

JEFFREY R. SMITH

Clerk to the Board



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BOARD OF COUNTY COMMISSIONERS

SEPTEMBER 10, 2013

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**JEFFREY R. SMITH**

Clerk to the Board



**September 10, 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, September 10, 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 Leona Adair Allen.

#### **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 Solari led the Pledge of Allegiance to the Flag.

#### **4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS**

**- NONE**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved the Agenda as presented.

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

##### **5.A. PRESENTATION OF PROCLAMATION RECOGNIZING THE MONTH OF SEPTEMBER 2013 AS HUNGER ACTION MONTH**

Commissioner O'Bryan read and presented the Proclamation to Krista Garafalo, Chief of Public Relations and Strategy Officer for the Treasure Coast Food Bank.

Ms. Garafalo provided details about the Treasure Coast Food Bank, and presented the Board with a Ruby Tuesday restaurant flier that describes the Community Give Back Program, and a September calendar that identifies 30 Ways in 30 Days to help the domestic hunger-relief charity, "Feeding America" (fliers on file).

#### **6. APPROVAL OF MINUTES**

##### **6.A. MEETING OF JULY 17, 2013 BUDGET WORKSHOP**

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 Budget Workshop Meeting minutes of July 17, 2013, as written.

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

**7.A. VACANCY ON THE TOURIST DEVELOPMENT COUNCIL FOR A PERSON  
INTERESTED IN TOURISM DEVELOPMENT / NOT AN OWNER OF HOTEL /  
MOTEL / TOURIST ACCOMMODATIONS**

Noted for the record was the vacancy on the Tourist Development Council, subsequent to the resignation of Ursula A. Gunter, effective immediately.

**7.B. SCHOOL DISTRICT OF INDIAN RIVER COUNTY APPOINTMENT OF  
ALTERNATE TO COUNTY PLANNING AND ZONING COMMISSION**

Noted for the record was the resignation of Jeffrey Pegler, District 2 School Board Member, and the appointment of Matthew McCain, a non-voting Alternate on the County's Planning and Zoning Commission.

**7.C. CITY OF SEBASTIAN, ORDINANCE NO. O-13-04 – ANNEXATION FOR LAND  
CONSISTING OF 2.45 ACRES, MORE OR LESS, LOCATED AT 11465 OLD  
DIXIE HIGHWAY, LYING WEST OF THE F.E.C. RAILROAD, IS ON FILE IN  
THE OFFICE OF THE CLERK TO THE BOARD**

**7.D. CITY OF SEBASTIAN, ORDINANCE NO. O-13-07 – ANNEXATION FOR LAND  
CONSISTING OF 1.43 ACRES, MORE OR LESS, LOCATED AT 12900 U.S.1  
AND LYING ADJACENT TO AND NORTH OF THE SEBASTIAN CEMETERY, IS  
ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD**

**8. CONSENT AGENDA**

**8.A. APPROVAL OF WARRANTS – AUGUST 9, 2013 TO AUGUST 15, 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 August 9, 2013 to August 15, 2013, as requested in the memorandum of August 15, 2013.

**8.B. APPROVAL OF WARRANTS – AUGUST 16, 2013 TO AUGUST 22, 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 August 16, 2013 to August 22, 2013, as requested in the memorandum of August 22, 2013.

**8.C. APPROVAL OF WARRANTS – AUGUST 23, 2013 TO AUGUST 29, 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 August 23, 2013 to August 29, 2013, as requested in the memorandum of August 29, 2013.

**8.D. PROCLAMATION AND RETIREMENT AWARD HONORING DENNIS A. KOERNER ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS COMMUNITY DEVELOPMENT DEPARTMENT/BUILDING DIVISION FOR SEVENTEEN YEARS OF SERVICE**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the Proclamation and Retirement Award honoring Dennis A. Koerner on his retirement from the Community Development Department / Building Division.

