

JEFFREY R. SMITH  
Clerk to the Board



## INDEX TO MINUTES OF REGULAR MEETING

### BOARD OF COUNTY COMMISSIONERS

MARCH 5, 2013

1.	CALL TO ORDER.....	1
2.	INVOCATION .....	1
3.	PLEDGE OF ALLEGIANCE .....	1
4.	ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS .....	2
	DELETION: 8.E. APPROVAL OF LICENSE AGREEMENT WITH VAN ERT, NEMOTO AND ASSOCIATES, LLC TO PERFORM RESEARCH AND ASSIST THE COUNTY IN VARIOUS STORMWATER TREATMENT RELATED EFFORTS AT EGRET MARSH STORMWATER PARK.....	2
	ADDITION: 13.I. EMERGENCY ITEM – RESULTS OF WATER/SEWER SURVEY .....	2
	TABLED: 14.D.1. PRESENTATION BY HELENE CASELTINE TO MARCH 12, 2013 BCC MEETING .....	2
5.	PROCLAMATIONS AND PRESENTATIONS - NONE .....	2
6.	APPROVAL OF MINUTES .....	2
6.A.	MEETING OF JANUARY 15, 2013 .....	2
6.B.	MEETING OF JANUARY 22, 2013 .....	2

7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION.....	3
7.A.	RESIGNATION OF ALBERT TETREAU TO THE VERO LAKE ESTATES MUNICIPAL SERVICE TAXING UNIT ADVISORY COMMITTEE (VLE MSTU AC) .....	3
7.B.	APPOINTMENT OF FACA REPRESENTATIVE TO THE TRANSPORTATION DISADVANTAGED LOCAL COORDINATING BOARD .....	3
8.	CONSENT AGENDA .....	3
8.A.	APPROVAL OF WARRANTS – FEBRUARY 8, 2013 TO FEBRUARY 14, 2013 .....	4
8.B.	APPROVAL OF WARRANTS – FEBRUARY 15, 2013 TO FEBRUARY 21, 2013 .....	4
8.C.	PROCLAMATION AND RETIREMENT AWARD HONORING TERRY L. SMITH ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF PUBLIC WORKS WITH SIXTEEN YEARS SERVICE .....	4
8.D.	RELEASE OF RETAINAGE FOR WORK ORDER NO. 23 WITH BRIDGE DESIGN ASSOCIATES, INC. FOR BRIDGE CONSTRUCTION PHASE SERVICES FOR OSLO ROAD BRIDGE OVER 43 <sup>RD</sup> AVENUE DITCH, INDIAN RIVER COUNTY PROJECT NO. 0533.....	5
8.E.	DELETED: APPROVAL OF LICENSE AGREEMENT WITH VAN ERT, NEMOTO AND ASSOCIATES, LLC TO PERFORM RESEARCH AND ASSIST THE COUNTY IN VARIOUS STORMWATER TREATMENT RELATED EFFORTS AT EGRET MARSH STORMWATER PARK.....	5
8.F.	FORMER CATTLE DIP SITE – GEOSYNTEC CONSULTANTS, INC., WORK ORDER # 6 – SITE ASSESSMENT .....	5
8.G.	FLORIDA INLAND NAVIGATION DISTRICT FY 2013 WATERWAYS ASSISTANCE PROGRAM AUTHORIZING RESOLUTION FOR THE OSLO BOAT RAMP IMPROVEMENTS .....	6
8.H.	APPROVAL OF LICENSE AGREEMENT FOR NEW RESIDENT SHERIFF’S DEPUTY AT DONALD MACDONALD PARK .....	7
8.I.	RENEWAL AND AMENDMENT OF AGREEMENT FOR FOOD CONCESSION SERVICES AT SANDRIDGE GOLF CLUB .....	7
8.J.	FOURTH OF JULY FIREWORKS FUNDING – MISCELLANEOUS BUDGET AMENDMENT 007.....	8
8.K.	MISCELLANEOUS BUDGET AMENDMENT 008.....	8

