

JEFFREY R. SMITH
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

MAY 7, 2013

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JEFFREY R. SMITH

Clerk to the Board



May 7, 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, May 7, 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 Jack Diehl, Senior Pastor, Our Savior Lutheran Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

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

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman Flescher requested the following changes to the Agenda

Delete: Item 5.F. Presentation by David King, President, INEOS NewPlanet Bioenergy, on Vegetative Waste Disposal Site Opening

Delete: Item 8.N. Consideration of Revised Federal Functional Classification Maps

Delete: Item 10.B.1. Request to Speak from Ardra and Bill Rigby Regarding Equality and Better Economic Opportunities

Add: Item 10.C. Request from Commissioner O'Bryan to Announce Upcoming Girls State Softball Finals

Move: Item 12.A. Consideration of Next Level Security Systems, Inc.'s Request for a Local Jobs Grant to follow the Consent Agenda

ON MOTION by Commissioner O'Bryan, SECONDED
by Chairman Flescher, the Board unanimously approved
the Agenda as amended.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION DESIGNATING MAY 5 – 11, 2013, AS PUBLIC SERVICE RECOGNITION WEEK IN INDIAN RIVER COUNTY

Vice Chairman Davis read and presented the Proclamation to a representative group of employees, in acknowledgement of their dedicated public service.

5.B. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF MAY AS FOSTER PARENT APPRECIATION MONTH

Commissioner Solari read and presented the Proclamation to Janet Stewart, Foster Care Recruiter, Hibiscus Children's Center; Robert McPartlan, City of Sebastian Mayor; and Jill Poole, Caregiver Support Coordinator for United For Families.

5.C. PRESENTATION OF PROCLAMATION RECOGNIZING MAY 5 – 11, 2013, AS NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Chairman Flescher read and presented the Proclamation to Sheriff Deryl Loar, Captain Selby Strickland, Lieutenant Chris Helseth, Deputy Division Commander Mark Porter, and Chief Deputy Bud Spencer.

5.D. CERTIFICATE OF RECOGNITION TO TRUMOBILITY FOR OUTSTANDING ACHIEVEMENT AS INAUGURAL CHAMPION OF THE RESEARCH COAST PRINCIPIUM FOUNDATION BUSINESS PLAN COMPETITION

(Clerk's Note: Items 5.D. and 5.E. were heard conjointly).

Commissioner Zorc provided background on the first Research Coast Principium Foundation Business Plan Competition. He announced that the winners of the first annual competition were local businesses, TruMobility, Inc., and Azzly. A Certificate of Recognition was individually presented to Steven Barnett, Founder and CEO, TruMobility, Inc., and Coletta Dorado, President and CEO, Azzly. John Moore, a founder of the Research Coast Principium Foundation, was also honored for his work in bringing this event to fruition.

**5.E. CERTIFICATE OF RECOGNITION TO AZZLY FOR OUTSTANDING
ACHIEVEMENT AS THE SECOND PLACE WINNER OF THE RESEARCH
COAST PRINCIPIUM FOUNDATION BUSINESS PLAN COMPETITION**

(Clerk's Note: This item was heard conjointly with Item 5.D).

**5.F. DELETED: PRESENTATION BY DAVID KING, PRESIDENT, INEOS NEW
PLANET BIOENERGY, ON VEGETATIVE WASTE DISPOSAL SITE OPENING**

**5.G. PRESENTATION BY INDIAN RIVER COUNTY CHAMBER OF COMMERCE
REQUESTING SUPPORT FOR GOVERNOR'S VETO OF HB4001/SB320 –
FLORIDA RENEWABLE FUEL STANDARD ACT**

Helene Caseltine, Economic Development Director, Chamber of Commerce, 1216 21st Street, provided background and analysis on the negative impact of the proposed legislation: House Bill 4001 (HB 4001) and Senate Bill 320 (SB 320) on the alternative fuels industry and to the County. She explained that this legislation would repeal the Florida Renewable Fuel Standard Act (*Chapter 526.201-207*) that encourages alternative fuel usage. Ms. Caseltine reported that the Chamber of Commerce sent a letter (copy on file) asking Governor Scott to veto the bills, and requested that the Board also send correspondence to the Governor asking him not to enact the bills.

Commissioners Davis and O'Bryan discussed the negative impacts of producing alternative fuel with corn.

Attorney Polackwich stated that corn was not specifically listed as a renewable fuel source in the Florida Renewable Fuel Standard Act.

ON MOTION by Commissioner Zorc, SECONDED by Chairman Flescher, the Board unanimously directed the County Attorney to send a letter urging Governor Scott to veto House Bill 4001 and Senate Bill 320.