**8.E. PROCLAMATION AND RETIREMENT AWARD HONORING JOHN C. FREEMAN ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE FOR THIRTY-FIVE YEARS OF SERVICE**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the Proclamation and Retirement Award honoring John C.

Freeman on his retirement from Emergency Services / Fire  
Rescue.

**8.F. RESOLUTION CANCELLING TAXES ON PROPERTY ACQUIRED VIA  
PROPERTY EXCHANGE BY INDIAN RIVER COUNTY FROM KAH  
DEVELOPMENT CORPORATION FOR RIGHT-OF-WAY**

ON MOTION by Vice Chairman Davis, SECONDED by  
Chairman Flescher, the Board unanimously approved  
**Resolution 2013-084**, cancelling certain taxes upon  
publicly owned lands, pursuant to Section 196.28, Florida  
Statutes.

(8<sup>th</sup> Court SW / Murphy Act / Road Right-of-way  
Reservation / KAH Development Corporation)

**8.G. CONSIDERATION OF INDIAN RIVER COUNTY'S 2013 SHIP PROGRAM  
ANNUAL REPORTS**

ON MOTION by Vice Chairman Davis, SECONDED by  
Chairman Flescher, the Board unanimously approved and  
authorized the Chairman to execute the State Housing  
Initiatives Partnership Program (SHIP) Annual Reports, as  
recommended in the memorandum of August 27, 2013.

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

**8.H. APPROVAL OF WORK ORDER NO. GFA-3 WITH GFA INTERNATIONAL, INC. FOR CONSTRUCTION TESTING SERVICES FOR THE PC SOUTH NUTRIENT RECOVERY FACILITY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved Work Order No. GFA-3 with GFA International, Inc., in an amount not-to-exceed \$47,850, for construction testing services during construction of PC South Algal Nutrient Removal Facility, as recommended in the memorandum of August 7, 2013.

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

**8.I. F.D.O.T. SMALL COUNTY OUTREACH PROGRAM (SCOP) AGREEMENT AND RESOLUTION AUTHORIZING THE CHAIRMAN'S SIGNATURE FOR CONSTRUCTION (RESURFACING) AND CONSTRUCTION ENGINEERING INSPECTION (CEI) SERVICES OF OLD DIXIE HIGHWAY FROM IRFWCD NORTH RELIEF CANAL TO 71<sup>ST</sup> STREET – IRC PROJECT NO. 1302, FM 429566-1-58-01**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-085**, authorizing the Chairman's execution of a small County Outreach Program Agreement for construction (resurfacing) and construction engineering inspection (CEI) services of Old Dixie Highway from Indian River Farms Water Control District (IRFWCD) North Relief Canal to 71<sup>st</sup> Street.

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

**8.J. CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT FOR BRIDGE  
REPLACEMENTS AND WIDENING OF 66<sup>TH</sup> AVENUE FROM SOUTH OF SR60  
TO NORTH OF 57<sup>TH</sup> STREET, AMENDMENT No. 14, IRC PROJECT No. 0545**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute Amendment No. 14, authorizing professional services, in an amount not-to-exceed \$6,715.00, as recommended in the memorandum of August 23, 2013.

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

**8.K. 2013-2014 STATE OF FLORIDA DEPARTMENT OF HEALTH CONTRACT**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the 2013-2014 contract with the State of Florida Department of Health for Operation of the Indian River County Health Department, as recommended in the memorandum of September 3, 2013.

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

**8.L. APPROVAL OF BID AWARD FOR IRC BID NO. 2014002 ANNUAL BID FOR  
CLEANING SERVICES AT UTILITY OPERATIONS CENTER**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously: (1) approved the bid award to W&G Maintenance of Palm Bay, as the lowest responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2013 through September 30, 2014, to the recommended bidder; and (3) authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of Indian River County, all as recommended in the memorandum of August 30, 2013.