9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES .....	8
9.A.1.	INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS – LESLIE ROSSWAY SWAN - LEGISLATIVE MANDATE, ACCESSIBLE VOTING EQUIPMENT, F.S. 101.56075 .....	8
10.	PUBLIC ITEMS .....	9
10.A.	PUBLIC HEARING(S) - NONE .....	9
10.B.	PUBLIC DISCUSSION ITEMS - NONE .....	9
10.C.	PUBLIC NOTICE ITEMS - NONE .....	9
11.	COUNTY ADMINISTRATOR MATTERS - NONE.....	9
12.	DEPARTMENTAL MATTERS .....	9
12.A.	COMMUNITY DEVELOPMENT .....	9
12.A.1.	REQUEST TO APPROVE A PREFERRED VENDOR CONTRACT WITH CLEAR VILLAGE, INC. FOR A BUILDING DIVISION E-PERMITTING SYSTEM.....	9
12.B.	EMERGENCY SERVICES - NONE.....	11
12.C.	GENERAL SERVICES - NONE .....	11
12.D.	HUMAN RESOURCES - NONE.....	11
12.E.	HUMAN SERVICES - NONE .....	11
12.F.	LEISURE SERVICES - NONE.....	11
12.G.	OFFICE OF MANAGEMENT AND BUDGET - NONE.....	11
12.H.	RECREATION - NONE.....	11
12.I.	PUBLIC WORKS - NONE.....	11
12.J.	UTILITIES SERVICES.....	11
12.J.1.	FINAL PAY TO L3 COMMUNICATIONS OF LARGO FL FOR IRC BID NO. 2012044 TO SOUTH RO PLANT WONDERWARE SOFTWARE UPGRADE .....	11
12.J.2.	WORK ORDER NO. 6 WITH MBV ENGINEERING FOR ROOF REPLACEMENTS .....	12
13.	COUNTY ATTORNEY MATTERS.....	12
13.A.	STIPULATED ORDER FOR EXPERT WITNESS FEES FOR MARY CHARLENE BROWN PARCELS 107A, 107B, 107C AND 404 .....	12
13.B.	SETTLEMENT AGREEMENT FOR APPRAISAL FEES FOR WILLIAM AND RUTH STANBRIDGE PARCELS .....	13

13.C.	NECESSITY OF TAKE RESOLUTION FOR PARCEL OF PROPERTY LOCATED AT 6420 49 <sup>TH</sup> STREET, PARCEL 163 AND ACCOMPANYING TEMPORARY CONSTRUCTION EASEMENT .....	14
13.D.	UNCONDITIONAL OFFER FOR PARCEL 108 ON 66 <sup>TH</sup> AVENUE OWNED BY THE ESTATE OF EARL HOBBS, JR., 6420 49 <sup>TH</sup> STREET, VERO BEACH .....	15
13.E.	REQUEST FOR ADVICE/CLOSED ATTORNEY-CLIENT SESSION - MENSING V. INDIAN RIVER COUNTY, CIRCUIT COURT, INDIAN RIVER COUNTY CASE # 31 2010 CA 005009 AND MENSING V. INDIAN RIVER COUNTY, ET AL, CIRCUIT COURT, INDIAN RIVER COUNTY CASE # 31 2012 CA 000976 .....	15
13.F.	OVERVIEW OF PACE PROGRAM.....	16
13.G.	VERO BEACH SPORTS VILLAGE – LEASE UPDATE.....	17
13.H.	HIRING PROCESS – NEW COUNTY ATTORNEY.....	21
13.I.	ADDITION: EMERGENCY ITEM - RESULTS OF WATER/SEWER SURVEY .....	21
14.	COMMISSIONER ITEMS.....	22
14.A.	COMMISSIONER JOSEPH E. FLESCHER, CHAIRMAN - NONE.....	22
14.B.	COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN .....	22
14.B.1.	FOXWOOD – 66 <sup>TH</sup> AND 26 <sup>TH</sup> IN CENTRAL COUNTY .....	22
14.B.2.	CONSTITUTIONAL AMENDMENT #11 – HOMESTEAD EXEMPTION FOR ELDERLY .....	23
14.C.	COMMISSIONER PETER D. O’BRYAN - NONE .....	24
14.D.	COMMISSIONER BOB SOLARI.....	24
14.D.1.	TABLED: PRESENTATION BY HELENE CASELTINE, CENTRE FOR THE EVOLUTION OF CULTURAL DIVERSITY (CECD), DIRECTOR OF ECONOMIC DEVELOPMENT, INDIAN RIVER COUNTY CHAMBER OF COMMERCE, ENTERPRISE ZONE LEGISLATION SUMMARIES.....	24
14.D.2.	SHOUT OUT IN SUPPORT OF ELECTRIC REFERENDUM.....	24
14.E.	COMMISSIONER TIM ZORC .....	24
14.E.1.	2013 NATIONAL CONFERENCE ON BEACH PRESERVATION TECHNOLOGY.....	24
14.E.2.	GO-LINE BUS HUB .....	25
15.	SPECIAL DISTRICTS AND BOARDS .....	25
15.A.	EMERGENCY SERVICES DISTRICT - NONE.....	25
15.B.	SOLID WASTE DISPOSAL DISTRICT - NONE .....	25
15.C.	ENVIRONMENTAL CONTROL BOARD - NONE.....	25

