rights to the subject right-of-way, and authorize the Chairman to execute the proposed abandonment resolution.

The Chairman opened the Public Hearing.

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

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution 2014-017**, providing for the closing, abandonment, vacation and discontinuance of 90' by 5' 343 sq. ft. sliver of Savannah Drive right-of-way that lies adjacent to a portion of Lot 1 and Tract A of Block 62 in the Windsor Plat 25 as shown in Plat Book 17, page 32 of the public records of Indian River County, Florida.

10.A.2. COUNTY INITIATED REQUEST TO REDESIGNATE ± 70 ACRES FROM C-2, CONSERVATION-2 (UP TO 1 UNIT/40 ACRES), AND L-2, LOW-DENSITY RESIDENTIAL-2 (UP TO 6 UNITS/ACRE), TO C-1, CONSERVATION-1 (ZERO DENSITY), AND REZONE THOSE ± 70 ACRES FROM RS-6 SINGLE-FAMILY RESIDENTIAL DISTRICT (UP TO 6 UNITS/ACRE), AND RS-1, SINGLE-FAMILY RESIDENTIAL DISTRICT (UP TO 1 UNIT/ACRE), TO CON-1, CONSERVATION-1 DISTRICT (ZERO DENSITY) (LEGISLATIVE AND QUASI-JUDICIAL)

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

The Commissioners, as requested by the Chairman, disclosed that there had been no ex parte communications, site visits, or independent investigations. They also affirmed that they have an open mind and are able to base their decisions on the evidence presented and the applicable law.

The County Attorney declared that Director Boling needed no swear-in to make his presentation.

Community Development Director Stan Boling, used a PowerPoint presentation (copy on file), to explain the County-initiated request to change the land use designation and zoning map of a ±70 acre property, the Oslo Riverfront Conservation Area (ORCA) Diamond Tract, acquired by the County in 2005. He stated that currently the land use designation is for residential and restricted development, and the proposal is to confine use of that area to conservation and passive recreational use. Director Boling reported that today is the final hearing and the last step in the Comprehensive Plan Amendment process. He presented the recommendations of both the

Planning and Zoning Commission and staff for Board approval of the proposed future land use amendment and rezoning by adopting the proposed Ordinances.

The Chairman opened the Public Hearing.

Bob Johnson, Coral Wind Subdivision, inquired whether the proposed change would interfere with the Oslo Boat Ramp improvements, and was advised that it would not.

Michael Weiss, 12th Place SE, voiced support for maintaining the conservation area and noted that a pair of breeding bald eagles nests there.

Althea McKenzie, 2405 16th Ave., asked for clarification on the Comprehensive Plan Amendment process. She also asked what the difference was between this item and the West Gifford rezoning that was discussed at the February 18, 2014 County Commission meeting.

The Board, with input from Attorney Reingold, explained that the main difference was that the applicant for a land use designation or zoning amendment must be the property owner.

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

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Solari, the Board unanimously adopted **Ordinance 2014-002**, amending the Future Land Use Map by changing the land use designation for approximately ±70 acres located at the east end of Oslo Road, south side, from C-2, Conservation-2 (up to 1 unit/40 acres), and L-2, Low Density Residential-2 (up to 6 units/acre) to C-1, Conservation-1 (0 Density); and providing codification, severability, and effective date.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Solari, the Board unanimously adopted **Ordinance 2014-003**, amending the Zoning Ordinance and Zoning Map for approximately ±70 acres located at the east end of Oslo Road, south side, from RS-6, Single Family Residential District (up to 6 units/acre) and RS-1, Single Family Residential District (up to 1 unit/acre), to Con-1, Conservation-1 District (0 units/acre); and providing codification, severability, and effective date.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM THOMAS L. GRUBER REGARDING HIGH SPEED RAILROAD

Thomas L. Gruber, 221 Park Shores Circle, read a prepared statement (copy on file) regarding the proposed Florida East Coast Industries' All Aboard Florida (AAF) high speed rail project that will connect the cities of Miami and Orlando. He reported that the Federal Railroad Administration (FRA) is generating a draft Environmental Impact Statement (EIS) on the AAF project, in order to comply with the National Environmental Protection Act (NEPA), and that Section 106 of the National Historic Preservation Act of 1966 (NHPA) will require an analysis of possible impacts on historic resources. Mr. Gruber suggested that the Board review the final EIS once it is posted online, and determine possible impacts and what mitigation strategies might be necessary for the County, such as adequate noise buffering, sufficient fencing, and the possibility of requesting a hornless system and a station stop on the Treasure Coast.