**8.M. CONSIDERATION OF NEW FIVE YEAR AGREEMENT BETWEEN INDIAN  
RIVER COUNTY AND THE INDIAN RIVER COUNTY SENIOR RESOURCE  
ASSOCIATION, INC. FOR PROVISION OF MASS TRANSIT SERVICE**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the Agreement for Mass Transit Service Provision with the Indian River County Senior Resource Association, Inc., as recommended in the memorandum of August 28, 2013.

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

**8.N. AMENDMENT TO WORK ORDER NO. 2 INDIAN RIVER AERODROME**  
**SUBDIVISION INDIAN RIVER COUNTY PROJECT NO: UCP 4100 TO RETAIN**  
**SURVEYING SERVICES WITH INDIAN RIVER SURVEY, INC.**

**Fannie Hipe**, Aerodrome resident, said she and many of her neighbors did not want the County to supply water service to their neighborhood.

**Irene Linton-Smith**, Aerodrome resident, did not want water brought into the Indian River Aerodrome Subdivision; she preferred using well water.

**Luisa Mariani**, Aerodrome resident, did not want County water brought into the Aerodrome at this time.

After a brief discussion between the Board and staff advising the Aerodrome residents that their concerns were premature and that they would be given an opportunity to express their opinion and desires, the Board made the following motion.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute Amended Work Order No. 2 with Indian River Survey, Inc., (not MBV Engineering, Inc.) for professional services, as recommended in the memorandum of August 26, 2013.

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



**8.O. AMENDMENT TO ELEVATED WATER TANK SPACE LICENSE AGREEMENT  
WITH AT&T**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the First Amendment to Elevated Water Tank Space License Agreement with New Cingular Wireless PCS, LLC (aka Bellsouth Mobility), for radio tower rents, and authorized the Chairman to execute the attached lease, as recommended in the memorandum of August 20, 2013.

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

**8.P. MISCELLANEOUS BUDGET AMENDMENT 025**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-086**, amending the fiscal year 2012-2013 Budget.

**8.O. MISCELLANEOUS BUDGET AMENDMENT 026**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-087**, delegating authority to the County Administrator, the Assistant County Administrator or the Director of the Office of Management & Budget or their designee to execute all documents necessary to amend the

fiscal year 2012-2013 Budget during the period commencing November 14, 2013, through and including November 30, 2013.

**8.R. WEST WABASSO SEWER AND DRAINAGE IMPROVEMENTS PHASE I**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved: (1) Change Order No. 1; (2) the release of retainage in the amount of \$37,961.35; (3) the total cost of the project of \$828,446.47; and (4) payment of Pay Application No. 6 – FINAL for \$107,180.82. The payment of \$107,180.82 to Mancil's Tractor Service, Inc. will release the County's obligation to the Contractor, as recommended in the memorandum of August 23, 2013.

**8.S. APPROVAL OF BID AWARD FOR IRC BID # 2014001 HARRIS FX SOFTWARE SERVICES, DEPARTMENT OF EMERGENCY SERVICES**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the bid award to Communications International, Inc. as the lowest most responsive and sole bidder meeting the specifications as set forth in the Invitation to Bid, as recommended in the memorandum of August 19, 2013.

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

**8.T. APPROVAL FOR RENEWAL OF LEASE AGREEMENT WITH YOUTH GUIDANCE DONATION FUND OF INDIAN RIVER COUNTY, INC. FOR OFFICE SPACE**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved **Resolution 2013-088**, approving a Community Interest First Amended Lease Agreement with the Youth Guidance Donation Fund of Indian River County, Inc., for County owned property at 1028 20<sup>th</sup> Place.

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

**8.U. APPROVAL OF LICENSE AGREEMENT WITH HYDROMENTIA, INC. FOR THE PC SOUTH ALGAL NUTRIENT RECOVERY FACILITY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously approved the License Agreement with Hydromentia, Inc., to construct the PC South Algal Nutrient Removal Facility, in the amount of \$190,000, as recommended in the memorandum of August 26, 2013.