16. ADJOURNMENT.....26

**JEFFREY R. SMITH**

Clerk to the Board



**March 5, 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, March 5, 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 Leona Adair Allen.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Vice Chairman Davis 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**

Chairman Flescher requested the following change(s) to the Agenda:

**Deletion: 8.E. Approval of License Agreement with Van Ert, Nemoto and Associates, LLC to Perform Research and Assist the County in Various Stormwater Treatment Related Efforts at Egret Marsh Stormwater Park**

**Addition: 13.I. Emergency Item – Results of Water/Sewer Survey**

**Tabled: 14.D.1. Presentation by Helene Caseltine to March 12, 2013 BCC meeting**

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

**5. PROCLAMATIONS AND PRESENTATIONS - NONE**

**6. APPROVAL OF MINUTES**

**6.A. MEETING OF JANUARY 15, 2013**

**6.B. MEETING OF JANUARY 22, 2013**

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

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the minutes of the January 15, 2013, and January 22, 2013 meetings, as written.

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

**7.A. RESIGNATION OF ALBERT TETREULT TO THE VERO LAKE ESTATES  
MUNICIPAL SERVICE TAXING UNIT ADVISORY COMMITTEE (VLE MSTU  
AC)**

Noted for the record was the resignation of Al Tetreault, who tendered his resignation, effective immediately, from the Vero Lake Estates Municipal Service Taxing Unit Advisory Committee.

**7.B. APPOINTMENT OF FACCA REPRESENTATIVE TO THE TRANSPORTATION  
DISADVANTAGED LOCAL COORDINATING BOARD**

Noted for the record was the appointment of Leonard Edwards, as the Florida Association Community Action (FACA) representative, effective immediately, from the Transportation Disadvantaged Local Coordinating Board.

**8. CONSENT AGENDA**

Commissioner O'Bryan requested to pull Item 8.F. from the Consent Agenda for discussion.

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



**8.A. APPROVAL OF WARRANTS – FEBRUARY 8, 2013 TO FEBRUARY 14, 2013**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller's Office, for the time period of February 8, 2013 to February 14, 2013, as requested in the memorandum of February 14, 2013.

**8.B. APPROVAL OF WARRANTS – FEBRUARY 15, 2013 TO FEBRUARY 21, 2013**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller's Office, for the time period of February 15, 2013 to February 21, 2013, as requested in the memorandum of February 21, 2013.

**8.C. PROCLAMATION AND RETIREMENT AWARD HONORING TERRY L. SMITH  
ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY  
COMMISSIONERS DEPARTMENT OF PUBLIC WORKS WITH SIXTEEN YEARS  
SERVICE**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the Proclamation and Retirement Award honoring Terry L. Smith on his retirement from the Department of Public Works.

**8.D. RELEASE OF RETAINAGE FOR WORK ORDER NO. 23 WITH BRIDGE DESIGN ASSOCIATES, INC. FOR BRIDGE CONSTRUCTION PHASE SERVICES FOR OSLO ROAD BRIDGE OVER 43<sup>RD</sup> AVENUE DITCH, INDIAN RIVER COUNTY PROJECT NO. 0533**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved payment to Bridge Design Associates, Inc., Invoice No. 08-505/R2, dated November 6, 2012, in the amount of \$790.28 for release of retainage, as recommended in the memorandum of February 19, 2013.

**8.E. DELETED: APPROVAL OF LICENSE AGREEMENT WITH VAN ERT, NEMOTO AND ASSOCIATES, LLC TO PERFORM RESEARCH AND ASSIST THE COUNTY IN VARIOUS STORMWATER TREATMENT RELATED EFFORTS AT EGRET MARSH STORMWATER PARK**

**8.F. FORMER CATTLE DIP SITE – GEOSYNTEC CONSULTANTS, INC., WORK ORDER # 6 – SITE ASSESSMENT**

Commissioner O'Bryan requested staff to provide an update on the monitoring of the former cattle dip site, located on the south side of SR 510, near the Disney Vero Beach Resort. He wanted to know if there would ever be an end to the monitoring, and whether the County would ever be able to use the site.

