

JEFFREY R. SMITH  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

JULY 16, 2013

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**JEFFREY R. SMITH**

Clerk to the Board and Comptroller



**July 16, 2013**

**REGULAR MEETING OF THE BOARD OF COUNTY  
COMMISSIONERS OF JULY 16, 2013**

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 16, 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 Dylan T. Reingold, and Deputy Clerk Maria I. Suesz.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Deputy Teddy Floyd, Indian River County Sheriff's Department, 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**

##### **EMERGENCY ITEM: ITEM 8.P.- ELSTER METER REMEDY AGREEMENT**

##### **ADDITION: ITEM 14.A.1. – COMMISSIONER FLESCHER – EXPLANATION OF SUNSHINE LAW REQUIREMENTS FOR COMMISSIONERS ATTENDING AND PARTICIPATING AT PUBLIC MEETINGS THAT ARE NOT BOARD DIRECTED.**

##### **MOVE: ITEM 14.E.1. – COMMISSIONER ZORC - INDIAN RIVER LAGOON UPDATE MOVED TO BE HEARD FOLLOWING CONSENT AGENDA**

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

#### **5. PROCLAMATIONS AND PRESENTATIONS**

##### **5.A. PRESENTATION ON DOWNTOWN VERO BEACH EVENT BY VICKIE WILD, EXECUTIVE DIRECTOR, KEEP INDIAN RIVER BEAUTIFUL**

**Vicky Wild**, Executive Director of Keep Indian River Beautiful (KIRB), updated the Board on the progress KIRB has made over the past two years, with recycle bins and cigarette containers. She announced the unveiling of five new recycle bins awarded to KIRB at Downtown Friday in Vero Beach on July 26th from 6:00 p.m. to 9:00 p.m., and the KIRB Market Place in the Mall to be held Saturday, July 27, 2013, 1:00 p.m. to 6:00 p.m. Ms. Wild also announced a new campaign with the Agricultural Advisory Council and announced to anyone interested in more information to go to [Iwanttoberecycled.org](http://Iwanttoberecycled.org).

Commissioner O'Bryan suggested Ms. Wild look into placing a recycle bin in the City of Sebastian.

**5.B. PRESENTATION OF PROCLAMATION AND RETIREMENT AWARD  
HONORING GARY EASLICK ON HIS RETIREMENT FROM INDIAN RIVER  
COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF  
UTILITY SERVICES/SOLID WASTE DISPOSAL DISTRICT WITH TWENTY-  
TWO YEARS OF SERVICE**

Chairman Flescher read and presented the Proclamation to Gary Easlick.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF JUNE 18, 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 June 18, 2013 meeting, as written.

**7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS  
NOT REQUIRING BOARD ACTION - NONE**

**8. CONSENT AGENDA**

Administrator Baird pulled Item 8.I. for discussion.

Chairman Flescher pulled 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 – JUNE 28, 2013 TO JULY 3, 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 28, 2013 to July 3, 2013, as requested in the memorandum of July 3, 2013.

**8.B. INDIAN RIVER COUNTY TAX COLLECTOR, CAROLE JEAN JORDAN, REPORT OF THE LIST OF ERRORS, INSOLVENCIES, DOUBLE ASSESSMENTS AND DISCOUNTS FOR THE 2012 TAX ROLL**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the List of Errors, Insolvencies, Double Assessments and Discounts for the 2012 tax roll, as requested in the memorandum of July 3, 2013.

**8.C. HIRING OF NEW EMINENT DOMAIN ATTORNEY FOR CR 510 IMPROVEMENT PROJECT**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the hiring of William P. Doney, Esq. as the County's outside Eminent Domain Attorney for the CR 510 Improvement Project, as recommended in the memorandum of July 8, 2013.

**8.D. APPROVAL OF AGREEMENTS TO PURCHASE AND SELL PARCEL 108**  
**ESTATE OF EARL HOBBS, JR., 6420 49<sup>TH</sup> STREET, VERO BEACH**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved: (1) the Agreement to Purchase and Sell for the right-of-way and temporary construction easement from the Hobbs Estate at a price of \$106,600, inclusive of all fees and costs; and (2) the Board found that this expansion of 66<sup>th</sup> Avenue is necessary to accommodate growth in the County and such growth will benefit from this expansion, as recommended in the memorandum of July 2, 2013.

