

JEFFREY R. SMITH
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

APRIL 2, 2013

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JEFFREY R. SMITH

Clerk to the Board



April 2, 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 27th Street, Vero Beach, Florida, on Tuesday, April 2, 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

Vice Chairman Davis delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Solari led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

- NONE

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION AND RETIREMENT AWARD TO KENNETH CHATAM ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS' DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE WITH THIRTY-TWO YEARS OF SERVICE

Chairman Flescher read and presented the Proclamation and Retirement Award to Kenneth Chatam, retiring from the County's Emergency Services/Fire Rescue Division.

Director of Emergency Services Director John King commended Mr. Chatam on his service to the community.

5.B. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF APRIL, 2013, AS CHILD ABUSE PREVENTION MONTH

Vice Chairman Davis read and presented the Proclamation to Exchange Club of Indian River President Aaron Bowles and President-Elect Jenny Frederick, to District Exchange Club President Diana Walker and Immediate Past President Eric Menger, and various club members who were in attendance.

**5.C. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 9, 2013 AS
INDIAN RIVER GENEALOGICAL SOCIETY DAY**

Commissioner Solari read and presented the Proclamation to the Indian River Genealogical Society President Bob Satola; Vice President Sharon Robertson; Board Member Joy Eakin, and one other Society member (*name undisclosed*).

**5.D. PRESENTATION OF PROCLAMATION FOR GENERAL AVIATION
APPRECIATION MONTH**

Commissioner O'Bryan read and presented the Proclamation to Jackie Carlon, Marketing Director Piper Aircraft; and Eric Menger, Airport Director Vero Beach Municipal Airport.

6. APPROVAL OF MINUTES

6.A. MEETING OF FEBRUARY 5, 2013 SPECIAL CALL LDR AMENDMENTS

6.B. REGULAR MEETING OF FEBRUARY 12, 2013

6.C. REGULAR MEETING OF FEBRUARY 19, 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 Commissioner O'Bryan, the Board unanimously approved the minutes of the February 5, 2013 Special Call meeting – LDR Amendments; the February 12, 2013 meeting; and the February 19, 2013 meeting, as written.

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

**7.A. APPOINTMENT OF DEPARTMENT OF CHILDREN AND FAMILIES
REPRESENTATIVE TO THE CHILDREN'S SERVICES ADVISORY
COMMITTEE (CSAC)**

Noted for the record was the appointment of Robert (Bob) McPartlan to fill the Circuit 19 Community Development Administrator position previously held by Cheri Sheffer.

8. CONSENT AGENDA

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

Commissioner Solari requested to pull Item 8.L. 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 MARCH 8, 2013 TO MARCH 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 March 8, 2013 to March 14, 2013, as requested in the memorandum of March 14, 2013.

8.B. APPROVAL OF WARRANTS MARCH 15, 2013 TO MARCH 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 March 15, 2013 to March 21, 2013, as requested in the memorandum of March 21, 2013.

8.C. OUT OF COUNTY TRAVEL TO ATTEND THE 2013 FLORIDA ASSOCIATION OF COUNTIES ANNUAL CONFERENCE AND EDUCATIONAL EXPOSITION

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved out of County travel for Commissioners and staff to attend the 2013 Florida Association of Counties Annual Conference and Educational Exposition in Tampa, Florida on June 25 through June 28, 2013, as requested in the memorandum of March 20, 2013.

8.D. AUTHORIZATION TO ATTEND FLORIDA GOVERNMENT FINANCE OFFICERS ASSOCIATION (FGFOA) ANNUAL CONFERENCE

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously authorized the County Administrator to attend the 2013 Florida Government Finance Officers Association (FGFOA) Annual Conference June 22 – 26, 2013, in Boca Raton,

Florida, as requested in the memorandum of March 25, 2013.

8.E. FINAL PAYMENT, APPROVAL OF CHANGE ORDER NO. 1 AND RELEASE OF RETAINAGE TO CLOSE CONSTRUCTION, LLC FOR MODIFICATIONS TO EGRET MARSH STORMWATER PARK FLOWAY

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved: (1) final payment to Close Construction, LLC, including release of retainage; (2) approved Change Order No. 1; and (3) authorized the Chairman to execute all documents necessary to accomplish the action, as recommended in the memorandum of March 13, 2013.