Public Works Director Chris Mora explained that the State had directed the County to continue monitoring the site due to arsenic, heavy metals, and other chemicals detected underground from the former cattle dip operation; and he conveyed that an underground plume of water containing pollutants was recently discovered. He said new wells had to be drilled

further away from the original site, and to date, a clean bill of health has not been received, meaning there is no set date to stop monitoring.

Discussion ensued relative to the monitoring process and the costs associated with it, adjoining parcels that could be adding to the water plume, remediation, and whether the County could receive a Brownfield designation.

Deputy County Attorney William DeBraul revealed that the County has been voluntarily cooperating with the Department of Environmental Protection (DEP), and if the County would cease participation, DEP could issue a Consent Order insisting on monitoring and reporting.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved Work Order No. 6, authorizing the services in the Scope of Services, and authorized the Chairman to execute same on their behalf, as recommended in the memorandum of February 5, 2013.

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

**8.G. FLORIDA INLAND NAVIGATION DISTRICT FY 2013 WATERWAYS ASSISTANCE PROGRAM AUTHORIZING RESOLUTION FOR THE OSLO BOAT RAMP IMPROVEMENTS**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-014**, Attachment E-6, Resolution for Assistance 2013 under the Florida Inland Navigation District Waterways Assistance Program.

**8.H. APPROVAL OF LICENSE AGREEMENT FOR NEW RESIDENT SHERIFF'S  
DEPUTY AT DONALD MACDONALD PARK**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the License Agreement with the new tenant, Bryan Klassen, at Donald MacDonald Park, and authorized the Chairman to execute same, as recommended in the memorandum of February 15, 2013.

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

**8.I. RENEWAL AND AMENDMENT OF AGREEMENT FOR FOOD CONCESSION  
SERVICES AT SANDRIDGE GOLF CLUB**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the Renewal and Amendment Agreement with Peggy Cardell and Associates, Inc., for food concession services at Sandridge Golf Club, as recommended in the memorandum of February 18, 2013.

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

**8.J. FOURTH OF JULY FIREWORKS FUNDING – MISCELLANEOUS BUDGET  
AMENDMENT 007**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-015**, amending the fiscal year 2012-2013 budget.

**8.K. MISCELLANEOUS BUDGET AMENDMENT 008**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-016**, amending the fiscal year 2012-2013 budget.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL  
AGENCIES**

**9.A.1. INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS – LESLIE ROSSWAY  
SWAN - LEGISLATIVE MANDATE, ACCESSIBLE VOTING EQUIPMENT, F.S.  
101.56075**

Supervisor of Elections Leslie Rossway Swan, using a PowerPoint presentation (on file), informed the Board that the Florida Legislature recently mandated counties to have a voting system that complies with Florida Statute 101.56075 by the year 2016. The mandate gives individuals with disabilities the opportunity to vote unassisted, utilizing a voting unit that would be equipped with an audio/tactile interface so the disabled voter's selections can be marked on a paper ballot. After highlighting concerns and providing alternatives, she listed possible funding sources/options to help offset some of the costs (about \$1.4 million) for the new system.

A lengthy discussion ensued as the Supervisor of Elections addressed the Board's questions relating to this requirement, the upgrades, estimated cost, and warranty.

Administrator Joseph Baird did not want to commit to funding at this time, he believed it was too premature to evaluate the funding for this mandate in the budget.

NO ACTION REQUIRED OR TAKEN

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARING(S) - NONE**

**10.B. PUBLIC DISCUSSION ITEMS - NONE**

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

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT**

**12.A.1. REQUEST TO APPROVE A PREFERRED VENDOR CONTRACT WITH CLEAR VILLAGE, INC. FOR A BUILDING DIVISION E-PERMITTING SYSTEM**

Community Development Director Robert Keating summarized his memorandum dated February 22, 2013, explaining the e-Permitting system, and how it would enhance efficiency by allowing applicants to submit their building permit applications, digital plan sets, and electronic payments through the internet to the Building Division office. He informed the Board that staff had contracted with Clear Village, Inc. (CVI) to develop the tablet application, and since they

have become familiar with the County's existing system, and it has been working well, they requested that the bid process be waived and CVI be chosen as the preferred vendor for the e-Permitting System.