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

**8.V. AUTHORIZE COUNTY ADMINISTRATOR TO EXECUTE A RENEWAL AGREEMENT WITH HM HIGHMARK LIFE INSURANCE FOR THE COUNTY'S EXCESS LOSS/REINSURANCE POLICY**

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Flescher, the Board unanimously authorized the County Administrator to execute the renewal agreement for the Renewal Option with HM Highmark Life Insurance for the County's Excess Loss/Reinsurance Policy for fiscal year 2013-2014, as recommended in the memorandum of September 4, 2013.

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

**10. PUBLIC ITEMS**

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

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

**10.C. PUBLIC NOTICE ITEMS**

**10.C.1. NOTICE OF SCHEDULED PUBLIC HEARINGS OCTOBER 1, 2013**

**10.C.1.A. COUNTY INITIATED REQUEST TO AMEND THE TEXT OF THE POLICY 5.7 OF THE POTABLE WATER SUB-ELEMENT AND POLICY 5.8 OF THE SANITARY SEWER SUB-ELEMENT OF THE COUNTY'S COMPREHENSIVE PLAN (LEGISLATIVE)**

**10.C.1.B. ROBERT WILLIAMS' REQUEST TO REZONE 0.15 ACRES FROM RS-6 TO RM-6 (QUASI JUDICIAL)**

Attorney Reingold read the notices into the record.

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT**

**12.A.1. CONSIDERATION OF RESIDENTIAL DECIBEL LEVEL THRESHOLDS IN THE COUNTY'S NOISE AND VIBRATION CONTROL ORDINANCE (LDR CHAPTER 974) AS APPLIED TO OUTDOOR MECHANICAL EQUIPMENT**

Chief of Environmental Planning and Code Enforcement Roland DeBlois, using a PowerPoint presentation (on file), provided background information on a pending electrical pool heater noise violation, at the residence of Charles and Lisa Fannin, that came before the Board of County Commissioners on July 2, 2013. He provided an analysis on the sampling of central AC outdoor units, how other jurisdictions address the noise regulation issues, site-specific issues, and possible alternatives. He recommended the Board not change the current decibel thresholds, but direct staff to develop procedures to minimize potential noise disturbances from outdoor mechanical equipment in planned developments and small-lot subdivisions with reduced setbacks.

Discussion ensued among the Commissioners and staff regarding cost factors and equipment efficiency; the County's Noise and Vibration Control Ordinance; the small lots and likelihood of noise problems; possible solutions; and whether to change the ordinance.

Chairman Flescher opened the floor to public comments.

**Lisa Fannin**, 2820 Grand Isle Way, Millstone Landing, provided background and details pertaining to the noise from her electric pool heater, her neighbor (Denise Kelly) who complained about the noise, and the Code Enforcement Board violation. She explained why a sound barrier cannot be built around the unit, believed the decibel limits in the ordinance are set too low, expressed concerns on how this issue has impacted her family's quality of life, and asked the Board to give resolution to this issue.

**Stanford Erickson**, Millstone Landing, informed the Board that if Ms. Fannin had spent about \$100 more (for a total of about \$500), she would have had a quieter pool heater that meets specifications.

**Dan Lamson**, 737 Timber Ridge Trail, Executive Director of the Indian River Neighborhood Association (IRNA), read a statement (on file) on behalf of the IRNA, supporting staff's recommendation that the residential district decibel levels remain unchanged.

**Warren Dill**, Attorney representing Pat and Denise Kelly, noted that the pool heater is a unit that does not turn off and on like an air conditioner, and is approximately two to three feet from his client's property line (aerial map on file). He explained how the noise problem is compounded by the small lots and the five to six-foot setbacks. He believed this to be a one owner problem, not a County-wide issue; therefore, he encouraged the Board to accept staff's recommendation to not change the residential district decibel thresholds currently in the County's Noise and Vibration Control Ordinance (LDR Chapter 974), and allow staff to develop rules to address this situation in the future.

