

JEFFREY R. SMITH  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

JULY 2, 2013

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**JEFFREY R. SMITH**

Clerk to the Board



**July 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 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, July 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**

Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Commissioner O'Bryan 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 HONORING GERALD DAVIS ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS OFFICE OF MANAGEMENT & BUDGET PURCHASING DIVISION WITH TWENTY-ONE YEARS OF SERVICE**

Vice Chairman Davis read and presented the Proclamation to Gerald Davis.

**5.B. PRESENTATION HONORING BRIAN ANDREW BECKETT; STEVEN RANDALL HAWKINS; WALTER EDWIN HUGHES, JR.; PHILIP LEE LAVANDERA; ZACHARY EDWARD MAES; ROBERT T. MILLER; WILLIAM TAYLOR NORMAN; AND BRIAN JASON SMITH FOR EARNING THE EAGLE SCOUT AWARD**

Chairman Flescher read the Proclamations and congratulated the Eagle Scouts and their family members.

**Charlie Griffiths**, Eagle Chair of the Indian River Division of the Gulf Stream Council, presented the awards to the following Eagle Scouts:

Brian Andrew Beckett  
Walter Edwin Hughes, Jr.  
Zachary Edward Maes  
Brian Jason Smith  
William Taylor Norman  
Steven Randall Hawkins

Each scout, upon receipt of his award, made a brief address to the Board.

*(Clerk's Note: Philip Lee Lavandera and Robert T. Miller, due to other obligations, were not present).*

## **6. APPROVAL OF MINUTES**

### **6.A. REGULAR MEETING OF JUNE 4, 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 Regular Meeting of June 4, 2013, as written.

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

### **7.A. MEMBER AT LARGE VACANCY ON THE CHILDREN'S SERVICES ADVISORY COMMITTEE**



Noted for the record was the vacancy of the Member-at-Large position on the Children's Services Advisory Committee.

**7.B. 2013 ELECTION OF PLANNING AND ZONING COMMISSION (P&Z) VICE  
CHAIRMAN**

Noted for the record was the appointment of Todd Brognano as Vice Chairman to the Planning and Zoning Commission for 2013. Mr. Brognano will be replacing George Hamner.

**8. CONSENT AGENDA**

Chairman Flescher requested to pull Item 8.F. for discussion.

Commissioner O'Bryan requested to pull Item 8.G. 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 – JUNE 7, 2013 TO JUNE 13, 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 June 7, 2013 to June 13,  
2013, as requested in the memorandum of June 13, 2013.

**8.B. APPROVAL OF WARRANTS – JUNE 14, 2013 TO JUNE 20, 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 June 14, 2013 to June 20, 2013, as requested in the memorandum of June 20, 2013.

**8.C. RESOLUTION CANCELING TAXES ON PROPERTY DEDICATED BY NORTH COUNTY CHARTER SCHOOL, INC. FOR RIGHT-OF-WAY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-056**, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*(Dedicated to County by North County Charter School, Inc. for public right-of-way at 6640 Old Dixie Highway)*

**8.D. RESOLUTION CANCELING TAXES ON PROPERTY PURCHASED FROM PATRICK SHAWN FREE FOR RIGHT-OF-WAY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-057**, canceling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*(Patrick Shawn Free-seller; Old Dixie Highway right-of-way north of 2<sup>nd</sup> Street, including corner clip at northwest corner of Old Dixie Highway and 2<sup>nd</sup> Street).*

**8.E. RESOLUTION CANCELING TAXES ON PROPERTY ACQUIRED BY THE CITY OF SEBASTIAN TO BECOME PART OF THE CITY'S MUNICIPAL CEMETERY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-058**, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*(Acquired from Chairman Herd Rallis; for City of Sebastian Municipal Cemetery; 12900 U.S. Highway 1)*

**8.F. PROCLAMATION AND RETIREMENT AWARD HONORING MIKE HOTCHKISS ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF UTILITY SERVICES FOR SEVENTEEN YEARS OF SERVICE**

Chairman Flescher recognized Mike Hotchkiss on his seventeen years of service with the County Utilities Department.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the Proclamation and Retirement Award honoring Mike Hotchkiss on his retirement from the Department of Utility Services.