It was noted that it was important to get the letter out expeditiously.

5.H. PRESENTATION BY BOB ULEVICH, ADMINISTRATOR, SEBASTIAN RIVER IMPROVEMENT DISTRICT ON DISTRICT WATER PLANS AND WATER FARMING

Bob Ulevich, Administrator of the Sebastian River Improvement District (SRID), provided an overview and analysis of SRID's plans to create a central water park to be used as a repository for water, and as a recreational area. He thereafter responded to Board comments and questions related to water farming, the County's water supply, land acquisition, the Indian River Lagoon, and the Florida Section 319 Grants Program.

Commissioner Zorc invited Mr. Ulevich to attend the next Indian River Lagoon Symposium.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF APRIL 2, 2013

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

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously

approved the minutes of the April 2, 2013 meeting, as written.

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

**7.A. DISTINGUISHED BUDGET PRESENTATION AWARD FISCAL YEAR
2012/2013**

Noted for the record was the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award presented for Fiscal Year 2012-2013, to Indian River County, and the Certificate of Recognition for Budget Presentation presented to the Office of Management and Budget.

Chairman Flescher noted that this is the twenty-second consecutive year that the Office of Management and Budget has received this award, and commended Management and Director Jason Brown.

**7.B. RESIGNATION OF MR. GEORGE HAMNER, MEMBER AT LARGE TO THE
PLANNING & ZONING COMMISSION**

Noted for the record was the resignation of George Hamner, Member at Large to the Planning & Zoning Commission (P&Z), effective immediately.

Several Board Members commended Mr. Hamner on his years of service and his work on the P&Z. Chairman Flescher invited interested persons to apply for the member-at-large vacancy on the Planning & Zoning Commission.

The Chairman called a recess at 10:23 a.m., and reconvened the meeting at 10:38 a.m., with all members present.

8. CONSENT AGENDA

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

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved the Consent Agenda, as amended.

8.A. APPROVAL OF WARRANTS – APRIL 12, 2013 TO APRIL 18, 2013

ON MOTION by Commissioner O'Bryan, 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 April 12, 2013 to April 18, 2013, as requested in the memorandum of April 18, 2013.

8.B. APPROVAL OF WARRANTS – APRIL 19, 2013 TO APRIL 25, 2013

ON MOTION by Commissioner O'Bryan, 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 April 19, 2013 to April 25, 2013, as requested in the memorandum of April 25, 2013.

**8.C. REAPPOINTMENT OF LOUISE HUBBARD TO THE EARLY LEARNING
COALITION OF INDIAN RIVER COUNTY BOARD**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved the reappointment of Louise Hubbard to the Early Learning Coalition for a two-year term beginning July 1, 2013 and running through June 30, 2015, as requested in the memorandum of April 19, 2013.

**8.D. RESOLUTION CANCELLING TAXES ON PROPERTY ACQUIRED BY THE TOWN
OF ORCHID FOR USE EXCLUSIVELY FOR ITS ADMINISTRATIVE OFFICES**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-030**, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

(Sue V. Roberts, Unit No. 1 of Proctor Plaza, a condominium)

**8.E. RESOLUTION CANCELLING TAXES ON PROPERTY ACQUIRED BY THE CITY
OF FELLSMERE FOR THE BENEFIT OF THE MUNICIPAL WATER SYSTEM**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-031**, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*(Fernando R. Cantu, 1049 Vernon Street, Fellsmere,
Florida)*

**8.F. REJECTION OF BIDS FOR IRC BID NO. 2013035 – INDIAN RIVER COUNTY
AGRICULTURAL PAVILION METAL ROOF REPLACEMENT**

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Flescher, the Board unanimously approved staff’s recommendation to reject the bid from the Roof Authority, Inc., as recommended in the memorandum of April 25, 2013.

**8.G. WORK ORDER NO. 1 COASTAL PLANNING AND ENGINEERING, INC.,
SECTOR 3 BEACH RESTORATION PROJECT – POST CONSTRUCTION
PHYSICAL MONITORING SERVICES**

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute Work Order No. 1 to the contract with Coastal Planning and Engineering, Inc., as recommended in the memorandum of April 25, 2013.

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

8.H. QUARTERLY INVESTMENT REPORT FOR QUARTER ENDING 03/31/2013

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Flescher, the Board unanimously accepted

the Quarterly Investment Report for Quarter Ending March 31, 2013, as recommended in the memorandum of May 1, 2013.

8.I. QUARTERLY OPEB TRUST REPORT FOR QUARTER ENDING 03/31/2013

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Flescher, the Board unanimously approved the Quarterly Other Post-Employment Benefits (OPEB) Trust Report for the Quarter Ending March 31, 2013, as recommended in the memorandum of May 1, 2013.