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

8.F. APPROVAL OF EXPENDITURES FOR EMERGENCY MANAGEMENT FEDERALLY-FUNDED SUBGRANT AGREEMENT 13-BG-06-10-40-01-031

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved of expenditures as directed in the Federally Funded Subgrant Agreement (13-BG-06-10-40-01-031), as recommended in the memorandum of March 13, 2013.

8.G. APPROVAL OF THE CERT (COMMUNITY EMERGENCY RESPONSE TEAM) BASIC COURSE DELIVERY AGREEMENT

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved of expenditures as stated in the Critical Infrastructure Support Group, LLC (CISG) Community Emergency Response Team (CERT) training contract, and authorized the Chairman to execute the agreements, as recommended in the memorandum of March 15, 2013.

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

8.H. APPROVAL OF RESOLUTION ADOPTING THE 2013 INDIAN RIVER COUNTY EMERGENCY PLAN FOR HAZARDOUS MATERIALS

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-026**, approving the Indian River County Hazardous Materials Emergency Plan.

8.I. PERPETUAL EASEMENT AGREEMENT BETWEEN FELLSMERE 512, LLC AND INDIAN RIVER COUNTY

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the Non-Exclusive Road Easement Agreement with Fellsmere 512, LLC, as recommended in the memorandum of March 20, 2013.

**8.J. CHILDREN’S SERVICES ADVISORY COMMITTEE’S RECOMMENDATION
REQUEST FOR PROPOSAL (RFP) # 201329 NEW FOCUS AREAS FOR
2013-14 AND SAMPLE AGENCY CONTRACT TO BE USED**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously: (1) accepted the Request For Proposal (RFP) #201329 for 2013-14, Focus Areas and Agency Contract, as submitted; and (2) authorized the Chairman to execute the individual contracts, as recommended in the memorandum of April 2, 2013.

**8.K. MEMORANDUM OF UNDERSTANDING BETWEEN INDIAN RIVER COUNTY
AND SEBASTIAN INLET DISTRICT FOR COORDINATION OF
SUPPLEMENTAL DOWNDRIFT NOURISHMENT AND RELATED COASTAL
ACTIVITIES**

Commissioner O’Bryan remarked on the Sebastian Inlet District’s unprecedented cooperation with the County, and acknowledged the leadership of the Chairman, Beth Mitchell, and the Administrator, Marty Smithson.

MOTION WAS MADE by Commissioner O’Bryan, SECONDED by Chairman Flescher, to approve and authorize the Chairman to execute the Memorandum of

Understanding between the County and the Sebastian Inlet District.

Coastal Engineer James Gray, responding to the Board's request for additional information, displayed slides showing the primary placement and supplemental locations for fill placement.

Mr. Smithson relayed appreciation for the District's positive working relationship with the County.

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

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

8.L. APPROVAL OF THE INCIDENT COMMAND SYSTEM POSITION SPECIFIC TRAINING SERVICES AGREEMENTS WITH THE TREASURE COAST REGIONAL PLANNING COUNCIL (TCRPC)

Commissioner Solari questioned why local businesses were not being afforded the opportunity to provide the disaster training services.

Emergency Services Director John King explained that few companies qualify to do the training; however, the Treasure Coast Regional Planning Council is knowledgeable about the few firms who can provide the training. He noted that private sector businesses will be helping teach the classes.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously: (1) approved the Treasure Coast Regional Planning Council (TCRPC)

Training Contract; and (2) authorized the Chairman to execute the agreements, as recommended in the memorandum of March 22, 2013.

(Clerk's Note: The services are being funded by a Homeland Security Grant).

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

8.M. APPROVAL OF THE CERT (COMMUNITY EMERGENCY RESPONSE TEAM) PUBLIC CPR & AED TRAINING CLASSES AND EQUIPMENT

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved of expenditures as stated in the Florida Heart CPR Training Agreement; and authorized the Chairman to execute the agreements, as recommended in the memorandum of March 22, 2013.

