

JEFFREY R. SMITH
Clerk to the Board



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BOARD OF COUNTY COMMISSIONERS

MAY 13, 2014

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JEFFREY R. SMITH

Clerk to the Board



May 13, 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, May 13, 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

Deputy Teddy Floyd, Indian River County Sheriff’s Department, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman O’Bryan led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEM

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

Add: Emergency Item 14.D.2. The High Cost of an Unregulated Monopoly

Rescheduled: Item 10.B.1. Request to Speak from Jeff Meade, Save the Indian River Lagoon Estuary Now (STIRLEN) Regarding Indian River Lagoon Pilot Projects Rescheduled to May 20, 2014

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION HONORING MARGE GRUBER ON HER RETIREMENT FROM THE INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS OFFICE

Vice Chairman Davis read and presented the Proclamation to Marge Gruber, who was accompanied by elections office staff and Supervisor of Elections Leslie Swan.

5.B. PRESENTATION OF PROCLAMATION DESIGNATING MAY 16, 2014 AS INDIAN RIVER COUNTY'S BIKE TO WORK DAY

Commissioner Zorc read and presented the Proclamation to Sharon LaPointe and Larry Hershberger.

**5.C. PRESENTATION OF PROCLAMATION RECOGNIZING MAY 11 THROUGH
MAY 17, 2014 AS NATIONAL POLICE WEEK**

Chairman O'Bryan read and presented the Proclamation to Sheriff Deryl Loar; Florida Fish and Wildlife Conservation Captain Roe; Fellsmere Police Chief Keith Touchberry; Orchid Island Police Chief Phil Redstone; Victim Assistance Coordinator Shirley Roseman; Vero Beach Police Chief David Currey; Indian River Shores Police Chief Mike Jacobs; and Sebastian Police Chief Michelle Morris; the officers were accompanied by law enforcement staff.

**5.D. PRESENTATION OF PROCLAMATION RECOGNIZING MAY 12 – 16, 2014,
AS SMALL BUSINESS WEEK**

Commissioner Solari read and presented the Proclamation to Penny Chandler and Helene Caseltine, Indian River Chamber of Commerce; and Billy Chavers and Jeff Schlitt representing small businesses.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF APRIL 8, 2014

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 Flescher, the Board unanimously approved the minutes of the April 8, 2014 meeting as written.

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

7.A. RETIREMENT AWARD AND PROCLAMATION HONORING KENNETH S. ELLIS ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF GENERAL SERVICES/RECREATION DIVISION WITH TWELVE YEARS OF SERVICE

8. CONSENT AGENDA

8.A. APPROVAL OF WARRANTS – APRIL 25, 2014 TO MAY 1, 2014

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller's Office for the time period of April 25, 2014 to May 1, 2014, as requested in the memorandum of May 1, 2014.

8.B. QUARTERLY INVESTMENT REPORT FOR QUARTER ENDING 03/31/2014

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Indian River County Investment Advisory Committee Quarterly Investment Report for January 1, 2014 through March 31, 2014, as recommended in the memorandum of April 25, 2014.

8.C. QUARTERLY OPEB TRUST REPORT FOR QUARTER ENDING 03/31/2014

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the quarterly Other Post-Employment Benefits (OPEB)

Trust Report for six months ending March 31, 2014, as recommended in the memorandum of April 25, 2014.

8.D. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT INDIAN RIVER COUNTY TRAFFIC EDUCATION PROGRAM TRUST FUND FINANCIAL REPORT FOR PERIOD ENDING 3/31/14

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously accepted the Traffic Education Program Trust Fund Financial Report, as recommended in the memorandum of April 30, 2014.

8.E. RESOLUTION CANCELING TAXES ON PROPERTY ACQUIRED BY THE COUNTY FOR C.R. 510 RIGHT-OF-WAY

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2014-041**, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

(Purchased by Indian River County from 510 Industrial Park, Inc., Public Purpose: right-of-way for CR 510)

8.F. APPROVAL OF FY 2014-15 AND 2015-16 RADIOLOGICAL EMERGENCY PREPAREDNESS AGREEMENT (REP GRANT)

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved

and authorized the Chairman to execute the Fiscal Year 2014-2015 and Fiscal Year 2015-2016 Radiological Emergency Preparedness Agreement with Florida Power & Light (FPL), as recommended in the memorandum of April 28, 2014.