8.J. APPROVAL OF WORK ORDER NO. GKE-2 FOR SCRUB JAY FRIENDLY LANDSCAPE DESIGN SERVICES FOR PC SOUTH ALGAL NUTRIENT REMOVAL FACILITY

Commissioner O’Bryan voiced concerns regarding the US Fish and Wildlife Service’s (USFWS) requirement for the County to make all landscaping scrub jay friendly at the PC South Plant. He was concerned that attracting the endangered birds could lead to future environmental regulations that might impede plant operations.

A brief discussion ensued, during which Commissioners Davis and Zorc echoed Commissioner O’Bryan’s concerns. It was decided that the contractor should design the site to meet the minimum requirements of a scrub jay friendly environment.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved Work Order No. GKE-2 with GK Environmental, Inc., with the caveat that the consultant will assist the County in preparing scrub jay friendly landscaping for the PC South

Algal Nutrient Removal Facility that will be in compliance with the United States Fish and Wildlife (USFWS) requirements, but not so attractive to the birds that it will become a scrub jay habitat.

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

**8.K. WORK ORDER NO. 1 MORGAN & EKLUND, INC., 2013 BEACH PROFILE
MONITORING SURVEYS**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute Work Order No. 1 to the Professional Land Surveying and Mapping/GIS Services contract with Morgan and Eklund, Inc., as recommended in the memorandum of April 29, 2013.

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

**8.L. RYALL GROVES, INC.'S REQUEST FOR RELEASE OF A NON-EXCLUSIVE
INGRESS/EGRESS EASEMENT AT 8744 AND 8750 U.S. HIGHWAY 1
(ADMINISTRATIVE)**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-032**, releasing a non-exclusive easement for ingress and egress recorded in O.R. Book 724, Page 2371, public records of Indian River County.

**8.M. CONSIDERATION OF THE INDIAN RIVER COUNTY METROPOLITAN
PLANNING ORGANIZATION (MPO) 2013 MPO APPORTIONMENT PLAN**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-033**, accepting the 2013 Apportionment Plan of the Indian River County Metropolitan Planning Organization.

**8.N. DELETED: CONSIDERATION OF REVISED FEDERAL FUNCTIONAL
CLASSIFICATION MAPS**

**8.O. APPROVAL OF AMENDMENT TO CONSENT ORDER OGC FILE NO. 08-1661
B WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND INDIAN RIVER COUNTY FOR THE SOUTH REVERSE OSMOSIS WATER
TREATMENT PLANT**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the amendment to Consent Order OGC File No. 08-1661 B, as presented, with the Florida Department of Environmental Protection (FDEP), as recommended in the memorandum of April 19, 2013.

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

**8.P. AWARD OF BID NO. 2013034, OSLO ROAD (EAST OF 15TH AVENUE S.W.)
CULVERT REPLACEMENT OF FAILED (COLLAPSED) HDPE/PLASTIC PIPE,
IRC PROJECT NO. 1306**

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously: (1) approved for the project to be awarded to Ag-Scape Services, Inc., in the amount of \$109,245.73; (2) approved the sample agreement; and (3) authorized the Chairman to execute said agreement after receipt and approval of the required Public Construction Bond and certificate of insurance, and after the County Attorney has approved the agreement as to form and legal sufficiency, as recommended in the memorandum of April 23, 2013.

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

8.Q. MISCELLANEOUS BUDGET AMENDMENT 015

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-034**, amending the fiscal year 2012-2013 budget.

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

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS

10.A.1. FINAL CONSIDERATION OF NATURAL GAS FRANCHISE ORDINANCE

(LEGISLATIVE)

(Clerk's Note: This item was heard following Item 12.A.1. and is placed here for continuity).

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. announced that this was the final public hearing on the proposed Natural Gas Franchise ordinance, which was considered by the Board at the County Commission meeting of April 2, 2013. He said that the proposed law would mandate any natural gas distributor in the County to enter into a franchise agreement with the County and pay a 6% franchise fee, and that if the Ordinance is adopted, the County Attorney's office would finalize a franchise agreement with the natural gas provider in the County, Florida City Gas (FCG).

Vice Chairman Davis declared that having natural gas availability is a key economic driver for the County, and suggested utilizing a portion of the 6% franchise fee to expand the natural gas infrastructure.

Discussion followed on Vice Chairman Davis's suggestion, and on other possible ways to fund expanded natural gas infrastructure and conversion costs for both the County and private entities.

Commissioner O'Bryan suggesting creating from a portion of the franchise fees, a designated economic development fund for natural gas projects, whereby a company converting to natural gas could receive a grant to help defray costs.