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

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS

10.A.1. PUBLIC HEARING AND ADOPTION OF ORDINANCE ESTABLISHING AMNESTY PROGRAM FOR CERTAIN UTILITY DELINQUENCY CHARGES (LEGISLATIVE)

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

County Attorney Alan S. Polackwich, Sr. provided background on staff's request to create a new amnesty program to waive fees on delinquent Equivalent Residential Units (ERUs) service availability charges. He recalled that there had formerly been an amnesty program from February 14, 2012 through March 31, 2012, and that on March 19, 2013, the Board had approved in concept, to extend the program by adopting the proposed ordinance. He thereafter asked the Board to consider reopening a new amnesty program for the period of April 2, 2013 to August 31, 2013, whereupon delinquency charges would be waived upon payment in full of outstanding reserved ERU Service Availability Charges.

The Chairman opened the Public Hearing.

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

ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously adopted **Ordinance 2013-002**, amending Section 201.08(J)(4) of the Code of Indian River County; establishing an amnesty program relating to delinquency charges on certain utility service availability charges; making findings and providing for severability, codification and an effective date.

10.B. PUBLIC DISCUSSION ITEMS

**10.B.1. REQUEST TO SPEAK FROM AUDRA ARDRA RIGBY AND BILL RIGBY
REGARDING RECAPING THE DECISION REGARDING WASTE HAULING
SERVICES**

Bill Rigby and **Ardra Rigby**, 8465 59th Avenue, Capital Sanitation, Inc., addressed the Board with statements and questions pertaining to the County's past actions with regards to the waste hauling franchises. They alleged that the County has not complied with the Appendix of Special Acts, Chapter 59-1380, (*the Utility Act of Indian River County*) in securing its waste hauling franchises; asked the Board to recall the original intent of the Enterprise Zone; and disputed the Board's decision on April 21, 2009, to not award to their firm the waste hauling franchise in that area.

Detailed and lengthy discussion ensued. The Rigby's provided further details about their company's activities, and the Board and County Administrator reiterated concerns expressed at prior meetings.

The Rigby's stressed that their company, Capital Sanitation, Inc., is not the same company as the Sebastian firm, Capital Sanitation.

Commissioner Zorc offered to meet with the Rigby's and other interested parties, to see what can be done to foster business opportunities for minority-owned and small businesses.

Bill Rigby thanked Commissioner Zorc.

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. CONSIDERATION OF TRITON SUBMARINES, LLC'S REQUEST FOR A LOCAL JOBS GRANT

Community Development Director Bob Keating reviewed the jobs grant criteria and qualifications of Triton Submarines, LLC for a Local Jobs Grant. He affirmed that staff has performed its due diligence, and conveyed that the Economic Development Council (EDC), as well as staff, recommends that the Board approve the jobs grant in an amount of up to \$94,000.00.

Helene Caseltine, Economic Development Director, Indian River Chamber of Commerce, spoke to the advantages of having Triton Submarines in the community.

Patrick Lahey, President, Triton Submarines, invited the Commissioners and public to visit the company at State Road 60 and 90th Avenue.

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

Director Keating, in response to Commissioner Solari's request, agreed to provide the Board with an updated jobs grant spreadsheet.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board: (1) approved a Local Jobs Grant of up to \$94,000 for Triton Submarines, LLC; and (2) authorized the Chairman to execute the Jobs Grant Agreement with same after approval of the agreement by appropriate County staff and the County Attorney's office, as recommended in the memorandum of March 19, 2013.

AGREEMENT 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

The Chairman called a recess at 10:27 a.m., and reconvened the meeting at 10:39 a.m., with all members present.

12.G. OFFICE OF MANAGEMENT AND BUDGET

12.G.1. REPORT ON OUTSTANDING COUNTY DEBT ISSUES

Director of Management and Budget Jason Brown recalled the Board's request on March 12, 2013, for staff to bring back a report on the County's outstanding long-term debt. He used a PowerPoint presentation (copy on file) and reviewed his memorandum of March 22, 2013, to provide details and analysis regarding each of five (5) outstanding bond issues, as follows:

- Limited General Obligation Bonds, Series 2006
- Spring Training Facility Revenue Bonds, Series 2001
- Recreational Revenue Refunding Bonds, Series 2003
- Water & Sewer Refunding Revenue Bonds, Series 2005
- Water & Sewer Refunding Revenue Bonds, Series 2009

Discussion arose regarding the possibility of paying off the Series 2001 Spring Training Facility Revenue Bonds early, because of the high interest rate (4.87%). A suggestion was made to use the One-Cent Tourist Development Tax to help pay down the bond issues, but Administrator Baird stressed that tourist tax must be used for specific improvements, such as a stadium or sports facility.