**Denise Kelly**, 2830 Grand Isle Way, neighbor of Lisa Fannin, spoke about the stress of hearing the constant nine-hour noise of her neighbor's pool heater. She said she had contacted an acoustic engineer, and was told that: (1) the residential houses being so close together causes the noise to bounce from house to house, and (2) installing a barrier wall would not work unless

it is totally enclosed. She felt the cheapest and most effective solution would be for the Fannin's to move their pool heater.

**Bob Johnson**, Coral Wind Subdivision, felt the County has some responsibility in the situation, and suggested waiving the additional costs for permitting if the solution is to move the pool heater.

**Mrs. Fannin** said that she and her husband entertained the idea of installing a barrier wall until they realized it would infringe on their neighbor's property line, and were told by the County that even if they install it, their heater would not conform to the decibel limits.

ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously approved to NOT change the residential district decibel thresholds currently in the County's Noise and Vibration Control Ordinance (LDR Chapter 974), but instead direct staff to develop procedures to minimize potential noise disturbance from outdoor mechanical equipment in planned developments and small-lot subdivisions that have reduced yard setbacks, as recommended in the memorandum of August 29, 2013.

**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. QUARTERLY BUDGET REPORT**

Management and Budget Director Jason Brown provided the third quarter Fiscal Year 2012-2013 Budget Report, as presented in his memorandum dated August 26, 2013 (pages 257 through 268 of the Agenda Packet).

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS - NONE**

**12.J. UTILITIES SERVICES**

**12.J.1. DEVELOPER AGREEMENT FOR THE INSTALLATION OF ADDITIONAL GRAVITY SEWER LINES IN ERCILDOUNE HEIGHTS SUBDIVISION – INDIAN RIVER COUNTY PROJECT No. UCP-4100**

Director of Utility Services Vincent Burke provided background and analysis on the Developer Agreement with Eric and Karen Johnson for the necessary improvements to bring County sewer service to 7870 145<sup>th</sup> Street, in Ercildoune Heights Subdivision, Sebastian; and in doing so also make County sewer service available to four additional parcels along 145<sup>th</sup> Street. He asked the Board to approve the Developers Agreement and the recouping mechanism for the four properties to the east of the Johnson's property.



ON MOTION by Commissioner Solari, SECONDED by Commissioner O'Bryan, the Board unanimously approved and authorized the Chairman to execute the Developers Agreement for a total lump sum amount of \$9,192.50, to be reimbursed to the Developer, as recommended in the memorandum of August 20, 2013.

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

*The Chairman called for a break at 10:23 a.m., and reconvened the meeting at 10:34 a.m., with all members present.*

### **13. COUNTY ATTORNEY MATTERS**

#### **13.A. CITY OF FELLSMERE FIRE MARSHALL'S OFFICE**

County Attorney Dylan Reingold provided an update from the August 20, 2013 Board of County Commission meeting, and relayed that the staffs of the Emergency Services District (the District), City of Fellsmere, Attorney Warren Dill, and himself were working together to resolve this issue concerning the legality of the adopted legislation which established the Fellsmere Fire Marshall's Office, and its undertaking of responsibilities/duties that should fall solely within the District.

EXTENSION OF STATUTE OF LIMITATIONS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

#### **13.B. CONSIDERATION OF PURCHASE OF SURPLUS STATE LAND – FORMER INDIAN RIVER CORRECTIONAL INSTITUTE**

Deputy County Attorney William DeBraul recapped his memorandum dated September 3, 2013, provided background from the August 20, 2013 Board of County Commission meeting regarding the consideration to purchase the former Indian River Correctional Institute property

from the State of Florida, and the four issues that were raised at said meeting. He said the appraisal recommends that 30 of the 34 buildings on site be demolished, and moving forward with the purchase would require the County to pay for the environmental site assessment and the asbestos evaluation; however, the State would give a credit on the purchase price if asbestos needs to be removed before demolition. He asked the Board for direction on whether to proceed with an asbestos inspection, and/or proceed with purchase of the Correctional Institute property.