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

**8.E. AMENDMENT TO AGREEMENT TO PURCHASE AND SELL REAL ESTATE**  
**WILLIAM AND EVA GRAVES**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the Amended Agreement to Purchase and Sell Real Estate with the Graves, depicting improvement changes, as recommended in the memorandum of July 8, 2013.

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

**8.F. COUNTY CAPITAL ASSET INVENTORIES**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the list of assets for deletion from the inventory system as presented and recommended in the memorandum of July 3, 2013.

**8.G. CRIME SCENE UNIT – RELEASE OF RETAINAGE – DONADIO AND ASSOCIATES**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved release of retainage in the amount of \$13,130.14 for design work completed through March 2013, by Donadio and Associates, Architects, P.A., for the Crime Scene Unit Project, as recommended in the memorandum dated July 2, 2013.

**8.H. AWARD OF BID NO: 2013021, 12<sup>TH</sup> STREET AND 27<sup>TH</sup> AVENUE INTERSECTION IMPROVEMENTS, IRC PROJECT NO. 9334**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously: 1) found that the improvements to the intersection at 12<sup>th</sup> Street and 27<sup>th</sup> Avenue are necessary to accommodate growth in the County, and that such growth will benefit from the improvements; 2) approved the project to be awarded to Timothy Rose Contracting, Inc., in the amount of \$1,525,216.32; and 3) approved and authorized the Chairman to execute the sample 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 July 1, 2013.

DOCUMENTON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.I. 2014 HOLIDAY SCHEDULE**

Administrator Joseph Baird asked the Board to approve a modified holiday schedule (see replacement page 72) that indicated the County to be open on Christmas Eve, Wednesday, December 24, 2014, and closed on the day after Christmas, Friday, December 26, 2014, to allow for a long weekend.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Solari, the Board unanimously approved the amended 2014 Holiday Schedule, reflecting the County to be open Wednesday, December 24, 2014, and to be closed Friday, December 26, 2013.

**8.J. REQUEST FOR THE BOARD OF COUNTY COMMISSIONERS TO APPROVE  
A TECHNICAL ASSISTANCE GRANT AGREEMENT BETWEEN THE  
DEPARTMENT OF ECONOMIC OPPORTUNITY (DEO) AND INDIAN RIVER  
COUNTY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board approved and authorized the Chairman to execute two copies of the Technical Assistance Grant Agreement with the Department of Economic Opportunity (DEO), as recommended in the memorandum of July 9, 2013.

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

**8.K. CRIME SCENE FACILITY CHANGE ORDER # 3 PROCTOR  
CONSTRUCTION COMPANY – EVIDENCE COMPOUND**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and

authorized the Chairman to execute Change Order # 3 to the Crime Scene Facility contract with Proctor Construction Company in the amount of \$73,013.73 including the use of owners' contingency balance increasing the contract amount to \$1,827,452, as recommended in the memorandum of June 11, 2013.

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

**8.L. FEDERAL FISCAL YEAR 2013 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) APPROVAL OF DISTRIBUTION OF GRANT FUNDS**

Chairman Flescher requested Director of Budget and Management Jason Brown to give an explanation of the distribution of the funds to better inform the public.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Substance Awareness Council Advisory Board's recommendations and authorized the Board Chairman to execute the letter approving distribution of the funds to Multi-Agency Criminal Enforcement Unit (M.A.C.E.) and the Substance Awareness Council Drug Testing Program, along with the grant applications and other necessary related documents for submittal to the Florida Department of Law Enforcement, Office of Criminal Justice Grants, prior to the deadline of Friday, August 2, 2013, as recommended in the memorandum of July 8, 2013.

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

**8.M. NORTH COUNTY CHARTER SCHOOL DEVELOPER AGREEMENT FOR  
DEVELOPER CONTRIBUTIONS TO ROADWAY IMPROVEMENTS ON OLD  
DIXIE HIGHWAY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the Developer Agreement with North County Charter School, Inc., as recommended in the memorandum of July 9, 2013.

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

**8.N. MISCELLANEOUS BUDGET AMENDMENT 022**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-065** amending the fiscal year 2012-2013 budget.

**8.O. PROPOSED THIRD AMENDMENT TO FACILITY LEASE AGREEMENT FOR  
VERO SPORTS VILLAGE (F/K/A DODGERTOWN)**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the new version of the Third Amendment to the Facility Lease Agreement with Verotown, LLC, on behalf of the Board, as recommended in the memorandum of July 9, 2013.