The Chairman opened the Public Hearing.

Bob Johnson, Coral Wind Subdivision, expressed concerns about the use of methane gas indoors.

Tim Knudson, Local Account Executive, FCG, 835 28th Avenue, clarified that the fuel is straight natural gas, not methane. He also affirmed that his company has no objections to the proposed franchise fee.

Commissioner O'Bryan advocated moving forward with the proposed Ordinance, and suggested that: (1) staff return to the Board with options on natural gas expansion, and (2) Mr. Knudson give a presentation at a future meeting.

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

ON MOTION BY Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved **Ordinance 2013-004**, adding Part III, Section 312.21 of the Code of Indian River County, Requiring a franchise to construct, operate, and maintain natural gas facilities over, under or upon the public rights-of-ways of Indian River County; making findings and providing for severability, codification and an effective date.

Discussion continued, with input from staff, on the prospective use of natural gas at certain County facilities.

Commissioner Zorc stated that he would bring back further information on this matter.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. DELETED: REQUEST TO SPEAK FROM ARDRA AND BILL RIGBY

REGARDING EQUALITY AND BETTER ECONOMIC OPPORTUNITIES

10.B.2. REQUEST TO SPEAK FROM FRED MENSING REGARDING SETTLEMENT OF

PROMISED LAWSUIT

Fred Mensing, 7580 129 Street, addressed the Board with his request to obtain some email correspondence that former County Attorney William Collins sent to Bank of America and other parties about a refinance that Mr. Mensing was trying to get in 2008. He believed that if his lawsuit against the County goes to trial, a copy of the aforementioned emails (*which were lost after Attorney Collins retired*) would need to be accessible.

Deputy County Attorney William DeBraul explained the process by which the lost emails could be reconstructed and asked Mr. Mensing to provide a list of the main parties with whom Attorney Collins may have corresponded about the refinance.

Mr. Mensing told the Board that it would not be necessary to restore the emails if the County agrees to the settlement conditions he formerly requested at the County Commission meetings of April 2 and April 9, 2013.

Chairman Flescher advised Mr. Mensing to go ahead and prepare the list as requested by Attorney DeBraul.

Attorney Polackwich requested that the Board authorize him on a stand-by basis to advertise for another attorney-client session regarding the Mensing lawsuit.

ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously authorized the County Attorney's office to advertise for a shade meeting at such time as the need arises, regarding the Mensing lawsuit against the County et al.

10.C. PUBLIC NOTICE ITEMS

10.C.1. ADDITION: REQUEST FROM COMMISSIONER O'BRYAN TO MAKE AN ANNOUNCEMENT REGARDING GIRLS STATE SOFTBALL FINALS

(Clerk's Note: This item was heard following Item 5.H. and is placed here for continuity).

Commissioner O'Bryan announced that the Girls State Softball Championship games will commence on May 8, 2013 at the Vero Beach Sports Village (f/k/a Dodgertown) and will continue for one week. He reported that the finals will be televised on Bright House Sports Network, and encouraged his fellow Commissioners and the public to come out and support the event.

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. CONSIDERATION OF NEXT LEVEL SECURITY SYSTEMS, INC.'S REQUEST FOR A LOCAL JOBS GRANT

(Clerk's Note: This item was heard following the Consent Agenda, and is placed here for continuity).

Community Development Director Bob Keating provided background and analysis on the request of Next Level Security Systems, Inc. (Next Level), for a Local Jobs Grant. He stated that staff has performed its due diligence, and that the Economic Development Council ((EDC) recommends approval of the jobs grant in an amount of up to \$70,000.00. He disclosed that Next Level is also applying for a grant through the State's Qualified Target Industry (QTI) Tax Refund Program, and detailed the QTI rules, which require a local financial support commitment from the County. He thereafter asked the Board to: (1) approve the local jobs grant agreement with Next Level, and authorize the Chairman to execute it after all county approvals are given to the agreement; and (2) approve the proposed Resolution supporting the QTI grant.

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

Helene Caseltine, Economic Development Director, Chamber of Commerce, spoke in support of the Local Jobs Grant and QTI applications. She noted that Next Level will be relocating its corporate offices from California to the County.

Rob Tucker, Vice President of National Sales, Next Level Security Systems, Inc., thanked the Board for this opportunity, and affirmed that there is a much friendlier business climate here than on the west coast. He then outlined some of the projects his firm is working on in Florida and other east coast regions.