The Board discussed the issues of asbestos, the cost of demolishing and removing the buildings, ongoing maintenance, the site being currently zoned as Agricultural, and the proposed interchange at I-95 and Oslo Road.

Commissioner Solari wanted staff to inform the US Department of Transportation that they should consider purchasing the land now because it may be cheaper than what they can get it for in the future (for the interchange). He did not wish for staff to pursue further efforts to purchase the property.

ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously approved to: (1) **not** proceed with the asbestos inspection; and (2) **not** purchase the Indian River Correctional Institute property.

**13.C. PROPOSED RESOLUTION AMENDING THE DESIGNATION OF CODE ENFORCEMENT OFFICERS AND THE SCHEDULE OF PENALTIES AND NOTIFICATION TIME FRAMES FOR CODE VIOLATIONS**

Attorney Reingold recalled that on August 20, 2013, the Board adopted Fertilizer Ordinance 2013-012, and designated a Public Works employee to be the individual responsible for education and enforcement. He recommended that the Commissioners consider adopting an amendment to the original code enforcement resolution (Resolution 92-59), to incorporate the

enforcement of the ordinance into the designation of Code Enforcement Officers and the schedule of penalties and notification time frames for code violations.

Commissioner O'Bryan suggested increasing the "Fertilizer Content/Application Violation" and the "Grass Clippings/Debris Violation" fines from \$50 to \$100.

The Board discussed violations, habitual offenders, and education.

Commissioner Solari wanted the first offense fine to be set at \$50, and \$100 for each subsequent offense for the following violations: "Timing of Fertilizer Application," "Fertilizer-Free Zone," "Fertilizer Content/Application," "Application Practices," and Grass Clippings/Debris." He also requested that the "Commercial License/Certification" violation fine remain at \$500.

ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously approved: **Resolution 2013-089**, amending the designation of Code Enforcement Officers and the Schedule of Penalties and Notification Time Frames for code violations, set forth in Resolution No. 92-59, to include enforcement of Chapter 316, Fertilizer and Landscape Management.

**13.D. RULES AND POLICIES REGARDING REASONABLE OPPORTUNITY TO BE HEARD, PER SENATE BILL 50**

Attorney Reingold recapped the contents of his memorandum dated August 30, 2013, relating to the rules and policies governing the public's reasonable opportunity to be heard on a proposition before the Board of County Commissioners, consistent with Section 286.0114, Florida Statutes, which goes into effect on October 1, 2013. He urged the Board to adopt the draft Resolution establishing policies pertaining to the public's opportunity to be heard at

meetings, authorize his office to draft an ordinance, and notice a public hearing concerning the rules and policies so they are formally adopted into the Indian River County Ordinance Code, which will be applicable to all County Boards and Committees.

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

The Commissioners debated the appropriate time for the public to make their request to speak on Consent Agenda items.

MOTION WAS AMENDED by Commissioner O'Bryan, SECONDED by Chairman Flescher, to approve: (1) **Resolution 2013-090**, establishing rules and policies governing opportunities for members of the public to be heard on propositions before the Board in compliance with Section 286.0114, Florida Statutes; encouraging all other County Boards to adopt these rules and policies; repealing any contrary Resolution; and (2) that the Board will provide an opportunity for public comment prior to taking action on the Consent Agenda.

Following the amended motion, there was a brief discussion.

The Chairman CALLED THE QUESTION and the amended motion carried unanimously.

**13.E. UPDATE OF DISCUSSIONS WITH CITY OF VERO BEACH (“CITY”)**  
**REGARDING WATER / WASTEWATER SERVICE TO UNINCORPORATED**  
**AREAS OF THE COUNTY**

Attorney Reingold invited former Indian River County Attorney Alan Polackwich to address the Board regarding the communications and negotiations he had with the City of Vero Beach (City) regarding their water and wastewater facilities.