Building Division Director José Guanch and Director Keating addressed questions and concerns from the Board regarding the specifics of the acquisition, transitioning to an electronic environment, the transparency of the system, and loading the owner's address into the system for status and update notification.

**David Loeb**, Clear Village, Inc. representative, said his company participated in the signing of the "open for business initiative," and his software supports the tenants in the initiative.

ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously: (1) found the selection of Clear Village, Inc. to be the preferred vendor for the Building Division's E-Permitting System and in the best interest of the County; (2) waived the bid process for the e-Permitting project; (3) selected Clear Village, Inc. as the preferred vendor; and (4) authorized the Chairman to execute the Master Agreement for software licenses and professional services between Clear Village Inc. and Indian River County, after receipt and approval of the required Certificate of Insurance and after the County Attorney has approved the agreement as to form and legal sufficiency, all as recommended in the memorandum of February 22, 2013.

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

**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. FINAL PAY TO L3 COMMUNICATIONS OF LARGO FL FOR IRC BID NO.  
2012044 TO SOUTH RO PLANT WONDERWARE SOFTWARE UPGRADE**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved Final Pay to L-3 Communications Security and Detection Systems, Inc., Largo, Florida, in the amount of \$34,750.00, and authorized the Chairman to execute same, as presented; inclusive of the final payment total amount paid to L-3 Communications will be \$126,750.00, as recommended in the memorandum of February 18, 2013.



**12.J.2. WORK ORDER NO. 6 WITH MBV ENGINEERING FOR ROOF**

**REPLACEMENTS**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved Work Order No. 6 with MBV Engineering, Inc. with tasks outlined in the Scope of Services, and authorized the Chairman to execute same for the amount of \$26,500, as recommended in the memorandum of February 22, 2013.

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

**13. COUNTY ATTORNEY MATTERS**

**13.A. STIPULATED ORDER FOR EXPERT WITNESS FEES FOR MARY CHARLENE**

**BROWN PARCELS 107A, 107B, 107C AND 404**

Deputy County Attorney William DeBraul provided background on the four adjoining lots that would be impacted by the 66<sup>th</sup> Avenue improvement projects located on the west side of 66<sup>th</sup> Avenue north of 49<sup>th</sup> Street; the Mediated Settlement Agreement; and associated costs. He thereafter recommended the Board approve the proposed *Stipulated Order Awarding Defendant, Charlene B. Brown, Experts' Costs & Supplemental Attorneys' Fees* of \$103,126.00.

The Board voiced concerns over the cost of the expert witness fees.

Commissioner O'Bryan did not feel the costs associated with the fees were reasonable and preferred taking this to court.

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Davis, to approve staff's recommendation.

Attorney DeBraal addressed Board concerns regarding Ms. Brown's compensation, the litigation, and putting a stop to the cost factors involved with the eminent domain process.

Attorney Polackwich explained the factors, alternatives, and challenges of taking an eminent domain case to court.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner O'Bryan opposed), the Motion carried. The Board approved the Stipulated Order Awarding Defendant, Charlene B. Brown, Experts' Costs and Supplemental Attorneys' Fees, in the amount of \$103,126, as recommended in the memorandum of February 27, 2013.

**13.B. SETTLEMENT AGREEMENT FOR APPRAISAL FEES FOR WILLIAM AND RUTH STANBRIDGE PARCELS**

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Davis, to approve staff's recommendation.

The Board reiterated the same concerns as in Item 13.A. above, relating to expert witness fees.

Discussion ensued regarding the acquisition of right-of-way for the CR 510/US1 project, the County and homeowner(s) agreeing upon a price before taking it to litigation, and the possibility of implementing a different process or formula to save the County money when using the eminent domain process.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner O'Bryan opposed), the Motion carried. The Board approved the Settlement Agreement for Appraisal Fees for the William and Ruth Stanbridge parcels, as recommended in the memorandum of February 27, 2013.

