

JEFFREY R. SMITH  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

JANUARY 15, 2013

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**JEFFREY R. SMITH**

Clerk to the Board



**January 15, 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 15, 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 Maureen Gelfo.

**1. CALL TO ORDER**

Chairman Flescher 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**

Chairman Flescher led the Pledge of Allegiance to the Flag.

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

Chairman Flescher relayed that staff requested the following change to the Agenda:

**DELETE: ITEM 8.H. CONVEYANCE OF PERPETUAL EASEMENT TO FLORIDA DEPARTMENT OF  
TRANSPORTATION FOR NEW U.S. 1 SOUTH COUNTY BRIDGE**

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

**5. PROCLAMATIONS AND PRESENTATIONS**

**5.A. PRESENTATION OF PROCLAMATION DESIGNATING INDIAN RIVER COUNTY  
AS A PURPLE HEART COUNTY**

Chairman Flescher read and presented the Proclamation to Retired U.S. Air Force Colonel Martin Zickert, President of the Indian River County Veterans Council. Mr. Zickert acknowledged Brian Heady for his role in bringing the Purple Heart program into the County. Veterans Craig Waskow (Vietnam), Ronald Stevens (Korea), and James Redenour (Iraq) were also present to accept the proclamation.

**5.B. PRESENTATION ON THE INDIAN RIVER COUNTY ELECTRONICS  
RECYCLING EVENT ON SATURDAY, JANUARY 19<sup>TH</sup>, 2013, AT THE INDIAN  
RIVER COUNTY FAIRGROUNDS BY HIMANSHU MEHTA, MANAGING  
DIRECTOR, SOLID WASTE DISPOSAL DISTRICT**

Director of Utility Services Vincent Burke presented this item on behalf of the Solid Waste Disposal District's (SWDD's) Managing Director, Himanshu Mehta. He reported that Keep Indian River Beautiful (KIRB) and SWDD will be hosting the Annual Electronics Recycling Event at the County Fairgrounds on Saturday, January 19, 2013, from 9:00 a.m. to 3:00 p.m. (flier on file). AERC Recycling Solutions will be handling the recycling services as well as donating a refurbished laptop computer to the winning raffle ticket holder.

**6. APPROVAL OF MINUTES - NONE**

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

**7.A. CITY OF FELLSMERE COMMITTEE APPOINTEES FOR 2013**

Noted for the record were the 2013 Committee Appointees for the City of Fellsmere.

**8. CONSENT AGENDA**

**8.A. APPROVAL OF WARRANTS – DECEMBER 28, 2012 TO JANUARY 3, 2013**

ON MOTION by Commissioner O'Bryan, 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 December 28, 2012 to January 3, 2013, as requested in the memorandum of January 3, 2013.

**8.B. RENEWAL OF MICROSOFT ENTERPRISE AGREEMENTS**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved and authorized the Chairman to execute the Microsoft Enterprise Agreements with SHI International, as requested in the memorandum of January 8, 2013.

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

**8.C. CHILDREN'S SERVICES ADVISORY COMMITTEE'S ANNUAL REPORT, 2011-12**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously accepted the Children's Services Advisory Committee's Annual Report for 2011-2012 as submitted, as recommended in the memorandum of December 18, 2012.

**8.D. WORK ORDER NO. 1 WITH KELLER, SCHLEICHER & MACWILLIAM (KSM) ENGINEERING AND TESTING, SOUTH COUNTY REGIONAL PARK MULTI-PURPOSE FIELDS, IRC PROJECT NO. 1126**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, unanimously approved and authorized the Chairman to execute Work Order No. 1 to Keller, Schleicher & MacWilliam Engineering and Testing, Inc. (KSM), authorizing the professional services outlined in the Scope of Services (Exhibit A), for a not-to-



exceed amount of \$17,985.00, as recommended in the memorandum of January 2, 2013.

**8.E. APPROVAL OF RENEWAL OF THE 800 MHZ COMMUNICATIONS SYSTEM INFRASTRUCTURE MAINTENANCE CONTRACT WITH COMMUNICATIONS INTERNATIONAL, INC.**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the renewal of the 800 MHz Communications System Master Service Agreement with Communications International, Inc., as recommended in the memorandum of December 20, 2012.

**8.F. MODIFICATION OF EMERGENCY MANAGEMENT FEDERALLY-FUNDED SUBGRANT AGREEMENT 13-FG-86-10-40-01-098**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved and authorized the Chairman to execute the Modification of the Federally Funded Subgrant Agreement (13-FG-86-10-40-01-098) between Indian River County Emergency Management and the State of Florida, Division of Emergency Management, as recommended in the memorandum of January 7, 2013.