**8.P. ADDITION - EMERGENCY ITEM - ELSTER METER REMEDY AGREEMENT**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board approved: (1) the Remedy Agreement between Indian River County and Elster AMCO, LLC, and (2) approved staff to issue a purchase order to Elster AMCO, LLC for the purchase of its propriety modules, as recommended in the memorandum of July 15, 2013.

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

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARINGS**

**10.A.1. IMG CITRUS'S REQUEST FOR A SMALL SCALE COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT TO REDESIGNATE ±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)**

Director of Community Development Bob Keating presented proposed amendments to the Future Land Use Map to swap Land Use Designations on two properties located near 45<sup>th</sup> Street and Old Dixie Highway, and requested that the Board adopt the authorizing Ordinances.

The Chairman opened the Public Hearing.

**Bruce Barkett**, Esq., representing the applicant, was present to address any questions.

**Bob Johnson**, Coral Wind subdivision, was concerned that the Board was setting a precedent and that the Public may not be aware of the action taking place today on this item.

**Joseph Paladin**, Black Swan Consulting, commended Bruce Barkett in the manner that he brought this item forward.

Chairman Flescher closed the Public Hearing.

ON MOTION by Commissioner Davis, SECONDED by Chairman Flescher, the Board unanimously adopted **Ordinance 2013-008** amending the future land use map by changing the land use designation for ± 2.16 acres from C/I, Commercial/Industrial, to M-2, Medium Density Residential - 2 (up to 10 units/acre) (southern property); and simultaneously re-designating ± 2.16 acres from M-2 to C/I (northern property), and providing codification, severability, and effective date.

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Davis, the Board unanimously adopted **Ordinance 2013-009**, amending the zoning ordinance and zoning map by



rezoning ±2.16 acres from IL, Light Industrial District, to RM-10, Multi-Family Residential District (up to 10 units/acre) (southern property); and simultaneously rezoning ±2.16 acres from RM-10 to IL (northern property), and providing codification, severability, and effective date.

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

**10.C. PUBLIC NOTICE ITEMS**

**10.C.1. NOTICE OF SPECIAL CALL MEETING/PUBLIC HEARING: A SPECIAL CALL MEETING HAS BEEN SCHEDULED FOR THURSDAY, JULY 18, 2013, TO CONDUCT A PUBLIC HEARING AND TO CONSIDER ADOPTION OF A PROPOSED FERTILIZER ORDINANCE (LEGISLATIVE)**

**10.C.2. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR AUGUST 20, 2013:**

**10.C.2.A. PROVIDENCE POINT VERO BEACH, LLC'S REQUEST TO REZONE APPROXIMATELY 186.33 ACRES FROM A-1, AGRICULTURAL 1 (UP TO 1 UNIT/5 ACRES), AND RS-3, RESIDENTIAL SINGLE-FAMILY (UP TO 3 UNITS/ACRE), TO PLANNED DEVELOPMENT TRADITIONAL NEIGHBORHOOD DESIGN (PDTND) AND TO OBTAIN CONCEPTUAL/SPECIAL EXCEPTION PLANNED DEVELOPMENT PLAN APPROVAL FOR A PROJECT TO BE KNOWN AS PROVIDENCE POINTE (LEGISLATIVE)**

**10.C.2.B. CONSIDERATION OF PROPOSED LAND DEVELOPMENT REGULATION (LDR) AMENDMENT TO SECTION 911.15(1)(D), WEST COUNTY INDUSTRIAL PARK HEIGHT EXCEPTION (LEGISLATIVE)**

The County Attorney read the Notice into the record.

## **11. COUNTY ADMINISTRATOR MATTERS - NONE**

## **12. DEPARTMENTAL MATTERS**

### **12.A. COMMUNITY DEVELOPMENT**

#### **12.A.1. CONSIDERATION OF WATER CONNECTION POLICY FOR PROPERTIES LYING OUTSIDE THE URBAN SERVICE AREA**

Community Development Director Bob Keating recalled the Board meeting of June 18, 2013, when residents living outside the Urban Service Area (USA) expressed a strong desire to connect to the County water line that is being installed along 66<sup>th</sup> Avenue, as part of the 66<sup>th</sup> Avenue road paving project. Staff made contact with the Health Department and determined that the Health Department does not consider certain characteristics in their water testing that would find the water to be contaminated. After evaluating the water connection policy outside the Urban Service Area (USA), staff determined there was no need to change the policy, but they identified three options for the Board to consider, recommending Option 3:

Option 1: Not to change the Urban Service Area (USA) policies;

Option 2: Allow properties, regardless of geographic location, to connect to the County utility system; or

Option 3: Amend the County Comprehensive Plan to incorporate an additional exemption to the County's prohibition of extending utility service outside of the USA to allow properties adjacent to an existing utility line to connect to the County utility system.