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

**13.C. NECESSITY OF TAKE RESOLUTION FOR PARCEL OF PROPERTY LOCATED AT 6420 49<sup>TH</sup> STREET, PARCEL 163 AND ACCOMPANYING TEMPORARY CONSTRUCTION EASEMENT**

*(Clerk's Note: Items 13.C. and 13.D. were discussed conjointly, but the motions were separate).*

Attorney DeBraul provided specifics regarding the property acquisitions from the Earl A. Hobbs, Jr. Estate, for the needed right-of-way associated with the 66<sup>th</sup> Avenue expansion project.

Discussion ensued regarding the remaining acreage after the take, putting more money in the homeowners' pockets than the expert witnesses', and making the offer on the property acquisition better than what Mr. Hobbs rejected in 2008.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution 2013-017**, declaring a reasonable necessity to acquire certain real property for the purposes of providing and reconstructing 66<sup>th</sup> Avenue, including side street, intersection, sidewalk and water retention pond

improvements; authorizing the County Attorney to acquire the attached properties by the institution of proceedings in eminent domain, and providing an effective date.

**13.D. UNCONDITIONAL OFFER FOR PARCEL 108 ON 66<sup>TH</sup> AVENUE OWNED BY THE ESTATE OF EARL HOBBS, JR., 6420 49<sup>TH</sup> STREET, VERO BEACH**

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, to approve the unconditional offer to the Earl A. Hobbs, Jr. Estate, for Parcel 108, in the amount of \$100,000, which includes \$2,750 for the site improvements, and \$1,000 for the Temporary Construction Easement.

Discussion ensued among the Board and staff regarding the 2008 offer to Mr. Hobbs, the recent appraisal, historical property acquisitions, and the fees involved if this were taken to court.

Commissioner Solari felt \$100,000 was too high, and suggested offering \$90,000.

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

**13.E. REQUEST FOR ADVICE/CLOSED ATTORNEY-CLIENT SESSION - MENSING V. INDIAN RIVER COUNTY, CIRCUIT COURT, INDIAN RIVER COUNTY CASE # 31 2010 CA 005009 AND MENSING V. INDIAN RIVER COUNTY, ET AL, CIRCUIT COURT, INDIAN RIVER COUNTY CASE # 31 2012 CA 000976**

Attorney Polackwich reported that Frederick Mensing had filed two cases against the County and they are currently pending. He sought advice from the Board relating to settlement

negotiations and strategy relating to litigation expenditures; and requested authorization to schedule a closed Attorney-Client Session for March 12, 2013 at 10:30 a.m.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously authorized staff to schedule an Attorney-Client Session, pursuant to FS 286.011(8), to be held on March 12, 2013, at 10:30 a.m., in the Commissioners Conference Room, County Administration Complex – Building A, 1801 27<sup>th</sup> Street, Vero Beach, FL, as recommended in the memorandum of February 26, 2013.

### **13.F. OVERVIEW OF PACE PROGRAM**

Attorney Polackwich provided an overview of the Property Assessed Clean Energy (PACE) programs and documents, as requested during the December 11, 2012 Board of County Commission meeting. He asked the Commissioners to determine if there is an interest in bringing the PACE program(s) into the County, and if so, to consider inviting representatives from the three Florida PACE programs (Florida Pace Funding Agency [FPFA], Clean Energy Green Corridor, and Florida Green Energy Works) to make presentations before making a decision.

Board members made brief comments.

Attorney Polackwich suggested the Board wait and observe the actions of Fannie Mae and Freddie Mac before making a decision.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Solari, the Board unanimously decided to take no action at this time.

### **13.G. VERO BEACH SPORTS VILLAGE – LEASE UPDATE**

Attorney Polackwich provided background on the Facility Lease Agreement for the Vero Beach Sports Village (F/K/A Dodgertown), between the County and Verotown, LLC, and revealed that according to the lease terms, the tenant was required to deliver a written notice of renewal no later than October 31, 2012, but never did; and on February 5, 2013, staff received a written notice stating that they would not exercise their option to renew the lease at the end of the 5-year term. He said the current lease expires on April 30, 2014, but he wanted to bring this forward in a public meeting for discussion due to three renewal issues that recently emerged: capital expenses, casualty insurance premiums, and liquidation damages (should they leave early).

Administrator Baird reviewed recent discussions and negotiations, summarized their specific requests, and asked for the Board's direction in moving forward.