Dialogue continued as staff addressed the Board's comments and questions about the County Golf Course (*Recreational Revenue Refunding Bonds, Series 2003*); and Utilities System (*Water & Sewer Revenue Refunding Bonds Series 2005*).

A suggestion was made to consider using a portion of the utility funds to ameliorate possible septic tank leakage into the Indian River Lagoon.

Administrator Baird advised that state grants were available to help with septic tank seepage, and suggested the Board explore that avenue before making any decisions.

In conclusion, Director Brown reported that staff anticipates being able to pay off two out of the five bond issues by 2015.

No Board Action Required or Taken

12.G.2. ADDITIONAL LEGISLATIVE ISSUES – 2013 SESSION

Director Brown provided background and analysis on proposed bills in the legislature:

- House Bill 7123, f/k/a/ PCB-SCCB 13-01, would increase the sovereign immunity caps for local governments; it appears that the bill will not be moved forward.

- The Medicaid Glitch Bill would assign a base amount to be paid by the County for Medicaid claims (*much greater than the amount currently paid*); the base amount would increase each year by an inflation factor.
- House Bill 1117/Senate Bill 1244, would require the Department of Children and Families to assess the County's distribution of funds for Medicaid, and submit recommendations to the legislature by July 1, 2014; this issue will be dealt with during the next legislative session.

Director Brown, with assistance from Administrator Baird, also reviewed the list of legislative priorities that was established at the December 4, 2012 County Commission meeting (see page 221 of the agenda package).

Discussion followed as comments were made on available funding sources for beach renourishment projects, and the status of the County's proposed amendments to FS 180.029(2) and FS 153.03(1), requiring that the County give consent before the municipalities can extend certain utility services into the unincorporated areas of the County (*see minutes of December 11, 2012*).

No Board Action Required or Taken

12.G.3. SHERIFF'S DEPARTMENT REQUEST FOR FUNDING – PATROL VEHICLES

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

Sheriff Loar responded to the Board's questions about the patrol vehicles and special equipment he was purchasing. It was noted that due to the low prices the Sheriff had obtained on the cars, it would be possible to purchase 24 automobiles, rather than the 20 mentioned at the March 19, 2012 Commission meeting.

County Administrator Baird revealed that staff would return with a budget amendment once the Sheriff responds to his letter of March 21, 2013 requesting further information regarding the equipment that will be purchased and projected expenses in the current fiscal year for salaries and capital expenditures. He also outlined the funding sources, as presented in staff's recommendation.

Sheriff Loar expressed his appreciation to the Board. He also cited the financial impact to the Sheriff's Department of a recent crime, to highlight the difficulty of reserving for capital expenditures.

A brief discussion occurred as Commissioner Solari addressed remarks to the Sheriff about capital expenditures, and the proposal to list the Constitutional Officers budgets on the TRIM notices.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner Solari opposed), the Board: (1) approved the funding system recommended for purchase of twenty-four (24) Sheriff's Department patrol vehicles at an amount not to exceed \$800,000; (2) authorized One Cent Sales Tax funds as the funding source for the vehicles and any capital equipment with a useful life of five (5) years or more (*all non-capital items or those with a useful life of less than five (5) years will be funded from the M.S.T.U. Fund reserves*); (3) authorized the proceeds from the sale of the twenty-four (24) vehicles to be sold

and allocated for the purchase of the Fleet Management software currently used by the County, and that any remaining funds be retained by the County to offset the cost of the non-capital items needed to equip the new patrol vehicles; and (4) authorized a budget amendment to allocate these funds at a future date once all necessary information is received from the Sheriff's Department.