**8.G. CHILDREN’S SERVICES ADVISORY COMMITTEE (CSAC) FUNDING  
ALLOCATIONS FOR FISCAL YEAR 2013-2014**

Commissioner O’Bryan, Board Liaison to the Children’s Services Advisory Committee (CSAC), relayed that some concerns were posed via an anonymous email about the Castle Exchange Club Program. He advised that the County’s Human Services Director Bradley Bernauer has addressed these matters with Castle’s Executive Director and the President of its Governing Board, and that he (the Commissioner), Mr. Bernauer, and the CSAC feel confident going forward with the recommended funding allocations.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved the Children Services Advisory Committee’s (CSAC) funding recommendations for 2013-14, as recommended in the memorandum of June 13, 2013.

**8.H. CLOSE-OUT AND FINAL PAYMENT OF WORK ORDER NO. PCM-1 FOR  
SEDIMENT REMOVAL AT PC MAIN SCREENING FACILITY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved deleting Item No. 1 (cleaning the treatment channel), and approved payment for Item No. 2 of Work Order No. PCM-1 with EMC Divers, Inc., for \$7,100.00, as recommended in the memorandum of June 21, 2013.

**8.I. 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**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the License Agreement with Van Ert, Nemoto and Associates (VEN) LLC, as recommended in the memorandum of June 20, 2013.

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

**8.J. 2014 OBLIQUE AERIAL IMAGERY ACQUISITION PROJECT**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously: (1) approved the 2014 Oblique Aerial Imagery Acquisition project as outlined on pages 74 – 76 of the agenda package, in the amount of \$119,767.00; and (2) authorized the Chairman to execute the agreement with Pictometry International Corporation, and related documents, all as recommended in the memorandum of June 17, 2013.

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

**8.K. AMENDMENT NO. 19 TO THE PROFESSIONAL SERVICES AGREEMENT WITH  
CARTER ASSOCIATES, INC. IRC PROJECT NO. 98108, 66<sup>TH</sup> AVENUE  
PAVING IMPROVEMENTS, PHASE 2 (4<sup>TH</sup> STREET TO 16<sup>TH</sup>  
STREET)(ADDITIONAL UTILITY IMPROVEMENTS)**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute Amendment No. 19 for a lump sum amount of \$11,420.00, for Carter Associates, Inc., as outlined in the Scope of Services dated June 17, 2013, as recommended in the memorandum of June 20, 2013.

AMENDMENT 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. KTLC TD1, LLC'S REQUEST FOR ABANDONMENT OF A 20' ALLEYWAY  
RUNNING FROM 42<sup>ND</sup> PLACE SOUTH TO 42<sup>ND</sup> STREET AND LYING BEHIND  
LOTS 1-10 OF THE J. T. GRAY'S TOWN OF GIFFORD SUBDIVISION  
(LEGISLATION)**

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

Community Development Director Bob Keating used a PowerPoint Presentation (on file), to provide the key details regarding KTLC (Kite Tax Lien Capital) TD1, LLC's request for the County to abandon a 20' wide alley right-of-way in the J.T. Gray's Town of Gifford Subdivision. He noted that the very southern five feet of the alley is not proposed to be abandoned because it is needed for 42<sup>nd</sup> Street right-of-way, and that a drainage and utility easement will be overlaying the entire right-of-way area. He thereafter gave staff's recommendation for the Board to approve the proposed Resolution providing for the abandonment.

The Chairman opened the Public Hearing.

**Kelly Kite**, one of the applicants, explained that the abandonment will facilitate future development of his lots, and other lots in the area.

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

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2013-059**, providing for the closing, abandonment, vacation and discontinuance of a 20' wide alleyway running from 42<sup>nd</sup> Place South to 42<sup>nd</sup> Street and lying behind Lots 1 – 10 of the J. T. Gray's Town of Gifford Subdivision as shown in Plat Book 1, Page 89 of the Public Records of Brevard County, as described herein, said land now lying in Indian River County, Florida.

**10.A.2. CONSIDERATION OF AMENDMENTS TO LAND DEVELOPMENT REGULATIONS (LDRS) CHAPTER 915, PLANNED DEVELOPMENT, TO CHANGE MIXED USE DEVELOPMENT REGULATIONS TO BE CONSISTENT WITH THE REVISED COMPREHENSIVE PLAN MIXED USE POLICY 5.6, AND**

**TO DELETE AN OUT-OF-DATE TABLE (APPENDIX) IN CHAPTER 952,**  
**TRAFFIC (LEGISLATIVE)**

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

*(Clerk's Note: This item was discussed conjointly with Item 10.A.3., and is placed here for continuity).*

Following discussion and Board approval of Item 10.A.3., Vero Estates, LLC's Request to Amend the Text of Policy 5.6 of the County's Comprehensive Plan Future Land Use Element (FLUE), Community Development Director Robert Keating advised that the Land Development Regulations (LDR's) must be amended in order to implement the changes. He relayed that staff, as well as the Planning & Zoning Commission, recommend Board adoption of the proposed Ordinance amending Chapter 915, Planned Development (PD) Process and Standards for Development, and approval of minor changes to Chapter 952, Traffic.

ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously adopted **Ordinance 2013-006**, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 915, Planned Development (P.D.) Process and Standards for Development, by amending Mixed Use Standards Section 915.20; providing for an amendment to Chapter 952, Traffic, by deleting the appendix; and by providing for repeal of conflicting provisions, codification, severability, and effective date.



**10.A.3. VERO ESTATES, LLC'S REQUEST TO AMEND THE TEXT OF THE  
FUTURE LAND USE ELEMENT OF THE COUNTY'S COMPREHENSIVE PLAN  
(LEGISLATIVE)**

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

*(Clerk's Note: This item was heard prior to Item 10.A.2, and is placed here for continuity).*

Director Keating recalled that on April 9, 2013, after considering the request of Vero Estates, LLC to revise the text of Policy 5.6 of the Future Land Use Element (FLUE) of the County's Comprehensive Plan, the Board approved transmittal of the proposed amendment to the review agencies, and today is the final public hearing on this matter. He used a PowerPoint presentation (on file) to give background and analysis on the proposed amendments, noting that the applicant proposes to change the use requirements to allow fuel sales within mixed use Planned Developments (P.D's) in residentially designated areas; and to allow a certain amount of commercial development to be done before any residential development proceeds. He thereafter gave the recommendations of the Planning & Zoning Commission, and staff, for the Board to approve the request to amend the text of Policy 5.6 by adopting the proposed ordinance.

Staff addressed the Board's questions about the proposed Comprehensive Plan Text Amendment, after which the Chairman opened the Public Hearing.

**Joseph Paladin**, Black Swan Consulting and Entitlement, representing the Vero Estates Project, spoke to the benefits that the proposed changes would bring about, and requested that the Board approve the text amendment.

There were no other speakers, and the Chairman closed the Public Hearing.

MOTION by Commissioner Solari, SECONDED by Commissioner Zorc, the Board unanimously adopted **Ordinance 2013-007**, amending the text of the Policy 5.6 of the Future Land Use Element of the County's Comprehensive Plan; and providing codification, severability, and effective date.

The Chairman called a recess at 9:52 a.m., and reconvened the meeting at 10:04 a.m., with all members present.

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM CHARLES (CHUCK) FANNIN REGARDING CONCERNS OVER MUNICODE CHAPTER 974**

**Charles (Chuck) and Lisa Fannin**, 2820 Grand Isle Way, Millstone Landing, provided background and conditions on their request for the Board to amend the County's Land Development Regulations (LDRs), Chapter 974, Noise and Vibration Control, to raise the permitted decibel levels in residential areas. The Fannins advised that they had received a Code Enforcement Board violation for their electric pool heater because it exceeds 60 decibels (dB), (the allowable sound level), and that they have learned that most outdoor electrical units in the neighborhood also exceed that level. They voiced their willingness to build a cinderblock wall around the heater, but don't want to spend the money if it doesn't clear up the violation.

**Denise Kelly**, 2830 Grand Isle Way, adjacent to the Fannins' home, presented a handout to the Board (copy on file), describing the stress that her household has been under, due to the volume of sound emanating from the Fannin's pool equipment. She relayed how close the pool heater is to the Kelly's lanai and master bedroom, and urged the Fannins to construct the wall as a noise buffer.

A broad-ranging discussion ensued, with individual Board members suggesting the following:

- Explore whether homeowners in the state of California (which has a pool heater ordinance), have brought their sound levels into compliance after construction of a barrier wall
- Explore the sound levels of modern, efficient, pool heaters and air conditioning units, so a determination can be made on what changes to the code might be desired

**Mrs. Kelly**, in response to Commissioner O'Bryan's query, agreed to drop her Code Enforcement Board complaints if the Fannins build the sound barrier.

**Mr. Fannin** reiterated his concerns that they would still have a Code Enforcement Board violation if the wall is built, but the dB level of the pool heater does not decrease to 60.