Vice Chairman Davis observed that the Metropolitan Planning Organization (MPO) is the best forum to address the AAF project. He also suggested that input be sought from the City of Vero Beach's High Speed Rail Advisory Committee.

Commissioner Zorc stated that he had provided staff a map of the thirty-two railroad crossings for review and analysis of crossing conditions, to see what mitigations might need to be made.

Commissioner Flescher noted that Rusty Roberts, Vice President of Corporate Development for Florida East Coast Railway, had formerly addressed the MPO and would be readdressing the agency in response to questions that had been raised at the meeting.

Chairman O'Bryan mentioned that he had heard that AAF might need to use a "sealed corridor" to facilitate the high speeds needed, and that the requirements for doing that would satisfy the noise mitigation. He thanked Mr. Gruber for sharing his knowledge and encouraged his participation in the MPO meetings.

No Board Action Required or Taken

**10.B.2. REQUEST TO SPEAK FROM GIFFORD ECONOMIC DEVELOPMENT
REGARDING FOLLOW-UP ON GIFFORD ISSUES**

Reverend William Mosley, Acting Executive Director and Chairman of Gifford Economic Development Council, Inc. (the Council), addressed the Board about economic inequality and poverty, with a focus on the Gifford, Wabasso, and Oslo Road areas. He requested that the Board help advance economic development by making the County's communication with core communities more effective, and by holding tutorials about the County's procurement policies, so residents know how to respond to the County's requests for bids on services and projects.

A lengthy discussion followed. Main topics were the Black Minority Business Fund loan; the procurement workshop that was sponsored by the Chamber of Commerce in February 2014; and the need for the County to disseminate information promptly, so residents can be apprised of meetings or job opportunities.

Commissioner Solari stated that in addition to normal channels of communication, the County would be happy to add Reverend Mosley to an email list if he would let them know his specific areas of interest.

Reverend Mosley provided to the Board, an outline of the Council's requests to the County (copy on file).

Chairman O'Bryan advised him that it would be best for the Board to receive the questions before the Board meetings.

Wanda Scott, 4306 26th Avenue, Gifford Marketing Firm and Mosley Family Grocery, LLC, offered to act as a conduit to disseminate information to the community. She spoke about the number of citizens who are living below the poverty level, and stressed that the Gifford/Wabasso/Oslo areas are in a state of crisis. Ms. Scott advised that if the Board cannot bring about the changes that are needed, the Black Lawyers Association for Justice would be brought in.

No Board Action Taken or Required

The Chairman called a recess at 10:37 a.m., and reconvened the meeting at 10:50 a.m., with all members present.

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR MATTERS

ADDITION: EMERGENCY ITEM 11.A. HOUSE BILL 301 REGARDING OFFICE OF MEDICAL EXAMINER

County Administrator Joseph Baird provided background on proposed House Bill 301, which states that district medical examiners may not charge a fee for cremations. He disclosed that the bill would create a \$232,500 deficit in the medical examiner's budget, which would have to be filled by the County, and asked the Board to oppose the bill.

Chairman O'Bryan confirmed that Administrator Baird also wanted to add this issue to the County's list of legislative priorities.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved **Resolution 2014-018**, urging the Florida Legislature to oppose and the Governor Rick Scott to veto if necessary House Bill 301 concerning medical examiner charges and fees; directing certified copies of this resolution to be provided to various officials; and (2) directed the County Attorney to instruct the County's lobbyist, Ballard Partners, to add this issue to the County's list of legislative priorities.

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. MEDTRONIC PHYSIO CONTROL CARDIAC MONITORS MISCELLANEOUS
BUDGET AMENDMENT 009**

Director of Management and Budget Jason Brown recalled the Board's direction on February 18, 2014, for staff to return with a recommendation on the purchase of four Medtronic Physio Control cardiac monitors/defibrillators. He relayed that the initial cost to replace four devices was going to be \$120,000; however, Emergency Services staff was able to utilize a trade-in credit for five old machines, and procure five new monitors for \$116,000. Director Brown relayed that staff recommends the purchase of the monitors for the current fiscal year, with the goal of replacing the remainder of the units over the next several years, as required.