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

**8.G. ACCEPTANCE OF THE STATE HOMELAND SECURITY GRANT PROGRAM –  
EMERGENCY MANAGEMENT SUBGRANT AGREEMENT 13-DS-97-08-39-  
01-XXX**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the State Homeland Security Grant and the expenditures as directed in the Federally Funded Subgrant Agreement (13-DS-97-08-39-01-XXX), and authorized the Chairman to execute this agreement between Indian River County Emergency Management and the State of Florida, Division of Emergency Management, as recommended in the memorandum of January 7, 2013.

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

**8.H. DELETED: CONVEYANCE OF PERPETUAL EASEMENT TO FLORIDA  
DEPARTMENT OF TRANSPORTATION FOR NEW U.S. 1 SOUTH COUNTY  
BRIDGE**

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

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARING - NONE**

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM JOSE LAMBIET REGARDING GUN SHOWS AT  
THE FAIRGROUNDS**

**Jose Lambiet**, 1430 Treasure Cove Lane, asked the Board to stop allowing gun shows at the Indian River County Fairgrounds, which he noted was public land. He was concerned that guns were being sold without the proper background checks, and said that the potential exists for violence if the guns end up in the wrong hands. He also suggested that the Sheriff place undercover agents at the shows to ensure that every transaction is legal.

Chairman Flescher supported the gun shows. He affirmed that they have been conducted in a safe manner with no incidents.

Vice Chairman Davis declared that the gun shows are an appropriate use of the Fairground facilities.

Commissioner Zorc referenced a 13-year court case to point out that there is significant court litigation in favor of the promoters who want to have gun shows at public facilities.

The Chairman invited public comments.

**Renee Renzi**, Waverly Place, voiced opposition to the gun shows, and to the type of culture that she believes they promote.

Commissioner Solari supported the right of law abiding citizens to attend the gun shows.

**Frederick L. Lipfert**, 2536 1<sup>st</sup> Street, was concerned about the opportunities for illegal gun purchases at the perimeter of the Fairgrounds, and asked the Board to provide a security presence in that area.

Chairman Flescher responded that fairground events are conducted in a safe and orderly fashion. He affirmed that the safety and security of the public is of utmost importance, and that the Sheriff's Office provides security.

**Larry Graham**, District 4, read a prepared statement supporting the continuation of the gun shows at the Fairgrounds. He asked the Board not to deny citizens access to one of America's founding principles - freedom.

**Eva York**, 716 19<sup>th</sup> Place SW, defended the right of citizens to possess firearms. She explained that her gun provides her with a means of defense, and stressed that the problems with gun violence arise from unstable persons.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved to continue allowing gun shows at the Indian River County Fairgrounds.

**10.B.2. 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**, 2451 N. Seacrest Blvd., Boynton Beach, recalled that on October 2, 2012, the Board authorized staff to delay the demolition of his property at 4380 38<sup>th</sup> Avenue, the site of the old Greenleaf Bar, in order to give him 90 days to explore the feasibility of implementing his plans to reopen the structure as a restaurant/lounge. He explained that since the establishment was closed for over one year, its grandfather status as a commercial use in a residential zone was lost and due to zoning issues, the County will not issue the permits necessary for him to repair the building.

Planning Director Stan Boling, through a PowerPoint presentation (copy on file), provided background and a zoning map of the subject site. He reported that the surrounding area is zoned Residential Multiple Family Unit up to 10 units an acre (RM-10), except for one business (Stew Que), which has been historically zoned Limited Commercial (CL). He related that all the evidence shows that the subject site has not been used in over one year, the grandfathering is gone, and the use of the site for commercial is at a dead end. Director Boling added that aside from the structure itself, there are site-related nonconformities, and Mr. Smith has asked staff to waive the nonconformity Land Development Regulations (LDRs). Director Boling recommended that no changes be made to the nonconformity LDRs, and affirmed that any redevelopment of the structure would have to fall under the RM-10 zoning.

Vice Chairman Davis believed that the subject property was too damaged to be brought back up to code.

**Mr. Smith** stressed that he would have no problem making the repairs, but he has been unable to proceed because the building has lost its commercial zoning. He urged the Board to give him the opportunity to make the improvements.

Chairman Flescher reminded Mr. Smith that he had already been given additional time to see what avenues he could explore. He believed that the structure was more severely damaged than Mr. Smith has assessed.