**Craig Callan**, Vice President, Vero Beach Sports Village, provided a brief history, and explained why Peter O'Malley, former Los Angeles Dodgers owner, and the Verotown, LLC partners wanted to enter into a new agreement, not re-negotiate the existing 5-year lease agreement. He said they are not exercising the option in the existing lease to renew; disclosed that they have been working with staff for over six months to enter into a new long-term lease agreement after the existing lease expires; and reported that Mr. O'Malley is willing to re-invest the profits back into the facility.

A lengthy discussion ensued regarding the existing lease, cost of maintaining the facility, room renovations, the capital reserve account, the liquidated damages clause, operation expenses, the Request for Proposal (RFP) process, and tourist tax dollars.

Commissioner O'Bryan voiced concern over the concept of putting the profits back into the facility, committing additional dollars, and the negotiation of a new 5-year agreement in lieu of signing the existing lease. He believed the room renovations should go out to bid, and the liquidated damages provision should remain.

Attorney Polackwich explained what the liability of Verotown, LLC would be, if the lease is breached.

Administrator Baird acknowledged that staff had reviewed their financials, wanted this brought forward for discussion so he would know what the Board wants to do, and emphasized that the liquidated damages provision is the deal breaker to the renewal.

MOTION WAS MADE by Vice Chairman Davis,  
SECONDED by Commissioner Solari, to remove the  
liquidated damages provision in the next five-year term.

Attorney Polackwich explained the language in the lease pertaining to the County's remedy of liquidated damages.

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

Discussion ensued regarding the insurance on the facility and having the funds come from the General Fund.

MOTION WAS MADE by Vice Chairman Davis,  
SECONDED by Commissioner Zorc, to have the County  
pay for property insurance on the Vero Beach Sports  
Village facility.

**Danny DeLisle** advocated that he wanted the County's partnership with Peter O'Malley to be successful, and if not, suggested the County sell the facility.

**Scott Dipietro**, Hampton Inn and Suites, wanted the Board to make the necessary improvements, keep the Vero Beach Sports Village growing, and support the partnership.

**Rich Povitch** believed this would be a business opportunity that could bring people into the County throughout the year, not just during the season.

**J. Burklew**, Burklew Real Estate, felt that instead of putting band-aids on the old buildings, a hotel should be considered. He suggested the Board consider a longer term plan for profitability.

The Chairman CALLED THE QUESTION, and by a 2-3 vote (Commissioners Flescher, O'Bryan, and Solari opposed), the Motion FAILED.

Attorney Polackwich noted that the existing lease calls for the County to match the tenant's contribution of \$50,000 per year, after May 1, 2014.

Discussion ensued relative to capital repairs and maintenance of the facility.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Chairman Flescher, to place \$250,000 into the capital improvements.

A brief discussion ensued regarding capital improvement items.



The Chairman CALLED THE QUESTION, and by a 2-3 vote (Commissioners O'Bryan, Solari, and Zorc opposed), the Motion FAILED.

Commissioner O'Bryan suggested that if Verotown, LLC contributes \$50,000, the County will increase their contribution to \$150,000.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Chairman Flescher, that the County would contribute \$150,000 to the Renewal and Replacement Fund, provided that Verotown, LLC contributes \$50,000 annually.

**Danny DeLisle** asked about the expenses involved in maintaining the facility.

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

A lengthy discussion/debate ensued regarding room renovations and the cost involved in doing so. The Board voiced hesitation in contributing to the renovations until it is certain that Verotown, LLC will stay another five years.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, to spend \$600,000 to renovate the remaining rooms under acceptance of the conditions voted today, and providing that Verotown, LLC will return to the Board in 30 days acknowledging acceptance of the terms for a 5-year lease.

Board comments followed the motion.

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

*The Chairman called for a break at 1:54 p.m., and reconvened the meeting at 2:07 p.m.,  
with all members present.*

### **13.H. HIRING PROCESS – NEW COUNTY ATTORNEY**

Attorney Polackwich reviewed the hiring process schedule, proposed advertisements, and the proposed website posting (in the Agenda Packet); and thereafter asked the Board to make a decision on a salary range for the new position.

ON MOTION by Commissioner Solari, SECONDED by  
Vice Chairman Davis, the Board unanimously approved  
the salary range of \$125,000 to \$150,000.

### **13.I. ADDITION: EMERGENCY ITEM - RESULTS OF WATER/SEWER SURVEY**

Attorney Polackwich reviewed his memorandum dated March 4, 2013, regarding the County's survey of owners located in the unincorporated County but receiving water/sewer service from the City of Vero Beach, and reported that 73.8% of those returning a survey form voted in favor of County service.