Director of Emergency Services John King affirmed that staff is working on a replacement schedule to address the department's needs.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved: (1) **Resolution 2014-019**, amending the fiscal year 2013-2014 budget; and (2) the purchase of five (5) LP15 Medtronic Physio Control cardiac monitors for the Fire Rescue Division on a sole source basis and authorized

the trade-in of five (5) existing units, with Physio Control, Inc., as recommended in the memorandum of February 24, 2014.

12.H. RECREATION – NONE

12.I. PUBLIC WORKS

12.I.1 UPDATE – CANAL MONITORING DEVICES FOR NORTH, SOUTH, AND MAIN RELIEF CANALS TO MEASURE NITROGEN / NUTRIENT LOADS ENTERING INDIAN RIVER LAGOON KILROY SYSTEM

Director of Public Works Chris Mora, through a PowerPoint presentation, provided background, description, and analysis on the Kilroy water monitoring system that was developed by the Ocean Research and Conservation Association (ORCA) to monitor water quality. He recalled that subsequent to the Board’s approval in December 2012, ORCA had installed Kilroy monitors to monitor the amount of flow and nitrogen discharged into the Indian River Lagoon from the North, South, and Main Relief Canals. He revealed that the County had taken some “grab water samples” and that an inconsistency had been discovered as far as the flow and the dissolved nitrates between the Kilroy and the grab sample readings. Director Mora advised that ORCA has advised that adjustments can be made to obtain good data in the future.

Warren Falls, Managing Director, introduced the ORCA representatives who were in attendance: Edie Widder, CEO; George Jones, Special Projects Director; and Robin Dannahower, Vice President Marketing and Public Relations. Through a PowerPoint presentation, he explained that the inconsistencies mentioned by Director Mora were mainly due to silting, water clarity issues, and the bromide levels that were found in the canals. He described how ORCA will be able to reconstruct the algorithm of the equipment and start post-processing the data to bring the information back into line, and said ORCA will begin reporting

monthly to the County on the nitrogen load from each of the canals to the Lagoon. Mr. Falls thereafter addressed the Board's questions.

No Board Action Required or Taken

12.J. UTILITIES SERVICES - NONE

13. COUNTY ATTORNEY MATTERS

**13.A. DECLARATION OF FORMER COUNTY JAIL TOWER SITE AS SURPLUS
PROPERTY**

Deputy County Attorney William DeBraul provided background and description on a parcel of property located at 1725 17th Avenue (the former County jail site), that has been leased to two different entities, St. Francis Manor, and the Boys and Girls Club. He conveyed that the portion of property containing a tower with cellular equipment was excluded from those leases, and that although it was once used by the Emergency Services District (ESD) and other public safety agencies, they have no further need of it, and maintenance has become expensive. He added that there are existing easements that provide the lone tenant on the tower structure, Verizon Wireless (f/k/a PrimeCo Personal Communications LP), with access to the site. After providing further history and analysis, Attorney DeBraul asked whether the Board wished to declare the former tower site surplus, and arrange for its sale.

Discussion ensued as the Board sought and received further information about available access to the site, the revenue generated by the tower rental, whether minimum bids can be required on surplus property, and the cost of maintenance and repair for the tower.

Vice Chairman Davis felt that it would be more beneficial for the County to enter into a long-term lease for the site, rather than sell a piece of property encumbered by a County-owned

parcel. He suggested that the lease expiration be made consistent with that of the Boys and Girls Club, which was approved on August 12, 2008.

Further discussion ensued regarding possible rental prospects, the condition of the tower, and the County's current liability for same.

Administrator Baird stated that although there are currently some maintenance issues with the tower, it has not yet fallen into such disrepair that the County could declare it unfit for service and terminate the lease with Verizon.

Director of Emergency Services John King provided a history of the tower and concluded that it has reached the end of its life. He encouraged the Board to lease the site until a decision is made about the future of the site.

Vice Chairman Davis suggested that staff inform individuals who have had prior interest in tower sites, about the availability of the site for lease, and extract the County from this liability.

Attorney DeBaal pointed out that the lease must be put out for a public bid.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Commissioner Zorc, to issue a public bid seeking a tenant to enter into a lease agreement with the County for the tower site on the County's parcel at 1725 17th Avenue, with the lease term to expire in conjunction with the 50-year lease between the County and the Boys and Girls Club.

(Clerk's Note: During discussion, it was stated that the Boys and Girls Club lease was for thirty years; however, on August 12, 2008, Resolution 2008-113 was approved for a lease term of fifty years).