12.H. RECREATION - NONE

12.I. PUBLIC WORKS - NONE

12.J. UTILITIES SERVICES - NONE

13. COUNTY ATTORNEY MATTERS

**13.A. PERMISSION TO FILE SUIT FOR AN INJUNCTION AGAINST PERSISTENT
CODE VIOLATOR**

Deputy County Attorney Bill DeBraal recapped his memorandum of March 22, 2013 to provide background and conditions relative to a Code Enforcement Board order levied in 2008 on a property owned by Stephanie Wright, located at 2334 1st Place SW in Ixora Park. He explained that Ms. Wright's property was cited for an abundance of overgrown weeds on the property, which has not been mowed for some time. He presented five (5) possible options to resolve this matter and recommended that the Board seek injunctive relief to get Ms. Wright to maintain the property, and continue to maintain her yard, in accordance with County Code.

Stephanie Wright addressed the Board about her situation, explaining that she grows nursery plants (*herbs and shrubs*) for her family and pets, and that she has experienced problems

with her neighbors trespassing and killing several plants with herbicide. She relayed that she is in the process of mulching the right-of-way area, as a remedy for the situation.

A lengthy discussion ensued about the condition of Ms. Wright's property, and what she would need to do to bring it into compliance with the residential zoning requirements.

After the Board questioned Ms. Wright, it was determined that she intended to mulch the easement area, but continue her current landscaping practices on her personal property.

Chairman Flescher advised that he did not believe mulching would resolve the code enforcement issue.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Solari, to authorize the County Attorney's office to file suit in Circuit Court for injunctive relief asking the court to force Stephanie Wright to maintain the property in accordance with County Code and have her continue to maintain her yard as ordered by the court.

The Board continued to express their individual viewpoints on Ms. Wright's situation.

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

13.B. HOMESTEADED ESCHEATED PROPERTY

Attorney DeBraal recapped his memorandum of March 27, 2013, providing background and conditions relative to a property that has escheated back to the County for nonpayment of taxes. The property is located at 3080 10th Court in the Golf View Estates subdivision, and was formerly jointly owned by Douglas D. Welch and St. Lucie Consulting, Inc. He noted that Mr. Welch is still living on the property without benefit of a lease, and that the back taxes have never been paid. Attorney DeBraal reviewed the Board's options and responded to their questions, thereafter recommending: (1) that Mr. Welch be asked to vacate the premises within 60 days, and (2) that the County sell the subject property after he departs.

Douglas Welch explained that he has a financial backer, and will be able to pay the entire tax bill either today or later this week.

Tom Tarasovic, 115 Cache Cay Drive, and **Alfred J. Koontz III**, 2245 St. Christopher Lane, tax lien/deed investors, advised that they have made arrangements to purchase the deed on the subject property, provided an agreement can be reached with Mr. Welch and St. Lucie Consulting, Inc.

Attorney DeBraal provided his understanding of the situation, stating that once the back taxes are paid, the deed will be conveyed back from the County to the previous owners, and reconveyed to Mr. Tarasovic and Mr. Koontz III, who will become the owners of the property.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously TABLED this matter to the County Commission meeting of April 16, 2013, to provide two weeks for former owners Douglas D. Welch and St. Lucie Consulting, Inc., and investors Tom Tarasovic and Alfred J. Koontz III, to negotiate an agreement relative to the escheated property located at 3080 10th Court.

The Chairman called a recess at 12:27 p.m., and reconvened the meeting at 12:46 p.m., with all members present.

**13.C. INITIAL CONSIDERATION OF NATURAL GAS FRANCHISE ORDINANCE –
PERMISSION TO ADVERTISE FOR PUBLIC HEARING**

County Attorney Alan S. Polackwich, Sr. provided background and analysis on this matter, recalling the Board’s direction on December 11, 2012, for staff to return with a proposed ordinance requiring a franchise and franchise fee from natural gas utilities that use the public rights-of-way in the unincorporated County. He noted that Florida City Gas (“the Utility”), the only natural gas utility operating in the County, has been advised of the proposed ordinance. He stated that if this item is approved today, staff will schedule a final public hearing for the Board to consider final adoption of the Ordinance in early May 2013, and that the starting date of the franchise agreement will be determined after negotiations with the Utility.

MOTION WAS MADE by Commissioner Solari,
SECONDED by Chairman Flescher, to approve staff’s
recommendation.

Staff addressed the Board’s comments/questions, after which the following action was taken:

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board unanimously authorized the County Attorney’s Office to advertise the proposed natural gas franchise ordinance for public hearing and consideration of final adoption, as recommended in the memorandum of March 26, 2013.