The Commissioners made comments regarding determining a specified distance, and having a cost-sharing agreement.

MOTION WAS MADE by Commissioner Solari, SECONDED by Chairman Flescher, to direct the Utility Department to analyze the distance of all abutting 66<sup>th</sup> Avenue properties and bring specific recommendations back to the Board.

County Attorney Dylan Reingold clarified the motion, and questioned if Commissioner Solari intended to include the cost-sharing factor.

MOTION WAS AMENDED by Commissioner Solari, SECONDED by Chairman Flescher, to include the condition that any property owner requesting a water extension would have to pay for the extension.

Commissioner Zorc suggested that staff have a better thought process when looking at a long term road plan and including a utility component in that plan, as well as a cost-sharing agreement that would benefit the system.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved Option 3, to amend the County Comprehensive Plan to incorporate an additional exemption to the County's prohibition of extending utility service outside the Urban Service Areas to allow properties adjacent to an existing utility line to connect to the County utility system, *and directed Utility Department staff to analyze the distance and cost, and bring back to the Board specific recommendations.*

**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**

**12.G.1. RECREATIONAL REVENUE REFUNDING BONDS, SERIES 2003,  
CONSIDERATION OF EARLY PAYOFF WITH INTERFUND LOAN FROM  
GENERAL FUND**

Management and Budget Director Jason Brown, accompanied by Assistant County Administrator Mike Zito, presented an analysis regarding the early payoff of the remaining bonds outstanding during this fiscal year, to provide an interest savings for the Sandridge Golf Course. Director Brown responded to questions from the Board.

ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously: (1) authorized staff to begin the process of calling the remaining Recreational Revenue Refunding Bonds, Series 2003 in the amount of \$1,565,000 that become callable on September 1, 2013; (2) authorized an Interfund Loan from General Fund reserves in the amount of \$1,565,000 at an interest rate of 2.5% per year; (3) approved this loan to be repaid by the Golf Course on the same schedule as the current bond issue, as presented on the debt service schedule; and (4) authorized a budget amendment to allocate funding for the transaction from General Fund Cash Forward, all as recommended in the memorandum of July 9, 2013.

*Chairman Flescher called a recess at 10:33 a.m. and reconvened the meeting with all members present at 10:46 a.m.*

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS**

**12.I.1. APPROVAL OF CONSTRUCTION OF THE PC SOUTH ALGAL NUTRIENT REMOVAL FACILITY; AND APPROVAL OF CONSTRUCTION OF ASSOCIATED STORMWATER AND BRINE CONCENTRATE FORCE MAINS**

Director of Public Works Chris Mora, accompanied by W. Keith McCully, County Stormwater Engineer, requested the Board approve bid award and agreements for construction of the PC South Algal Nutrient Removal Facility, and the associated Stormwater and Brine Concentrate Force Main.

There was a brief question and answer period when the Board sought further detail regarding how the process is measured to prove credibility.

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

Director of Utilities Vincent Burke disclosed that the existing Florida Department of Environmental Protection (FDEP) consent order attached to the operating permit at the South County Reverse Osmosis (RO) Plant stipulates that by September 2013, the County shall no longer discharge brine concentrate directly to the relief canal. Due to project delays, staff has written to the FDEP-Central District to ask for an additional one year extension to the consent order timeline, and he will bring back an update on the construction schedule once he is noticed of the extension.