Vice Chairman Davis added that the lease should be fashioned so as to remove the County from the liability of the site.

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

13.B.CITY OF VERO BEACH ELECTRIC UTILITY – AUTHORIZATION TO TRAVEL TO TALLAHASSEE FOR LEGISLATIVE SESSION

County Attorney Dylan Reingold recalled the Board's direction on January 21, 2014 regarding Representative Debbie Mayfield's proposed local bill, House Bill 1289 (HB 1289), concerning jurisdictional issues related to the City of Vero Beach (the City) Electric Utility. At that meeting, the Board authorized the County Attorney to: (1) draft Resolution 2014-005 supporting said legislation; (2) draft a letter to Speaker of the House Will Weatherford requesting a hearing; and (3) work with the County's lobbyist consultant, Ballard Partners, on this issue. Attorney Reingold relayed that Ballard Partners thinks that a hearing could be quickly scheduled once House Bill 1289 is referred to a committee, and asked the Board to preauthorize travel so the Commissioners and staff may travel to Tallahassee on short notice.

Attorney Reingold, responding to Commissioner Zorc's inquiry, stated that he would see if Senator Negron has sponsored a companion Senate bill to HB 1289.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, the Board unanimously: (1) authorized travel for Commissioners and staff to attend any hearing that is scheduled by the chair of the referred

committee for House Bill 1289; and (2) approved for the County Attorney to proceed with the distribution of Resolution 2014-005 and the letter to Speaker Will Weatherford (both approved January 21, 2014).

Attorney Reingold noted that the proposed letter to Speaker Weatherford was to request that he hold hearings on HB 1289; however, Ballard Partners has advised that it will be more important to reach out to the referred committee chair to promote the hearings.

Commissioner Zorc disclosed that the Florida Municipal Power Agency (FMPA) was planning on going to Tallahassee to promote its views, and stressed the importance of County representatives being there as well.

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

13.C. RESOLUTION ELIMINATING RATE EQUALIZATION CHARGE IN NON-UNINCORPORATED AREAS OF INDIAN RIVER COUNTY

Attorney Reingold recalled that on February 18, 2014, the Board had voted four to one (Commissioner O'Bryan opposed), to eliminate the 6% equalization charge (surcharge) that was imposed through Resolution 1995-16, when the County took over the water and sewer utility system for the City of Sebastian (the City). He stated that he was returning today for the Board's consideration of a proposed Resolution to overturn the original resolution decision, and eliminate the charge effective October 1, 2014.

Discussion ensued, with input from County Administrator Baird and Management and Budget Director Jason Brown about the history of the surcharge; the bond issue that was used to help finance the utility services to Sebastian; and why the fee revenues were allocated to the General Fund.

Commissioner Solari mentioned that the City charges its customers a 10% franchise fee in addition to the County's surcharge.

A brief discussion followed, with input from County Administrator Baird, about the franchise fees that the County is allowed to impose.

(Clerk's Note: The 6% equalization fee is not a franchise fee).

Commissioners Davis, Flescher, Solari, and Zorc voiced support for the elimination of the 6% surcharge on City residents. They felt the charge was no longer defensible and that it poses an additional burden on the residents who must also pay the City's 10% franchise fee.

Chairman O'Bryan advocated maintaining the surcharge, in order to avoid creating a situation where some customers pay less than others for water. He stressed that the City's fee is a matter between the City and its customers, and that a lot of money is spent out of the General Fund for Sebastian residents.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Flescher for discussion, to approve **Resolution 2014-020**, eliminating the rate equalization charge of 6% for non-unincorporated area customers established per Resolution 95-16; and establishing an effective date for the elimination of the rate equalization charge.

Further debate ensued among the Commissioners on whether the equalization fee was still warranted and fair.

Chairman O'Bryan reiterated his support for maintaining the charge.

City of Fellsmere Manager Jason Nunemaker stated that utility taxes are an important part of diversifying a municipality's revenue base. He observed that in the future there may be a unified utilities system, and that the County might want to consider future franchise agreements with various municipalities.

Reverend Mosley declared that the 6% fee should be preserved for fairness to all of the County's utility rate payers.

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

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 - NONE

14.E. COMMISSIONER TIM ZORC - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT - NONE

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 12:12 p.m.

ATTEST:

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

Peter D. O'Bryan, Chairman

By: _____
Deputy Clerk

Approved: April 8, 2014

BCC/MG/2014Minutes