Discussion ensued as several Commissioners welcomed Next Level to the community.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved: (1) a Local Jobs Grant of up to \$70,000 for Next Level Security Systems, Inc.; (2) **Resolution 2013-035**, recommending that Next Level Security Systems, Inc. be approved as a

Qualified Target Industry pursuant to S.288.106, Florida Statutes; committing to provide a local match in the form of cash for the Next Level Security Systems, Inc. Qualified Target Industry Grant; and providing for an effective date; and (3) authorized the Chairman to execute the Jobs Grant Agreement with Next Level Security Systems, Inc., after approval of the agreement by appropriate County staff and the County Attorney's office, all as recommended in the memorandum of April 29, 2013.

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

12.A.2. CONSIDERATION OF LICENSE AGREEMENT WITH THE CITY OF VERO BEACH FOR A TEMPORARY TRANSIT HUB LOCATED AT THE VERO BEACH MUNICIPAL AIRPORT

Director Keating recalled the Board's approval on April 16, 2013, of the temporary location of the GoLine Transit Hub at the Vero Beach Municipal Airport on Pro Flite Drive, contingent upon the successful negotiation of an agreement with the City of Vero Beach. He stated that the proposed license agreement would allow the County to operate the bus line for a 24-month period while the permanent transit hub is being developed on City property that the County would lease west of the Florida East Coast Railroad right-of-way and south of 16th Street. He thereafter presented staff's recommendation for the Board to approve the proposed license agreement with the City of Vero Beach.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the Temporary License Agreement for Use of Vero Beach Municipal Airport Property, with the City of

Vero Beach, as recommended in the memorandum of
April 26, 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

12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

12.H. RECREATION - NONE

12.I. PUBLIC WORKS - NONE

12.J. UTILITIES SERVICES

**12.J.1. APPROVAL OF AMENDMENT NO. 1 TO WORK ORDER NO. 1 FOR THE
STORM GROVE ROAD STORMWATER RECLAMATION PROJECT FOR
ADDITIONAL REUSE WATER SUPPLY**

ON MOTION by Commissioner O'Bryan, SECONDED
by Vice Chairman Davis, the Board unanimously: (1)

approved and authorized the Chairman to execute Amendment No. 1 to Work Order No. 1 as presented, in the amount of \$5,617.50; (2) found that the project is needed to accommodate new growth in the County; (3) and found that new growth will proportionately benefit from the project, as recommended in the memorandum of April 17, 2013.

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

12.J.2. APPROVAL OF BID AWARD FOR IRC BID NO. 2013028 UTILITIES RO PLANTS LIME SLURRY INJECTION

Director of Utility Services Vincent Burke recapped the memorandum of April 29, 2013 to provide background on this item, which pertains to the bid award for construction of a lime slurry injection treatment system for the County's south and north reverse osmosis water treatment plants. He advised that Summit Construction of Vero Beach, LLC, who had submitted the lowest bid, had asked that the County withdraw their bid due to a substantial calculation error. However, due to the Easter holiday and a misunderstanding about the County's holiday schedule, Summit's withdrawal was not received within two business days of the bid opening as required.

Administrator Baird noted that although staff has no problem going to the second lowest bidder, they did not have the authority to authorize Summit's bid withdrawal under the requirements set forth in the bid documents and County code.

Chairman Flescher acknowledged that there was confusion over the holiday closures, and felt that it was clearly Summit's intention was to rectify the situation immediately.

Jerry Davis, County Purchasing Manager, spoke in support of Summit's excellent credentials and positive working relationship with the County. He also affirmed the good faith efforts that Brad Schuh, President of Summit Construction, had made to notify the County about the error and his need to withdraw the bid.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, to approve Summit's bid withdrawal and take no action against the bid bond posted by Summit; and to award the bid to the second most responsive and responsible bidder, R.J. Sullivan Corporation, at a cost of \$2,549,000.

Attorney Polackwich cautioned the Board to avoid setting a precedent. He recommended that the Board base their action on the special findings relevant to this case.

MOTION WAS AMENDED by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, to FIND that special and unique circumstances exist with respect to a calculation error in the bid and a good faith mistake that was made in the computation of the business days of the Easter holiday.

A brief discussion ensued regarding the sole source equipment that is used in this and other water plant projects.

The Chairman CALLED THE QUESTION, and the amended Motion carried unanimously. The Board: (1) approved Summit's bid withdrawal and to take no action against the bid bond posted by Summit; (2) FOUND that special and unique circumstances exist with respect to a

calculation error in the bid, and a good faith mistake that was made in the computation of the business days of the Easter holiday; and (3) awarded the bid to the second most responsive and responsible bidder, R.J. Sullivan Corporation at a cost of \$2,549,000.

Director Burke requested that the Board also approve the sample agreement and authorize staff to utilize the direct purchase of materials, if acceptable to the contractor.