13.D. FREDERICK D. MENSING, III, AND RITA F. MENSING V. INDIAN RIVER COUNTY, PENDING IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT, CASE NO. 312010CA075009 AND FREDERICK D. MENSING, III V. INDIAN RIVER COUNTY, ROBERT SOLARI, GARY C. WHEELER, WESLEY S. DAVIS, PETER D. O'BRIAN [SIC], WILLIAM G. COLLINS, II, ROBERT KEATING, CHRISTOPHER N. KIRRIE, CHRISTOPHER WILLIAM KIRRIE, AND ROBERT CHESTER KIRRIE, PENDING IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT, CASE NO. 312012CA000976

Attorney Polackwich reviewed his memorandum of March 19, 2013 to provide history and analysis on the Frederick D. Mensing III lawsuit against the County and the above parties. He explained that Mr. Mensing owns structures that sit upon a portion of land referred to in Resolution 2008-043, in which the Board accepted the implied dedication of a 60-foot strip (*for use as a public roadway*) on the Fleming Grant Plat of 1888. Mr. Mensing is requesting that the County release the portion of Resolution 2008-043 which encumbers those structures, thereby affording him clear title to his property and the opportunity to get a reverse mortgage. Attorney Polackwich noted that as a condition of the mortgage, Mr. Mensing would also have to settle the Code Enforcement and Environmental code board liens on his property. He disclosed that after preparing today's agenda item, he was notified that Mr. Mensing has additional requests for settling the lawsuit which include, but are not limited to, the County's forgiveness of the subject liens, and rezoning the property to residential.

Fred Mensing, 7580 129th Street (Sebastian mailing address), provided to the Board a copy of a fax (on file) sent from the County Attorney in 2008 to the Bank of America, and elaborated on his allegation that the County's actions had defeated his ability to get a reverse mortgage at that time. Mr. Mensing provided further history regarding the 1888 Fleming Grant Plat and 1915 A.A. Berry Plat (which subdivided a portion of the Fleming Grant Plat and did not

show the strips). He also asked the Board to rezone his property from agricultural to residential, and affirmed that he will correct the code violations if he gets the mortgage.

C.N. Kirrie, owner of property adjacent to Mr. Mensing's lot, provided further history on the plats and asked the Board not to interfere with the public's use of the subject strip of road for ingress and egress. He also mentioned that pursuant to Florida Statute, the Board may not remove, at the inconvenience of others, a street that has been publicly accepted.

Staff responded to a series of questions and comments from the Board regarding setbacks, easements, and rights-of-way, confirming that Mr. Mensing's improvements constituted an encroachment upon a public roadway.

County Surveyor David Schryver provided background history on the 1888 Fleming Grant Plat, and deemed that there is public right to the 60' strip of land that has historically been used by the lot owners.

Mr. Mensing informed the Board that according to Ralph Harvey, his reverse mortgage broker, he would need a quiet title action against Indian River County to settle the issue of the 60' strip of land.

Attorney Polackwich declared that with the new condition of Mr. Mensing seeking a quiet title judgment in his favor, and with the mortgage lender's requirement for him to pay off the liens, he did not believe that his original recommendation to rescind Resolution 2008-043 would resolve anything, and advised the Board to take no action.

Chairman Flescher agreed with Attorney Polackwich's analysis.

MOTION WAS MADE by Commissioner Solari,
SECONDED by Commissioner Zorc, to TAKE NO
ACTION.

Attorney Polackwich reiterated his earlier stance.

The Chairman CALLED THE QUESTION, and the
Motion carried unanimously. The Board approved to
TAKE NO ACTION.

14. COMMISSIONER ITEMS

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

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

14.B.1. APPOINTMENT TO VERO LAKE ESTATES (VLE) MUNICIPAL SERVICE TAXING UNIT (MSTU) ADVISORY COMMITTEE

Vice Chairman Davis clarified with Attorney Polackwich that a formal appointment by
the Board must be made.

MOTION WAS MADE by Vice Chairman Davis,
SECONDED by Chairman Flescher, to nominate Joseph J.
Beaudoin, Sr. for the appointment to the Municipal
Service Taxing Unit (MSTU) Advisory Committee.

There were no further nominations.

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

appointment of Joseph J. Beaudoin, Sr. to the Municipal Service Taxing Unit (MSTU) Advisory Committee.