Roland DeBlois, Environmental Planner and Code Enforcement Chief, acknowledged that the Code Board makes the final decision in the end, but surmised that if the sound level measures within a dB or two, a resolution can be reached. Director Keating added that the Code Enforcement Board will not be measuring the sound levels unless there is a complaint.

**Mr. Fannin** requested that Mrs. Kelly indicate in writing her agreement to drop the Code Enforcement Board complaint if they construct the barrier around their pool heater.

Chief DeBlois advised Mr. Fannin that the July 2, 2013 meeting minutes would serve his purpose.

No Board Action Required or Taken

**10.B.2. REQUEST TO SPEAK FROM DENISE KELLY REGARDING REVIEW OF  
NOISE AND VIBRATION CODE 974.03(1.04)**

This item was heard in conjunction with Item 10.B.1.

No Board Action Required or Taken

**10.B.3. DELETED: REQUEST TO SPEAK FROM ARDRA AND BILL RIGBY  
REGARDING EQUALITY AND AFFIRMATIVE OPPORTUNITY**

**10.C. PUBLIC NOTICE ITEMS**

**10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING JULY 16, 2013:**

**IMG CITRUS'S REQUEST FOR A SMALL SCALE COMPREHENSIVE PLAN  
FUTURE LAND USE MAP AMENDMENT TO REDESIGNATE ±2.16 ACRES  
FROM C/I TO M-2, AND TO REZONE THOSE ±2.16 ACRES FROM IL TO  
RM-10; AND TO SIMULTANEOUSLY REDESIGNATE ±2.16 ACRES FROM  
M-2 TO C/I, AND TO REZONE THOSE ±2.16 ACRES FROM RM-10 TO IL  
(LEGISLATIVE)**

County Attorney Alan S. Polackwich, Sr. read the notice into the record.

**11. COUNTY ADMINISTRATOR MATTERS- NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT**

**12.A.1. REQUEST TO APPROVE AN AMENDED AND RE-STATED AGREEMENT  
BETWEEN INDIAN RIVER HABITAT FOR HUMANITY AND INDIAN RIVER**

**COUNTY FOR NEIGHBORHOOD STABILIZATION PROGRAM 3 (NSP3)**  
**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAMMATIC**  
**SERVICES AND MODIFICATION #1 TO NSP3 SINGLE-FAMILY PURCHASE,**  
**REDEVELOPMENT, AND SALES PROGRAM MANUAL**

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Davis, the Board unanimously: (1) approved the proposed Amended and Re-Stated Neighborhood Stabilization Program 3 (NSP3) Developer's Agreement between Indian River County and Indian River Habitat for Humanity; (2) approved the proposed modifications to the NSP3 Single-Family Purchase, Redevelopment and Sales Program Manual; (3) authorized the Community Development Director to make any changes to the proposed Amended and Re-Stated NSP3 Developer's Agreement between Indian River County and Indian River Habitat for Humanity and to the proposed modifications to the NSP3 Single-Family Purchase, Redevelopment and Sales Program Manual that may be required by the U.S. Department of Housing and Urban Development; and (4) authorized the Chairman to execute proposed Amended and Re-Stated NSP3 Developer's Agreement between Indian River County and Indian River Habitat for Humanity, as recommended in the memorandum of June 17, 2013.

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

**12.A.2. REQUEST FOR THE BOARD OF COUNTY COMMISSIONERS TO APPROVE**  
**THE IMPACT FEE UPDATE CONSULTANT SERVICES CONTRACT WITH**

**TINDALE-OLIVER AND ASSOCIATES AND TO AUTHORIZE THE BOARD**  
**CHAIRMAN TO SIGN THE CONTRACT**

Director Keating recapped his memorandum of June 21, 2013, providing background and analysis on the nine impact fees (*not inclusive of water and sewer*) imposed by the County. He informed the Board that the proposed impact fee study will assist the Board in its required triennial review of the fee schedule, and presented staff's recommendation for the Board to approve Tindale-Oliver and Associates, Inc. (Tindale-Oliver) as the impact fee update study consultant. He advised that the proposed scope of services in the agreement specifies that a Board Workshop Meeting will be held after the consultant finishes his data collection, and that the study will include analysis on whether there is a way to reduce commercial impact fees without increasing residential.

Commissioner Zorc requested that staff see whether Tindale-Oliver can conclude the study before the projected date of November 2013, so the workshop can be held sooner. Director Keating agreed to check.

**Charlie Wilson**, Office Location - 2001 Building, urged the Board to have a workshop meeting prior to commissioning the impact fee study. He declared that he has information showing that the Board may no longer have the legal authority to charge impact fees in certain instances, because the County has exceeded Level of Service standards in those categories.