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

8.G. REQUEST FOR PURCHASE OF SODIUM HYPOCHLORITE TANKS FOR THE SOUTH COUNTY REVERSE OSMOSIS (RO) WATER PLANT

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved to waive the formal bid process and authorized the Purchasing Department to issue a Purchase Order to Ryan Herco Flow Solutions for \$52,889.46 for the replacement of two additional 5,500 gallon tanks for the South County Reverse Osmosis (RO) plant, as recommended in the memorandum of May 2, 2014.

8.H. F.D.O.T. TRANSPORTATION REGIONAL INCENTIVE PROGRAM (TRIP) AGREEMENT AMENDMENT NO. 2 AND RESOLUTION AUTHORIZING THE CHAIRMAN'S SIGNATURE IRC PROJECT NO. 0545B – 66TH AVENUE FROM SR-60 TO 41ST STREET FM#: 425883-1-58-01

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Resolution **2014-042** with the Florida Department of Transportation authorizing the Chairman's execution of

Amendment No. 2 to the Transportation Regional Incentive Program Agreement FM No. 425883-1-58-01 for construction (widening and reconstruction) along 66th Avenue from SR 60 to 41st Street.

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

8.I. OSPREY MARSH (F/K/A/PC SOUTH) STORMWATER PARK: APPROVAL OF A CONSTRUCTION CHANGE ORDER REQUIRED BY INDIAN RIVER FARMS WATER CONTROL DISTRICT

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously accepted and authorized the Chairman to execute Change Order No. 3 with Close Construction, LLC, as recommended in the memorandum of May 7, 2014.

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

8.J. HUD GRANT RENEWALS FOR HOMELESS MANAGEMENT INFORMATION SYSTEM (HMIS) AND CONTINUUM OF CARE (COC) PROGRAM

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) acknowledged the renewal of awards by the Federal Department of Housing and Urban Development (HUD) in the aggregate amount of \$725,881.00; (2) upon receipt of the original HUD agreements and with approval by the County Attorney, authorized the Board Chairman to execute same; 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 May 6, 2014.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

9.A. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF

APPLICATION FOR FY 2014 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FORMULA PROGRAM: LOCAL SOLICITATION

Sheriff Deryl Loar introduced Amber Grier, the new Grants Coordinator for the Indian River County Sheriff's Department.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Solari, the Board unanimously authorized the Indian River County Sheriff's Office to use the Fiscal Year 2014 Edward Byrne Memorial Justice Assistance Grant (JAG): Local Solicitation funds in the amount of \$24,877.00, to purchase needed information technology items listed as computer hardware, server software, and file storage server data, as requested in the memorandum of April 30, 2014.

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS

10.A.1. CONSIDERATION OF COUNTY-INITIATED LAND DEVELOPMENT

REGULATION (LDR) AMENDMENT TO CREATE SECTION 911.29,

SPECIAL OVERLAY REGULATIONS FOR THE WEST GIFFORD INDUSTRIAL

**AND COMMERCE (WGIC) AREA ON 163 ACRES OF PROPERTY IN WEST
GIFFORD ZONED IG (GENERAL INDUSTRIAL) (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 recalled the Board's direction on February 18, 2014 for staff to initiate the formal Land Development Regulation (LDR) amendment process to create the West Gifford Industrial and Commerce Area (WGIC). He used a PowerPoint Presentation (copy on file) to provide background, description, and analysis on the proposed special overlay regulations for the area, which will eliminate certain industrial uses and add others. He said that agreement has been reached on three uses that were concerning to Gifford residents, as follows: (1) Mulch Facility Uses must comply with specific criteria for fire protection and dust control; (2) Demolition Debris Facilities and Concrete Batch Plants will be Special Exception Uses subject to specific criteria and the public hearing process. Director Boling disclosed that new aesthetic upgrade requirements are proposed for junk yards fronting 45th Street to put in landscaping or a wall, and that the Planning & Zoning Commission (P&Z) has recommended that the Board adopt time-limited incentives to expedite the permitting process, provide reimbursement for wall-related permitting fees, and assist with construction costs. He thereafter asked the Board to proceed with the public hearing.

Commissioner Zorc spoke to the proposal for junk yard owners to construct an aesthetic eight-foot wall. He noted that there was a possibility of constructing some type of blended wall that would be less expensive.