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

14.D. COMMISSIONER BOB SOLARI - NONE

14.E. COMMISSIONER TIM ZORC

14.E.1. VERO BEACH SPORTS VILLAGE

(Clerk's Note: This item was heard following Item 14.E.2, and is placed here for continuity).

Commissioner Zorc elaborated on his request for the Board to reconsider issues relative to negotiations between the County and Verotown, LLC (Verotown) for a new five-year Facility Lease Agreement for the Vero Beach Sports Village (F/K/A Dodgertown). He recalled that at the March 5, 2013 County Commission meeting, the Board approved lease conditions pertaining to the liquidated damages provision; insurance; capital expenses; and room renovations; and gave Verotown 30 days, until April 5, 2013, to acknowledge acceptance or denial of the lease terms.

A lengthy discussion ensued. The Board spoke to the urgency of settling this matter - either proceeding with the new lease agreement with Verotown, LLC, or if negotiations do not work out, seeking another tenant for the Sports Village. The particulars of the March 5, 2013 County Commission meeting were recounted, and staff affirmed that their agenda item for the meeting had contained no recommendations.

Craig Callan, Vice President, Vero Beach Sports Village (Sports Village), affirmed that Sports Village representatives and County staff have had discussions in good faith, and explained why he felt the March 5, 2013 meeting was counterproductive.

MOTION WAS MADE by Commissioner Zorc, SECONDED by Chairman Flescher, to extend the response time from April 5, 2013 to April 9 or April 10, 2013, for Verotown, LLC (“Verotown”) to deliver written notice of interest or disinterest in entering into a new Facility Lease Agreement with the County for Vero Beach Sports Village.

Vice Chairman Davis stated that he would like to see a recap of the negotiations between Sports Village representatives and County staff, and the lease terms approved by the Board on March 5, 2013; and see if there is a way to bridge the gap between the two.

MOTION AND SECOND WERE WITHDRAWN by Commissioner Zorc and Chairman Flescher, respectively.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Chairman Flescher, to direct staff to return on April 9, 2013, with a spreadsheet containing: (1) a recap of the County’s negotiations with Verotown, LLC; (2) the lease terms approved by the Board on March 5, 2013; and (3) an analysis of what can be done to bridge the gap.

Commissioner O’Bryan suggested that Mr. Callan meet with each of the five Commissioners to discuss the pertinent issues.

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

14.E.2. TRANSPORTATION HUB

(Clerk's Note: This item was heard following Item 14.E.3, and is placed here for continuity).

Commissioner Zorc announced that there will be a public GoLine Transit Hub meeting in County Administration Building A, Room A1-411, on April 11, 2013, at 2:30 p.m., to search for a mutually agreeable GoLine Transit Hub site. Meeting attendees will be Public Works Director Chris Mora, Metropolitan Planning Organization Staff Director Phil Matson; City of Vero Beach Vice Mayor Tracy Carroll and Public Works Director Monte Falls; and interested members of the Original Town neighborhood.

Administrator Baird later added *(following discussion on Item 14.E.1)* that the Senior Resource Association and the municipalities of Fellsmere and Sebastian should also attend the meeting.

14.E.3. INDIAN RIVER COUNTY LAGOON SYMPOSIUM

(Clerk's Note: This item was heard following Item 14.B.1. and is placed here for continuity).

Commissioner Zorc talked about the success of the March 26, 2013 Indian River Lagoon Symposium, and thanked staff, presenters, and attendees for their participation. He relayed that since the symposium, Harbor Branch Oceanographic Institute (Harbor Branch) has received a \$2 million grant for Lagoon monitoring, and a collaborative project has arisen between Harbor Branch and the Indian River County Health Department to study the effects of septic runoff into the Lagoon.

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT -NONE

15.B. SOLID WASTE DISPOSAL DISTRICT

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 FEBRUARY 19, 2013

15.B.2. AMENDMENT NO. 2 TO REPUBLIC SERVICES FOR LANDFILL DITCH ENHANCEMENT PROJECT

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 3:34 p.m.

ATTEST:

Jeffrey R. Smith,
Clerk of Circuit Court & Comptroller

Joseph E. Flescher, Chairman

Minutes Approved: _____
BCC/MG/2013Minutes