Commissioner Zorc noted that he had some items that might change the scope of the services, and wanted to quantify the costs associated with the study at the time of the workshop meeting.

Further deliberations ensued, with input from County Administrator Joseph Baird, regarding the County's Levels of Service in various categories, and how they affect impact fees.

**Mr. Wilson** requested that the Board ask the consultant to evaluate whether the County's impact fees pass the Dual Rational Nexus Test; Administrator Baird agreed to check with Tindale-Oliver's staff attorney.

*(Clerk's Note: The Dual Rational Nexus Test pertains to having a reasonable connection between the need for capital facilities and the population growth generated by development).*

Discussion continued on matters relative to the calculation and imposition of the impact fees.

**Joseph Paladin**, Black Swan Consulting and Entitlement, spoke to the necessity to have impact fees to support new development. He cautioned the Board that a reduction to transportation fees would create a shortage of funds that are needed for road projects.

**Charlie Wilson** requested that discussion be held at the workshop as to whether the impact fees are being expended correctly.

MOTION WAS MADE by Commissioner Solari, SECONDED by Chairman Flescher, to: (1) approve the selection of the sole proposer, Tindale-Oliver and Associates; (2) approve the Draft Consultant Services Contract; and (3) authorize the Chairman to execute the Impact Fee Consultant Services Contract for a total cost of \$199,839.07.

Commissioner Zorc requested that the components of Task 1 and Task 2 outlined on Appendix "B" Draft Project Budget Indian River County Impact Fee Study, be broken down on a cost per service basis.

Commissioner O’Bryan stressed that the scope of services in the proposed agreement is being driven by the County Commission, not staff.

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

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**

**12.I.1 SECONDARY HURRICANE DEBRIS REMOVAL CONTRACT CHANGE OF  
VENDOR**

ON MOTION by Commissioner Solari, SECONDED by Commissioner O’Bryan, the Board unanimously: (1) awarded the Secondary Debris Removal Agreement to



Omni Pinnacle, Inc.; (2) approved the sample agreement; and (3) authorized the Chairman to execute the agreement after the County Attorney has approved same as to form and legal sufficiency, as recommended in the memorandum of May 24, 2013.

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

**12.I.2. CAFETERIA FACILITY – BUILDING A / DAILY DOSE CAFÉ – LEASE**

**RENEWAL**

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

Commissioner Solari noted his past and current opposition to this item.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner Solari opposed), the Board approved extending the existing lease with Julie Anderson for the Daily Dose Café, from August 1, 2013 through July 30, 2014, with automatic renewal for three (3) one (1) year terms, each with the same terms and conditions, as recommended in the memorandum of June 24, 2013.

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

**12.I.3. AS-BUILT RESOLUTION AND FINAL ASSESSMENT ROLL FOR ASPHALT  
MILLING IMPROVEMENTS TO 7<sup>TH</sup> PLACE FROM 63<sup>RD</sup> AVENUE TO 60<sup>TH</sup>  
AVENUE IN THE PINE TREE PARK SUBDIVISION IRC PROJECT No. 1212**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved **Resolution 2013-060**, certifying “as-built” costs for certain asphalt milling improvements to 7<sup>th</sup> place west of 63<sup>rd</sup> Avenue to 60<sup>th</sup> Avenue, in the Pine Tree Park Subdivision – IRC Project No. 1212, and other construction necessitated by such project; providing for formal completion date, and date for payment without penalty and interest.

**12.J. UTILITIES SERVICES**

**12.J.1. WORK ORDER NO. 5 – PROFESSIONAL SERVICES TO KIMLEY-HORN &  
ASSOCIATES, INC. FOR THE ACID TANK REPLACEMENT SOUTH RO  
WATER TREATMENT PLANT (AMENDMENT #1)**

ON MOTION by Commissioner Solari, SECONDED by Commissioner O’Bryan, the Board unanimously approved and authorized the Chairman to execute Amendment No. 1 to Work Order No. 5 to Kimley-Horn & Associates, Inc., in the amount of \$5,500.00, as recommended in the memorandum of June 17, 2013.