MOTION WAS MADE by Commissioner Solari,  
SECONDED by Vice Chairman Davis, to direct Attorney  
Polackwich to formulate a letter specifying the details of  
the survey and sending it to our Legislative Delegation.

Attorney Polackwich pointed out that the specifics in the Agenda Packet were the verbal results that were reported to him, and the signed certification was received this morning.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

#### **14. COMMISSIONER ITEMS**

##### **14.A. COMMISSIONER JOSEPH E. FLESCHER, CHAIRMAN - NONE**

##### **14.B. COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN**

##### **14.B.1. FOXWOOD – 66<sup>TH</sup> AND 26<sup>TH</sup> IN CENTRAL COUNTY**

Vice Chairman Davis discussed the policy regarding the Amnesty Program for the Utilities Department, which waived certain penalties and interest fees on properties that have been taken by new ownership. He asked the Board to consider allowing/implementing the program for forgiveness of penalties and delinquent utility bills and the ability to execute abatement.

Discussion ensued between the Board and staff regarding the standard amnesty period, the consideration of making the timeframe longer so major corporations have more time to react, and notifying the top 14 corporations of the change.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, to direct staff to draft another Ordinance with a similar amnesty window but extending the time period to four months, beginning one month after the passing of the Ordinance.

**J. Burklew**, Burklew Real Estate, explained his dilemma regarding the execution of an abatement, and wanted to see a long-term policy.

Director of Utility Services Vincent Burke voiced concern that if some of the penalties are written off, staff would have no mechanism to keep the accounts current, and the penalties might start to accrue again.

Commissioner Solari believed this would be a self-correcting mechanism.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

**14.B.2. CONSTITUTIONAL AMENDMENT #11 – HOMESTEAD EXEMPTION FOR ELDERLY**

Vice Chairman Davis requested fellow Commissioners to consider directing Attorney Polackwich to implement Constitutional Amendment No. 11, Homestead Exemption for Elderly, for seniors with exemptions of at least 25 years, where the value is less than \$250,000 for both Countywide and for the Municipal Service Taxing Unit (MSTU).

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Chairman Flescher, to direct the County Attorney to return to the Board with a plan to implement Constitutional Amendment No. 11 – Homestead Exemption for Elderly.

Commissioners O'Bryan and Solari did not support the exemption, they did not want to favor one group over another.

Management and Budget Director Jason Brown clarified that this exemption applies to seniors with an income of \$27,000 or \$28,000, who have been living in their homes for 25+ years,

The Chairman CALLED THE QUESTION, and by a 3-2 vote (Commissioners Solari and O'Bryan opposed), the Motion carried.

**14.C. COMMISSIONER PETER D. O'BRYAN - NONE**

**14.D. COMMISSIONER BOB SOLARI**

**14.D.1. Tabled: PRESENTATION BY HELENE CASELTINE, CENTRE FOR THE EVOLUTION OF CULTURAL DIVERSITY (CECD), DIRECTOR OF ECONOMIC DEVELOPMENT, INDIAN RIVER COUNTY CHAMBER OF COMMERCE, ENTERPRISE ZONE LEGISLATION SUMMARIES**

This item tabled to the Board of County Commission meeting of March 12, 2013.

**14.D.2. SHOUT OUT IN SUPPORT OF ELECTRIC REFERENDUM**

Commissioner Solari encouraged voters to go to the polls on March 12, 2013, and if they feel strongly about the sale of the electric utility to Florida Power and Light to vote "yes."

**14.E. COMMISSIONER TIM ZORC**

**14.E.1. 2013 NATIONAL CONFERENCE ON BEACH PRESERVATION TECHNOLOGY**

Commissioner Zorc provided the Board with an update from the 2013 National Conference on Beach Preservation Technology, held in Jacksonville, from February 13 through 15, 2013.

**14.E.2. GO-LINE BUS HUB**

Commissioner Zorc conveyed that he would go to the next City Council meeting and ask that someone from the Council assist in proposing a suitable site and hub configuration for the Go-Line Bus.

Discussion ensued regarding the search for an alternative site, the zoning, and accommodating citizens.

**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 meeting adjourned at 2:43 p.m.

ATTEST:

\_\_\_\_\_  
Jeffrey R. Smith, Clerk  
Clerk of Circuit Court and Comptroller

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

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

BCC/LA/2013Minutes