Director Boling suggested amending the wording in the regulations to say "...the requirement to provide a wall or similar structure with aesthetic features or continuous vegetative screening..."

Further discussion ensued about the requirement to construct the aesthetic wall, how it will affect the existing junk yards, and P&Z's recommendation to assist the junk yard owners with funding to help with construction costs.

Chairman O'Bryan stated that if the Board approves to reimburse the business owners for permitting fees for the required walls, Mr. Scrap and other junk yard owners who have already paid fees to build a wall, should get an equal refund.

The Chairman opened the Public Hearing.

The following individuals spoke in **support** of staff's recommendation to create special WGIC overlay regulations:

Marcie Nolan, Becker & Poliakoff Law Firm

Joe Idlette, 4570 57th Avenue

Dan Lamson, 737 Timber Ridge Trail, representing the Indian River Neighborhood Association

Penny Chandler, Indian River County Chamber of Commerce

The following individuals spoke in **opposition** to staff's recommendation to create special WGIC overlay regulations:

Althea McKenzie, 2405 16th Avenue

William Mosley, Gifford Economic Development Council

Kathleen Jaskolski, 5211 Eleuthra Circle, requested that the Health Department conduct a study of the air quality in the West Gifford area.

The following individuals general comments:

Jeff Thompson, Seville Avenue

Leonard Kaczynski, Lakes at Sandridge

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

Chairman O'Bryan said that in accordance with Ms. Jaskolski's request, he would send a letter requesting that the Health Department undertake an air quality study of the current airborne contaminants in the West Gifford community.

Discussion ensued on the County's industrial Best Management Practices for the concrete batch and demolition debris plants.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Solari, the Board unanimously: (1) announced its intention to consider final adoption of the West Gifford Industrial and Commercial District (WGIC) overlay regulations at a final public hearing on Tuesday, June 3, 2014 at 5:01 p.m.; (2) directed staff to explore financing options for the owners of junk yards fronting 45th Street with the costs of coming into compliance with the proposed overlay regulations for the aesthetic upgrade requirement to construct a wall or similar structure, including a reimbursement of permit fees for junk yard owners who have already paid permit fees; and (3) authorized staff to expedite the administrative approval process for the subject proprietors.

The Chairman called a recess at 10:49 a.m., and reconvened the meeting at 11:04 a.m., with all members present.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. RESCHEDULED: REQUEST TO SPEAK FROM JEFF MEADE, SAVE THE INDIAN RIVER LAGOON ESTUARY NOW (STIRLEN) REGARDING INDIAN RIVER LAGOON PILOT PROJECTS

The Chairman relayed Mr. Meade's request to reschedule this item.

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT - NONE

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES - NONE

12.C.1. HUMAN SERVICES - NONE

12.C.2. SANDRIDGE GOLF CLUB - NONE

12.C.3. RECREATION - NONE

12.D. HUMAN RESOURCES - NONE

12.E. OFFICE OF MANAGEMENT AND BUDGET

12.E.1. MISCELLANEOUS BUDGET AMENDMENT 015

Chairman O'Bryan pointed out that there was one significant budget amendment of \$963,500 for some capital items for Road and Bridge.

Commissioner Zorc commented on the \$100,000 allocation in the amendment for legal expenses associated with hiring an attorney to assist with issues pertaining to the proposed sale of the City of Vero Beach electric utility to Florida Power and Light.

After further discussion, the Board asked staff to include a line item for the above-mentioned legal expenses in next year's budget, and to bring regular updates on additional expenditures to the County Commission meetings.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2014-043**, amending the Fiscal Year 2013-2014 budget.

12.F. PUBLIC WORKS - NONE

12.G. UTILITIES SERVICES - NONE

13. COUNTY ATTORNEY MATTERS

13.A. DIVISION OF EMERGENCY MANAGEMENT REQUEST FOR REIMBURSEMENT OF \$1,731,742.37 RELATING TO FEMA APPEAL

County Attorney Dylan Reingold provided background and the conditions of the request from the Florida Division of Emergency Management to reimburse \$1,731,742.37 that was disbursed by the State and by the Federal Emergency Management Agency (FEMA) for the

repair of the Rockridge sewer system after Hurricanes Jeanne and Frances. He relayed that FEMA decided to deobligate those funds in 2010, and although the County has filed an appeal, the State wants the County to reimburse them. Attorney Reingold thereafter explained his recommendations to pay back said funds by the June 27, 2014 date in the State's letter of request.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Commissioner Zorc, to authorize staff to remit to the State of Florida, a cash payment of \$1,731,742.37 in pennies, to satisfy the Florida Division of Emergency Management's request for reimbursement relating to the Federal Emergency Management Agency (FEMA)'s deobligation of Federal funding provided for the Rockridge Sewer Project.