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

**12.J.2. APPROVAL OF AMENDMENT NO. 2 TO WORK ORDER NO. 1 WITH  
ATKINS, INC. FOR ENGINEERING SERVICES TO DESIGN IMPROVEMENTS  
FOR MISCELLANEOUS DETERIORATED CLARIFIER STRUCTURES AT THE  
WEST REGIONAL WASTEWATER TREATMENT FACILITY**

ON MOTION by Commissioner Solari, SECONDED by Commissioner O’Bryan, the Board unanimously approved and authorized the Chairman to execute Amendment No. 2 to Work Order No. 1 with Atkins North America (ANA) in the amount of \$11,600.00, as recommended in the memorandum of June 20, 2013.

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

**12.J.3. WORK ORDER NO. GKE-3 WITH G.K. ENVIRONMENTAL, INC. TO  
ASSIST THE COUNTY WITH MAINTAINING DEVELOPED WETLANDS AT THE  
LOST TREE ISLANDS**

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute Work Order No. GKE-3 with G.K. Environmental, Inc., in the amount of \$43,760.00, as recommended in the memorandum of June 20, 2013.

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

**12.J.4. APPROVAL FOR RETAINING THE UTILITIES DEPARTMENT LABOR**

**CONTRACTOR TO CONSTRUCT WATER MAIN LOOP EXTENSIONS SOUTH OF OSLO RD. AND APPROVAL OF WORK AUTHORIZATION No. 2012-003 TO MELVIN BUSH CONSTRUCTION, INC., UCP 4101, WIP No. 471-169000-13525**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously: (1) approved the amount of \$61,000.00 for Utility Project No. 4101; (2) approved using the Utility Department Labor Contractor to install the two water main loops; and (3) approved and authorized the Chairman to execute Work Authorization No. 2012-003 to Melvin Bush Construction, Inc., for an amount of \$37,000.00 for labor.

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

*The Chairman called a recess at 11:55 a.m., and reconvened the meeting at 12:18 p.m., with all members present.*

**13. COUNTY ATTORNEY MATTERS**

**13.A. REQUEST FOR ATTORNEY-CLIENT SESSION IN INDIAN RIVER COUNTY V. TURNER CONSTRUCTION COMPANY, ET AL, CIRCUIT COURT, INDIAN RIVER COUNTY CASE # 312011CA002999**

Attorney Polackwich requested that the Board schedule a closed attorney-client session at 10:30 a.m. on July 9, 2013, regarding the *Indian River County v. Turner Construction Company, et al* pending litigation relating to the roofs of the County Administration Buildings A and B. He

advised that although the new County Attorney, Dylan Reingold, would be sitting on the dais on July 9<sup>th</sup>, he (Attorney Polackwich) would be attending the shade session.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved to hold a closed Attorney-Client Session on July 9, 2013 at 10:30 a.m., in the County Commissioners' Conference Room, as requested in the memorandum of June 21, 2013.

Attorney Reingold thanked the Board and expressed his enthusiasm for the opportunity to work as County Attorney.

### **13.B. REVISION OF HOLMAN STADIUM USE GUIDELINES**

Attorney Polackwich discussed the arrangement between Verotown, LLC and the County, wherein Verotown leases the facility known as the Vero Beach Sports Village (f/k/a Dodgertown), and the County is allowed use of the facility 10 days per year. He observed that the County normally rents the facility out for that duration to organizations that hold fundraisers onsite. Since those groups have repeatedly requested a waiver of the alcohol prohibition in the rental agreement (the Holman Stadium Use Agreement), staff recommends eliminating that alcohol prohibition at said fundraisers, along with other minor changes to the use agreement.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved the proposed, revised Indian River County Holman Stadium Use Guidelines, as presented on pages 311 through 315, and as recommended in the memorandum of June 19, 2013.

### **13.C. FERTILIZER ORDINANCE**

Attorney Polackwich provided background on the Board's decision to not adopt a fertilizer ordinance in 2012, at which time the Indian River Lagoon was not on the list of nutrient impaired water bodies. He relayed that at the time, the Board opted to pursue other restoration strategies; however, the Florida Department of Environmental Protection (FDEP) has now designated the Indian River Lagoon as nutrient impaired, and the County is statutorily required to adopt either the FDEP's Model Ordinance For Florida-Friendly Use of Fertilizer on Urban Landscapes (Model Ordinance), or a more stringent law.

Commissioner O'Bryan spoke to the necessity of including an enforcement component in whatever fertilizer ordinance the Board adopts, and suggested creating a specific code enforcement position for that purpose. He remarked on the importance of education in the proper use of fertilizer, and said that part of the Model Ordinance is that all commercial applicators of fertilizer must receive certification in Best Management Practices before obtaining a Local Business Tax Certificate.