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Davis, to approve the sample agreement, and authorize the Chairman to execute said agreement after receipt and approval of the required certificate of insurance and Public Construction Bond, and after the County Attorney has approved the agreement as to form and legal sufficiency; and to authorize the utilization of direct purchase of materials, if acceptable to the selected contractor.

The Purchasing Manager explained that using direct purchase would afford the County a savings of approximately \$100,000 in sales tax.

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

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

**12.J.3. RESCIND SCHEDULED RATE INCREASE, AND MAINTAIN EXISTING
RECLAIMED WATER RATE**

ON MOTION by Commissioner Solari, SECONDED by Commissioner O’Bryan, the Board unanimously approved **Attachment I Resolution 2013-036**, amending the Department of Utility Services’ schedule of water and sewer rates, fees and other charges, by establishing a permanent reclaimed water rate.

The Chairman called a recess at 12:11 p.m., and reconvened the meeting at 12:34 p.m., with all members present.

13. COUNTY ATTORNEY MATTERS

13.A. ESCHEATED HOMESTEAD PROPERTY LOCATED AT 3080 10TH COURT

Attorney DeBraal provided background and analysis on this matter which was also discussed at the April 2 and April 16, 2013 County Commission meetings. He recalled that the property at 3080 10th Court had escheated to the County for nonpayment of taxes, and that it was formerly co-owned by St. Lucie Consulting, Inc. (50%) and Douglas Welch (50%), who still resides there. He thereafter presented to the Board the details of an agreement that Mr. Welch has reached with Thomas Reno, relative to payment of the back taxes and Mr. Welch’s residency at the home, and asked whether the Board wished to approve the agreement.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously authorized the Chairman to execute the deeds from the County to the two former owners, Douglas D. Welch and St. Lucie Consulting, Inc.; those deeds will be held in escrow until the closing, at which time there will be a conveyance from

the former owners to the financial backer, and a lease purchase obligation from the financial backer to Mr. Welch to allow him to return to his home on a permanent basis.

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

13.B. INITIAL REVIEW OF PROPOSED ORDINANCE ALLOWING ADDITIONAL HOMESTEAD EXEMPTION FOR QUALIFYING SENIOR CITIZENS (PURSUANT TO AMENDMENT 11) PERMISSION TO ADVERTISE FOR PUBLIC HEARING

Attorney Polackwich provided background on the proposed ordinance which would provide for an additional homestead exemption for senior citizens with an income of \$27,590 (*amount adjusted annually*), who have been living in their homes for 25+ years. He noted that this initiative was approved as a constitutional amendment (*Amendment 11*) in November 2012, and that if approved by the Board, it would become the second exemption allowed in the County for qualified seniors. He relayed that administrative staff recommends the Board set the exemption at \$25,000, and advised that the initiative would not have a large financial impact on the County. Attorney Polackwich thereafter requested that the Commissioners decide whether or not to approve this matter and move forward with a public hearing and final adoption, and what the amount of the exemption will be if approved.

Commissioner O'Bryan was opposed to the initiative because the County already has one exemption for senior citizens and he did not want to create yet another special entitlement group.

Commissioners Davis and Zorc voiced support for the proposed ordinance because it was the will of the people, as evidenced by the passage of Amendment 11.

Commissioner Solari preferred to hold the line on taxes, and not grant another special exemption.

Chairman Flescher declared that the proposed ordinance is fair compensation for the many years of educational taxes those seniors have paid, and continue to pay.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, by a 3-2 vote (Commissioners O'Bryan and Solari opposed) the Board authorized the County Attorney's Office to advertise for a public hearing to consider adoption of the final proposed ordinance, allowing an additional property tax homestead exemption of \$25,000 for qualifying senior citizens.

13.C. INITIAL REVIEW OF PROPOSED ORDINANCE REORGANIZING CHAPTER 213 OF THE IRC CODE AND REPEALING AND REPLACING ORDINANCE 2001-021 – RELATING TO PROPERTY TAX EXEMPTIONS/REDUCTIONS, PERMISSION TO ADVERTISE FOR PUBLIC HEARING

Attorney Polackwich explained his request to table this matter until the Board makes a decision on whether or not to adopt the proposed ordinance (*discussed under Agenda Item 13.B*). at the upcoming public hearing.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously TABLED this item to a future date as determined by the County Attorney's Office.