Building Official José Guanch described the extent of the deterioration, revealing that staff is concerned about the structural integrity of the entire building. He emphasized that it would take a lot of work to get the building back on track.

Commissioner Solari pointed out that the building has lost its grandfather clause because it was abandoned for a long time; thus, that is no longer the issue. He declared that the problem is that the type of land use proposed by Mr. Smith is not permitted in the RM-10 zoning.

Commissioner Zorc added that it would be a staggering and costly task to bring the subject building into compliance with the current Florida Building Code.

Commissioner O'Bryan alluded to the commercial node across from the subject site, and asked whether Mr. Smith could apply for a land use change and rezoning.

Community Development Director Bob Keating explained that the parcel across from the former Greenleaf consists of one parcel that was zoned commercial many years ago, and that Mr. Smith would be unable to request such a change under the current Comprehensive Plan policies.

No Board Action Required or Taken

**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.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. DELAY RECLAIMED WATER RATE INCREASE BY ONE YEAR**

ON MOTION by Commissioner Solari, SECONDED by Commissioner O'Bryan, the Board unanimously approved **Resolution 2013-004**, amending the Department of Utility Services' Schedule of Water and Sewer Rates, Fees and Other Charges, by amending the start date of various increases to the reclaimed water rate.

**13. COUNTY ATTORNEY MATTERS**

**13.A. REQUEST FOR ADVICE AND CLOSED ATTORNEY-CLIENT SESSION  
RELATING TO FVP MIAMI LAKES V. INDIAN RIVER COUNTY**

Attorney Polackwich requested that the Board schedule a closed attorney-client session at 10:30 a.m. on February 5, 2013 for the purpose of considering FVP Miami Lakes' settlement offer to the County.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously scheduled a closed attorney-client session at 10:30 a.m. on February 5, 2013, to consider the settlement offer made by

FVP Miami Lakes, as recommended in the memorandum of January 7, 2013.

**13.B. PURCHASE OF OVERLAPPING PROPERTY ON REGATTA DRIVE FROM THE ESTATE OF DANIEL KELLY**

Deputy County Attorney William DeBaal reported that a segment of road was dedicated as a public street by the developer during construction of the Moorings Subdivision, Unit 2, and that road overlaps 0.012 acres of a .71 acre parcel of property owned by the Estate of Daniel Kelly. He explained that the Kelly Estate has a prospective buyer for the lot, but the public roadway clouds the title. He reviewed three actions that the Board could take relative to this situation, and presented staff's recommendation for the County to purchase the 0.012 acre parcel of property for \$1,000.00 and eliminate the overlap.

Commissioner O'Bryan opined that the purchase price was excessive for such a small parcel.

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Davis, by a 4-1 vote (Commissioner O'Bryan opposed), the Board approved the purchase of the overlapping 0.012 acres from the Kelly Estate for \$1,000, in order to clear title to the property and allow the pending sale to close, as recommended in the memorandum of January 8, 2013.



**13.C. PURCHASE OF PROPERTY FOR RIGHT-OF-WAY OVERLAPPING ON LAND  
OWNED BY PATRICK SHAWN FREE**

Deputy County Attorney William DeBraal reported that in conjunction with construction of a new bridge over the South Relief Canal, the County had improved a portion of Old Dixie Highway and mistakenly encroached upon 0.128 acres of a 5.59 acre parcel owned by Patrick Shawn Free. He stated that subsequent to negotiations with Mr. Free's attorney, staff's recommendation was for the Board to purchase the overlapped property for the all-inclusive amount of \$26,000. He added that as an additional consideration for the encroachment, the County has installed a driveway onto Mr. Free's property.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the Agreement to Purchase and Sell Real Estate with Patrick Shawn Free, in the amount of \$26,000, as recommended in the memorandum of January 9, 2013.

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

#### **15.B.1. WORK ORDER NO. 6 TO CDM SMITH, INC. FOR ENGINEERING SERVICES WITH THE 2013 ANNUAL FINANCIAL REPORTS**

#### **15.B.2. FINAL PAY TO WORK ORDER NO. 2 TO CDM SMITH, INC. FOR ENGINEERING SERVICES WITH THE 2012 ANNUAL PERMIT COMPLIANCE MONITORING AND REPORTING**

#### **15.B.3. WORK ORDER NO. 7 TO CDM SMITH, INC. FOR ENGINEERING SERVICES WITH THE 2013 ANNUAL PERMIT COMPLIANCE MONITORING AND REPORTING**

**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 10:36 a.m.

ATTEST:

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

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

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

BCC/MG/2013Minutes