The CHAIRMAN CALLED THE QUESTION and the Motion carried unanimously. The Board unanimously approved: (1) the PC South Algal Nutrient Removal Facility Construction Contract with *Close Construction, LLC* for \$5,856,660.20; and (2) even though Felix Associates of Florida, Inc. was unresponsive regarding large diameter directional bore qualification and information reporting requirements, the Board approved the South County Brine Disposal Pipeline Construction Contract with *Felix Associates of Florida, Inc.* for \$1,164,853.40; and authorized the Chairman to execute both construction contracts after review and approval of the Public Construction Bond Agreement, and insurance certificates by appropriate staff; (3) approved the direct purchase of certain PC South equipment, as presented, for an estimated amount of \$1,074,380.00; and authorized the Purchasing Manager to issue Purchase Orders for those items; (4) authorized a construction contract contingency fee reserve equal to approximately 5% of the Close Construction and Felix Associates bids for a total of \$351,000, and authorized staff to use the reserve for change orders as deemed necessary by staff without additional Board approval up to the amount of the reserve; and (5) approved payment of a \$190,000 Technology License Fee to **Hydromentia, Inc.**, all as recommended in the memorandum of July 8, 2013.

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

**12.J. UTILITIES SERVICES**

**12.J.1. RENEWAL OF RFP/BID FOR WATER TANK MAINTENANCE PROGRAM**

**RFP# 2007057**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved to renew the bid with U.S.C., Inc. d/b/a/ Utility Service Co. Inc. for the second five year term ending in April 2017, to perform the maintenance and inspection of its storage tanks, and as recommended in the memorandum of July 10, 2013.

*(Clerk's Note: Year 2013 is year six (6) of the second five year term.)*

**12.J.2. OYSTER REEF PILOT PROJECT FOR NUTRIENT REMOVAL AND HABITAT RESTORATION**

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

A general discussion ensued by the Board regarding this project.

**Rene Renzi**, 301 Waverly Place, voiced her concern for the need to have more publicity on the utility projects addressed today.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved and authorized the Chairman to execute Work Order No. 1 with Ecotech Consultants, Inc. for \$28,500.00, as recommended in the memorandum of July 10, 2013.

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

**12.J.3. INDIAN RIVER AERODROME SUBDIVISION, INDIAN RIVER COUNTY**  
**PROJECT NO. UCP – 4100, APPROVAL OF WORK ORDER NO. 2 TO**  
**RETAIN MBV ENGINEERING FOR SURVEYING SERVICES**

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Davis, the Board unanimously approved and authorized the Chairman to execute Work Order No. 2 (Engineering/Surveying) from MBV Engineering, Inc. for a total lump sum amount of \$17,953, as recommended in the memorandum of July 3, 2013.

**13. COUNTY ATTORNEY MATTERS**

**13.A. APPROVAL OF EXPERT WITNESS FEES FOR WILLIAM BETHEL:**  
**PARCEL 108**

Deputy County Attorney Bill DeBaal provided a history of Board action regarding this matter dating back to March 17, 2009. He advised the Board that the only matter unresolved is the payment of Mr. Bethel's expert witness fees and costs, which by Florida Statute, the County as the condemning authority, is obligated to pay.

Commissioner O'Bryan expressed concern about the constant rising cost of fees and made the following motion:

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Zorc, to table this item, and allow time for the newly hired Eminent Domain Attorney William P. Doney, to look at the cost of fees and provide his opinion.



Attorney DeBraal acknowledged that the fees had been increasing and pointed out that this was a five-day trial case. However, Commissioner O'Bryan remained of the opinion that the appraisal fees were outrageous.

Attorney DeBraal asked for a clarification of the Motion to table this item until the next Board meeting in August.

MOTION WAS AMENDED by Commissioner O'Bryan, SECONDED by Commissioner Zorc, to table this item until the August 20, 2013 Board meeting.

In response to Commissioner Davis's inquiry, County Attorney Reingold totaled up the fees already invested in this matter to a dollar amount of \$486,600, excluding the County legal fees.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved to table this item, until the August 20, 2013 Board meeting to allow time for review of the cost of fees by the newly hired Eminent Domain Attorney William P. Doney.

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

**13.B. PROPERTY EXCHANGE WITH KAH DEVELOPMENT CORPORATION – 8<sup>TH</sup> COURT SW (OFF OSLO ROAD)**

Attorney DeBraal requested the Board's approval to exchange County land located at 830 9<sup>th</sup> Street SW, with KAH Development Corporation land located at 8<sup>th</sup> Court SW in Vero Beach, and asked the Chairman to allow comments from the Public on this item.

The Chairman opened the floor to the Public; seeing no speakers, the Chairman closed the open session and called for a Motion.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-066** approving an exchange of land with KAH Development Corporation.