A lengthy and detailed discussion followed as the Board debated whether enforcement was necessary, and if so, which County department should assume the responsibility.

Vice Chairman Davis felt the task should fall to the Stormwater Division of the Public Works Department, or to the Agricultural Extension Services Department.

Commissioner O'Bryan suggested creating a split position through Code Enforcement.

Chairman Flescher opined that one additional County employee would not prevent violation of the ordinance, and suggested having an evaluation period before a position is created.

Further discussion ensued, with input from County Administrator Joseph Baird, regarding which department should handle the enforcement duties. Suggestions were made to use the Stormwater crew, or the Environmental Control Officer.

Commissioner O'Bryan pointed out that even though the professional landscapers will be required to have certification, no one is monitoring whether or not they do.

Commissioner Zorc proposed having one Code Enforcement Officer responsible for checking for proper licensing of both contractors and professional fertilizer applicators. He also affirmed the need to adopt the Model Ordinance at this time, after which the Board can explore how to maximize the law's effectiveness.

Commissioner Solari mentioned the need to address the unlicensed applicators in the County. He liked Commissioner Zorc's concept of sharing one enforcement officer who could check for proper licenses, and in the area of the fertilizer ordinance, segue more towards education as more applicators come into compliance.

The following public speakers expressed their desire to see the health of the Lagoon restored; offered assistance with revitalization efforts; proffered suggestions for the proposed ordinance; and advocated for the Board to adopt a more stringent law than the Model Ordinance.

**Richard Baker**, President, Pelican Island Audubon Society

**John Burns**, 1811 East Sandpointe Place, representing South Beach Homeowners Association

**Nancy Higgs**, 7860 Casuarina Drive, South Melbourne Beach

**Sharon Kolor**, 545 Honeysuckle Lane, representing environmentalist Diane Morgan

**Brian Carman**, 1190 Ansley Avenue SW, representing the Indian River Neighborhood Association (IRNA), and himself as an individual, read a prepared statement (copy on file)

**Susan Boyd**, 8025 24<sup>th</sup> Street

**Judy Orcutt**, 4665 Pebble Bay South, pointed out that the Model Ordinance refers to the Institute of Food and Agricultural Sciences (IFAS), Best Management Practices, which most people will not bother to read, and asked the Board to craft its fertilizer ordinance with clear and simple language.

The following lawn professionals attested that their companies are already following Best Management Practices, and they explained what is needed nutrient-wise, to keep the turf healthy. They urged the Board to not incorporate into the ordinance a blackout period prohibiting fertilizer application (adopted in several counties), and to adopt the FDEP's Model Ordinance, not a stronger version.

**Ted Waters**, representing TruGreen

**Ian Rodriguez**, Technical Director, ValleyCrest Landscape Companies

**Craig Weyandt**, 151 35<sup>th</sup> Square SW, representing the Green Industry

**Herb Whittall**, Vero Isles, noted that only about 50% of the nitrogen is retained in the soil; the remainder ends up in the Lagoon.

*The Chairman called a recess at 2:12 p.m., and convened the meeting at 2:19 p.m., with all members present.*

**Greg Pheneger**, 607 Cypress Road, spoke about a University of Florida study done by Drs. Bryan Unruh and Laurie Trenholm, which shows that proper fertilization does not leach or cause problems. He also spoke to the importance of soil testing to determine whether an application of fertilizer is necessitated.

Discussion ensued on the two types of tests that are used on turf grasses to determine nutrient levels - regular soil testing and tissue cultures.

The Board, with input from Administrator Baird, continued to discuss the problem of unlicensed applicators, the best way to handle enforcement of the ordinance, and the need to



educate applicators and homeowners about the law. The Board also debated whether to include a “blackout” clause in ordinance.

**Mrs. Orcutt** relayed that there are several classes in Port St. Lucie offered by the Institute of Food and Agricultural Sciences (IFAS), Extension Services, University of Florida, but none in the County at this time.

Discussion ensued about holding the public hearing for adoption of either the Model Ordinance or a more stringent version.

Attorney Polackwich advised the Board that he would have to immediately advertise the public hearing, in order to comply with the 10-day public notice requirement.