13.D. INTERLOCAL AGREEMENT RELATING TO MULTI-COUNTY CITRUS AGENT

Attorney Polackwich provided background and analysis on the request of the University of Florida/Institute for Food and Agricultural Services (IFAS) and St. Lucie County, for the County to begin contributing to the salary and benefits of the multi-county citrus agent who provides services to the citrus industry in the counties. He reviewed the key details of the proposed Interlocal Agreement and asked the Board to approve same, with the termination date changed from September 30, 2013 to September 30, 2014, in accordance with the request of St. Lucie County. He added that Martin County is no longer part of the agreement.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved, *with the amendment to set the termination date at September 30, 2014*, the Interlocal Agreement Between Indian River County and St. Lucie County relating to the Multi-County Citrus Agent, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of April 26, 2013.

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

13.E. SELECTION OF NEW COUNTY ATTORNEY

Chairman Flescher invited the Board to disclose their recommendations for the County Attorney position that must be filled prior to Attorney Polackwich’s impending departure. He noted that the interviews would commence without delay, and that the Board will be able to make a final selection in the near future.

Each Board Member provided his recommendations (*in no particular ranking*) for candidates for the County Attorney position, as follows:

Commissioner Solari:

William DeBaal, Harlene Kennedy, Dylan Reingold

Commissioner Zorc:

James P. Wilson, Philip Sherwin, William DeBaal

Vice Chairman Davis:

James P. Wilson, William DeBaal, Dylan Reingold

Commissioner O'Bryan:

William DeBaal, Dylan Reingold, Philip Sherwin, James P. Wilson

Chairman Flescher:

William DeBaal, James P. Wilson, Harlene Kennedy, David Acton

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously selected the following six applicants to be interviewed for the position of County Attorney: David Acton, William DeBaal, Harlene Kennedy, Dylan Reingold, Philip Sherwin, and James P. Wilson.

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

**14.C.1. CONSIDERATION OF A RESOLUTION REGARDING THE INDIAN RIVER
LAGOON**

Commissioner O'Bryan provided background on the proposed Resolution supporting the Indian River Lagoon Coalition, and declared the necessity to take action to restore the health of the Lagoon. He also revealed that five municipalities and approximately 95 individuals and organizations have signed the "A Call to Action" pledge, which does not commit the Board to a specific course of action, but affirms the County's commitment and willingness to assume a leadership role in revitalizing the Lagoon. He asked the Board to adopt the proposed Resolution and authorize the Chairman to execute the Indian River Lagoon Coalition's "A Call to Action" Agreement.

MOTION WAS MADE by Commissioner O'Bryan,
SECONDED by Chairman Flescher, to: (1) approve
Resolution 2013-037, recognizing the need for action to
address the health of the Indian River Lagoon Ecosystem,
supporting the Indian River Lagoon Coalition, and
pledging the cooperation of the Board of County
Commissioners in efforts to find solutions for restoring the
health of the Indian River Lagoon; providing for an
effective date; and (2) authorize the Chairman to execute
the Indian River Lagoon Coalition's "A Call to Action"
Agreement.

Commissioner Solari stated that he would support the Resolution, but stressed that the Board has already assumed a leadership role and demonstrated an ongoing commitment to restoring the Lagoon.

Commissioner Zorc noted that he would soon be reporting on a working group that will be exploring restoration strategies for the Lagoon.

Commissioner O'Bryan started to amend his motion to direct the County Attorney's Office to review and sanction the draft Resolution. However, Attorney Polackwich affirmed that he had already reviewed the Resolution and found it acceptable; Commissioner O'Bryan announced his original Motion would stand.

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

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

14.C.2. UPDATE ON THE MEDICAID ISSUE

Commissioner O'Bryan provided details and analysis regarding Senate Bill 1884 (SB 1884) which creates a new State system for the calculation of the County's share of Medicaid costs. He elaborated on the new billing system, which will change the County's contribution from a cost-based to an enrollment-based share, over a seven-year period. He commended Senator Denise Grimsley for her work in getting the original bill amended somewhat, softening its financial impact, but advised that the County's Medicaid costs will still be rising as a result of this legislation.

14.D. COMMISSIONER BOB SOLARI

14.D.1. LAWN LITTER ORDINANCE

Commissioner Solari stated that the practice of blowing lawn clippings onto the street, where they end up in a storm drain or canal, results in high nutrient inputs to the Indian River Lagoon. He said that he was concerned because of the economic incentive that commercial lawn crews have to quickly dispatch a job and move on. He also noted that he has seen County workers blow lawn litter onto the road. He related that Florida State Statute 403.413, the Florida

Litter Law, does not specifically mention lawn litter, and wondered if the Board would consider adopting an ordinance clarifying that yard waste is not to be blown onto the public roadways.

Chairman Flescher questioned the enforceability of the proposed ordinance.

Commissioner Davis suggested that the Board begin addressing this issue by having the County Administrator train staff not to blow lawn debris onto the road, storm drains, or canals.