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

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

##### **14.A. COMMISSIONER JOSEPH E. FLESCHER, CHAIRMAN**

##### **14.A.1. ADDITION - EXPLANATION OF SUNSHINE LAW REQUIREMENTS FOR COMMISSIONERS ATTENDING AND PARTICIPATING AT PUBLIC MEETINGS THAT ARE NOT BOARD DIRECTED.**

Chairman Flescher dissertated on recent concerns regarding the Commissioners' attendance and participation at community meetings, particularly when more than one Commissioner is in attendance. He asked the County Attorney for an explanation of staff's obligation at public meetings that are not Board directed, advice on specifically attending the upcoming Gifford Neighborhood meeting, and speaking on Community Redevelopment Area issues (CRA) with Civic Groups.

Attorney Reingold gave a brief overview of the Sunshine Law requirements. He stated that the meetings need to be noticed, held in a public area, and minutes need to be taken, should two or more Commissioners wish to attend and participate. He advised that the Gifford Neighborhood meeting is noticed and held in a public area, and if a Commissioner wants to participate at that meeting, minutes must be taken. He told the Board that at the beginning of the meeting, they should make their comments and answer any questions they would like to, and if they were to break out into separate groups or committees, he advised the Board to exit the meeting to avoid further complications with the Sunshine Law, and let staff remain to participate.

The other issue was the desire for the Commissioners to speak with Civic groups concerning CRA issues. These meetings, he said, are not necessarily subject to the Sunshine Law; however, should multiple Commissioners be in attendance and wish to participate, they need to make sure the meeting is in a public place, have minutes taken, and see that the meeting is noticed.

Commissioner Solari declared that he may attend these meetings, but had no desire to participate in them, and did not want to place an additional burden on staff by his attendance.

Chairman Flescher did not anticipate involvement at the Gifford meeting, other than an introduction. He felt he had an obligation to bring this matter up, as it became a concern to staff as to what they should be doing.

Attorney Reingold assured the Board that if Commissioners were to attend and simply listen then it does not implicate the Sunshine Law.

After several Commissioners stated their goals, the following CONSENSUS was reached.

There was a CONSENSUS of the Board that the Commissioners would attend the Gifford Neighborhood Meeting, to listen and not participate, and that there would be no need to consider the Gifford Neighborhood Meeting of Monday, July 22, 2013, as a meeting under the Sunshine Law.

**14.B. COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN – NONE**

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

*Clerk's Note: An impromptu announcement was made by Commissioner O'Bryan, who alerted the Board that Mr. Orcutt would be giving a PowerPoint Presentation at the Special Call*

*Fertilizer Ordinance meeting on Thursday, July 18, 2013 (copy filed with the Special Call meeting of July 18, 2013).*

**14.D. COMMISSIONER BOB SOLARI –NONE**

**14.E. COMMISSIONER TIM ZORC**

**14.E.1. INDIAN RIVER LAGOON UPDATE**

Commissioner Zorc invited Howard Ehram, Program Manager of the Indian River Lagoon Working Group, and Senior Project Manager with Creech Engineers, Inc. (Creech), to provide an update on the progress of the Indian River Lagoon Working Group. Mr. Ehram used a PowerPoint (copy on file) to define the Working Group's plan to hold a two-day workshop on a target date of August 26 and 27, 2013.

Vice Chairman Davis, liaison of the Agricultural Advisory Committee, wanted to make sure that the Agricultural Advisory Committee has a voice, and participates with the Indian River Working Group, with the intent of operating under the Sunshine Law. He provided a handout (on file) of the Agricultural Advisory Committee meeting draft minutes that showed their recommendation to seek funding and assistance from agencies and entities to research location and design of reservoirs or containment areas for agricultural water.

Attorney Reingold clarified that there are no County dollars being supplied to this Working Group; and no delegation of authority by governmental or legislative function in this Group; they are an independent organization, operating in the Sunshine, but not tied to those requirements, studying the lagoon, conducting workshops, and reporting back to the Board.

Commissioner Zorc said he would place a progress report on the agenda for the first meeting in September.

**15. SPECIAL DISTRICTS AND BOARDS**

**15.A. EMERGENCY SERVICES DISTRICT – NONE**

**15.B. SOLID WASTE DISPOSAL DISTRICT – NONE**

**15.C. ENVIRONMENT 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 11:59 p.m.

ATTEST:

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

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

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

BCC/MS/2013Minutes