Chairman Flescher suggested advertising a Special Call Meeting on July 18, 2013, for the purpose of conducting a Public Hearing on Consideration of Final Adoption of the Proposed Fertilizer and Landscape Management Ordinance.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Chairman Flescher, to direct the County Attorney to advertise for a Special Call Meeting on July 18, 2013, for the purpose of conducting a Public Hearing and considering passage of a proposed ordinance adopting the Florida Department of Environmental Protection Model Ordinance for Florida Friendly Use of Fertilizer on Urban Landscapes, with minor modifications including: (1) the addition of a compliance factor proposed to be monitored through the Environmental Control Board; (2) offer to all applicators of fertilizer in the County, a training program for certification in Florida-Friendly Best Management Practices; and (3) have staff and stakeholders continue to gather information to

determine whether additional changes to the Model Ordinance are required.

Administrator Baird relayed that he will be making information available to the public about online training and classes on the Best Management Practices for fertilizer application.

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. ST. JOHNS RIVER ALLIANCE APPLICATION FOR BLUEWAY DESIGNATION REQUEST FOR LETTER OF SUPPORT**

Vice Chairman Davis, Board Member of the St. Johns River Alliance, requested that the Board send a letter of support to the Florida Department of Environmental Protection (FDEP) Office of Greenways and Trails (OGT), asking for the St. Johns River to be designated as a paddling trail and part of the State's Blueway System.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute a letter of support to the Florida Department of Environmental Protection, on behalf of the St. Johns River Alliance, requesting that the St. Johns River be designated as a paddling trail and part of the State's Blueway System, as requested in the memorandum of July 2, 2013.

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

**14.D. COMMISSIONER BOB SOLARI**

**14.D.1. ROAD AND BRIDGE WORKERS**

Commissioner Solari read an email from Charles Searcy commending members of the County's Road and Bridge crew on their excellent maintenance of the roadways and medians on State Road 60 near I-95. He (Commissioner Solari) expressed his appreciation for the road crews, who do an excellent job in challenging weather (extreme heat) and keep the County looking nice for visitors and citizens.

**14.E. COMMISSIONER TIM ZORC**

**14.E.1. SPECIAL FUNDING FOR ECONOMIC DEVELOPMENT PROMOTION**

Commissioner Zorc presented his economic development proposal to designate funds that the County Commission could use for welcoming site selectors or businesses ("clients") considering a move to the County. He stated that a unique branding could be done on items that are preferably reusable, such as personalized welcome signs at entry points around the County (if the client is ready for public recognition). He stressed that potential businesses want to be certain of their welcome, and that a positive message from the local government could be the determining factor in a company's decision on where to build their business.

Chairman Flescher pointed out that the Economic Development Council (EDC) has a separate budget specifically used for these types of events.

Commissioner Zorc responded that his concept is to promote the County Government structure and apparatus as supporting the client.

Vice Chairman Davis agreed that in terms of economic development strategy, it would be a positive move for the leadership of the local government to welcome the prospective business.

MOTION WAS MADE by Vice Chairman Davis to designate special funding to welcome and promote a site selection company that is visiting the County on behalf of a specific company, or the representatives of a specific company. MOTION DIED for lack of a SECOND.

**Penny Chandler**, Indian River County Chamber of Commerce (the Chamber), discussed past welcomes that were orchestrated by the Chamber, and noted that a client does not always want to go public initially. She affirmed that the entire staff of the Chamber is willing and able to help with economic development.

Commissioner Zorc stressed that once a company does go public, he wants them to know that the County government is eager to accommodate their needs.

Vice Chairman Davis observed that what Commissioner Zorc is looking for is a hospitality package from the entire Board. It is the five Commissioners saying “Welcome to Indian River County, and thank you for coming!”

Commissioner O’Bryan suggested adding a line item in the EDC budget for County Government promotion of client visits.

Chairman Flescher observed that placing welcoming signs around the County will not be the factor that draws companies to the area. He stated that the EDC and Chamber are already in place and capable of getting things done.

Commissioner Solari maintained that the Board should reconsider this matter after it is vetted by the EDC.

Commissioner Zorc replied that he preferred to withdraw and repackage his item. He disclosed that he is trying to model a plan after the State of Texas, where economic development is booming, and that he will bring further details to the next County Commission meeting on July 9, 2013.

**Ms. Chandler** requested that Commissioner Zorc discuss his initiative with Chamber staff, and said she would have Helene Caseltine, Economic Development Director of the Chamber, contact him.

## **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 3:49 p.m.

ATTEST:

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Jeffrey R. Smith,  
Clerk of Circuit Court and Comptroller

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Joseph E. Flescher, Chairman

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

BCC/MG/2013Minutes