MOTION WAS MADE by Commissioner Solari, SECONDED by Chairman Flescher, to direct the County Administrator to: (1) train staff to use alternatives, such as mulching or bagging, instead of blowing lawn litter onto the roadways/waterways; and (2) to ask the Florida Department of Transportation to instruct their road crews to follow said practice.

Conversation arose about possible ways to enforce the “no-blow” rule.

Commissioner O’Bryan suggested that commercial lawn crews be banned from using the blowing equipment in the first place.

Discussion ensued regarding: (1) developing a Best Management Practices (BMP) for handling the yard waste; and (2) the probable need for the Public Works Director to purchase additional equipment to mulch or bag the lawn debris. The Board CONSENSUS was to give the County Administrator leeway to purchase additional equipment.

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

14.E. COMMISSIONER TIM ZORC

14.E.1. ALL ABOARD FLORIDA

Commissioner Zorc provided background on Florida East Coast Industries' (FECI) proposed intercity passenger rail service, *All Aboard Florida*, which will go from Miami to Orlando, with stations in selected cities, including West Palm Beach. He noted that the project is privately funded, with potential government involvement in the acquisition of right-of-way on SR 528, the Beeline Expressway. He requested that the Board send letters supporting the railway initiative and the proposed use of public rights-of-way needed to complete the project, to State Representatives John Mica and Daniel Webster; U.S. Congressman Bill Posey; Phil Brown of the Greater Orlando Aviation Authority; Orange County Commissioner Jennifer Thompson, and other relevant persons. He also wished to advise the appropriate parties that a station in Vero Beach would be desirable.

Vice Chairman Davis wanted to see the permanent GoLine Transit Hub designed with the anticipation that there might be a train stop there in the future.

A brief discussion ensued regarding how fast the trains would travel through our area. It was decided that Commissioner Zorc would contact Jose Gonzalez of *All Aboard Florida* with regards to obtaining this information.

MOTION WAS MADE by Commissioner Zorc, SECONDED by Commissioner Solari, to: (1) direct staff to send to certain legislators, transit officials, and other relevant persons, Letters of Support for the proposed *All Aboard Florida* passenger railway initiative and the proposed use of public rights-of-way needed to complete the project, requesting that the Vero Beach/Sebastian area be considered as a possible location for a future phase or

tier of the project; and (2) authorized the Chairman to execute the letters.

Commissioner Solari remarked that the letter should be inviting and undemanding, with the County expressing that it would be pleased to have a station here.

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

**14.E.2 . ECONOMIC DEVELOPMENT COUNCIL MEMBER COMPOSITION AND THE
SUNSHINE LAW**

Commissioner Zorc, Commissioner Liaison to the Economic Development Council (EDC), stated that he had submitted a list of proposed economic development initiatives to the EDC, but to date, there has been insufficient time to consider them. He was concerned that acting as Commissioner Liaison to the EDC was limiting his ability to accomplish his goals. He also wanted to make sure that no EDC members were violating the Sunshine Law by discussing matters brought up at the EDC meetings when they return to their respective agencies.

A lengthy discussion followed, with input from Attorney Polackwich, on the function and composition of the EDC.

Beth Mitchell, Chair, Economic Development Council, affirmed the EDC's willingness to work with Commissioner Zorc, but explained that time constraints make it challenging to explore all of the agenda items.

Discussion followed as individual Board Members remarked on several approaches that a Commissioner can take to move forward on important issues. It was noted that Commissioner Zorc's proposed Land Development Regulation amendments would have to come through Community Development, not the EDC.

Penny Chandler, Indian River County Chamber of Commerce, affirmed that the Chamber of Commerce and the EDC are in no way violating the Sunshine Law.

A brief discussion arose, with input from the Chamber of Commerce's Economic Development Director, **Helene Caseltine**, regarding the site selector event she had attended in Atlanta, and about the necessity to budget for future site selector conferences.

Commissioner Zorc advised that he might put some of his proposed initiatives on a future County Commission agenda.

Administrator Baird suggested that Commissioner Zorc place all of his items on the agenda so the Board can make a determination on which proposals can be launched.

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT - NONE

15.B. SOLID WASTE DISPOSAL DISTRICT - NONE

15.C. ENVIRONMENTAL CONTROL BOARD - NONE

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

16. ADJOURNMENT

There being no further business, the Chairman declared the Board of County Commission meeting adjourned at 2:36 p.m.

ATTEST:

Jeffrey R. Smith,
Clerk of Circuit Court and Comptroller

Joseph E. Flescher, Chairman

Minutes Approved: _____

BCC/MG/2013Minutes