A brief discussion ensued which led to an amendment to the Motion.

MOTION WAS AMENDED by Vice Chairman Davis, SECONDED by Commissioner Zorc, to authorize staff to remit a check payable to the State of Florida for \$1,731,742.00 and a cash payment of thirty-seven pennies (\$.37), for a total payment of \$1,731,742.37 to satisfy the Florida Division of Emergency Management's Request for reimbursement of \$1,731,742.37 relating to the Federal Emergency Management Agency (FEMA)'s deobligation of Federal funding provided for the Rockridge Sewer Project.

Prior to the vote, citizens **Althea McKenzie** and **Wanda Scott** commented.

Chairman O'Bryan asked the County Attorney to include a cover letter with the reimbursement, making it clear that the funds are not an indication of the County's position in the litigation, and that if the County wins its appeal, the State will return the funds expeditiously.

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

13.B. COUNTY ATTORNEY'S ANNUAL EMPLOYMENT AGREEMENT

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute the County Attorney Employment Agreement with Dylan T. Reingold, as recommended in the memorandum of May 2, 2014.

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

14. COMMISSIONERS MATTERS

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. ALL ABOARD FLORIDA (AAF)

Commissioner Solari reported that in response to All Aboard Florida's (AAF) request, the Federal Railroad Administration (FRA) has extended the comment period for the draft Environmental Impact Statement (EIS) from 45 days to 75 days, and increased the public forums they will be holding from six to eight days. He asked the Board to authorize him to ask the Treasure Coast Regional Planning Council (TCRPC) to reiterate its request to FRA to increase the public comment period to 90 days.

Discussion followed, as Chairman O'Bryan and Commissioner Solari commented on the FRA and AAF.

The Board CONSENSUS was to authorize Commissioner Solari to bring forward a request at the Treasure Coast Regional Planning Council (TCRPC) meeting on May 16, 2014, for the TCRPC to reiterate its request to the Federal Railroad Administration (FRA) to extend the public comment period for the draft Environmental Impact Statement (EIS) to 90 days.

14.D.2. THE HIGH COST OF AN UNREGULATED MONOPOLY

Commissioner Solari reported that a proviso was put into the State of Florida budget this year for the Auditor General to conduct an audit (independent of its regular audit) of the Florida Municipal Power Agency (FMPA). He suggested that the Board write a letter to the Auditor General and the Governor requesting that the true economic value of FMPA and member equity be addressed in the audit.

Chairman O'Bryan noted that the letter should include a request to the Governor to keep the \$200,000 appropriation for the audit in the budget.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Zorc, to: (1) direct the County Attorney to draft a letter to the Governor urging him to: (a) leave the \$200,000 of funding in the State budget for an audit of the Florida Municipal Power Agency (FMPA), and (b) ensure that FMPA's true economic value and member equity are addressed in said audit; (2) direct the County Attorney to draft a letter to the Auditor General requesting that he address the true economic value and member equity of FMPA in his audit; and (3) authorize the Chairman to execute the subject letters.

Further discussion ensued about what to include in the letter.

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

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

(Clerk's Note: Commissioner Zorc exited the meeting).

14.E. COMMISSIONER TIM ZORC - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT - NONE

15.B. SOLID WASTE DISPOSAL DISTRICT - NONE

The Board of the Emergency Services 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 APRIL 8, 2014

**15.B.2. 2014 MASTER PLAN UPDATE – SUMMARY OF TECHNICAL
MEMORANDUMS 1 THROUGH 3**

15.C. ENVIRONMENTAL CONTROL BOARD - NONE

ALL RESOLUTIONS AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD.

16. ADJOURNMENT

There being no further business, the Chairman declared the Board of County Commission meeting adjourned at 12:23 p.m.

ATTEST:

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

Peter D. O'Bryan, Chairman

By: _____
Deputy Clerk

Approved: June 17, 2-14

BCC/MG/2014Minutes