**Alan Polackwich**, former Indian River County Attorney, reviewed the memorandum he prepared before he retired, dated August 1, 2013. He provided background and analysis on the water and sewer service in the unincorporated areas of the County, and the 30-year Franchise Agreements that the County entered into with the City in 1987, to serve unincorporated areas (the south barrier island and isolated areas adjacent to the City on the mainland). He explained the details of his communications and negotiations with the City because he felt that it was important to transfer the information so the Commissioners could make a well-informed decision on whether the City should keep serving the unincorporated areas. He noted that the Franchises will expire in March of 2017, and recommended that the City keep serving the unincorporated areas and charge County rates, but with the City reducing its equalization fee to 3%, and the County reducing its franchise fee to 3%.

Following a lengthy discussion, Commissioner Solari suggested adding a provision to the Agreement that if the City stops giving County rates, and reverts to higher rates, that the County would have clear rights to take over service to the unincorporated areas, as well as the infrastructure.

Attorney Polackwich replied that should the City charge rates different than what the Agreement requires, it would be a breach of contract.

MOTION WAS MADE by Commissioner Solari, SECONDED by Chairman Flescher, to approve: (1) that the City keep serving the unincorporated areas, charging County rates, but with the City reducing its equalization fee to 3% and the County reducing its franchise fee to 3%; (2) adding safeguards to the Agreement; and (3) that the appropriate individuals make a presentation to the City Council.

Vice Chairman Davis said he would like to know who owns the infrastructure. Commissioner Solari said he could ask the County Attorney to add that to the Agreement, but was sure it would get kicked-back from the City.

MOTION WAS AMENDED by Commissioner Solari, SECONDED by Chairman Flescher, to approve: (1) that the City keep serving the unincorporated areas, charging County rates, but with the City reducing its equalization fee to 3% and the County reducing its franchise fee to 3%; (2) adding safeguards to the Agreement; (3) that the appropriate individuals make a presentation to the City Council; and (4) adding a paragraph to the Agreement that shows who owns what infrastructure.

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

## **14. COMMISSIONER ITEMS**

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

**14.A.1. DISCUSSION REGARDING INDIAN RIVER COUNTY FERTILIZER  
ORDINANCE**

Chairman Flescher requested fellow Commissioners to review the Indian River County Fertilizer Ordinance's impact and how it relates to existing ordinances that have been passed in other municipalities within the County. He wanted to encourage municipalities to revisit their ordinances and show the fertilizer distributors that Indian River County and all the municipalities are on board for recovering the Lagoon. He asked for Board approval to send the draft letter on page 305 of the Agenda Packet to all the municipalities who have moved forward with an ordinance.

MOTION WAS MADE by Commissioner Solari,  
SECONDED by Chairman Flescher, to send the  
Chairman's letter, a copy of Ordinance 2013-012, and  
bullet points of the fertilizer requirements in English and  
in Spanish, to all Council Members of municipalities  
within the County.

There was a brief discussion regarding a change to the letter, whereby the Ordinance will be applicable to only the unincorporated areas of the County.

MOTION WAS AMENDED by Commissioner Solari,  
SECONDED by Chairman Flescher, to modify the letter  
to read that the County's Ordinance is only applicable in  
the unincorporated areas of Indian River County.

Attorney Reingold confirmed the motion. He said he would get a public hearing and notice ready for the October 1, 2013 Board of County Commission meeting.

**Bob Bruce**, 12396 Highway A1A, asked that the letter be sent out as soon as possible.

**Dan Lamson** requested that the letter be sent as soon as possible, and felt this would help to unify the municipalities.

Attorney Reingold suggested deleting the second sentence in the draft letter and combining the two paragraphs into one, to resolve the issue quickly and efficiently.

Commissioners Flescher and Solari agreed to restructuring the letter as suggested.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved: (1) sending the Chairman's letter, a copy of Ordinance 2013-012, and with the bullet points of the fertilizer requirements in English and in Spanish to all Council Members; and (2) modifying the letter to read that the Ordinance is only applicable to the unincorporated areas of Indian River County.

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

**14.C. COMMISSIONER PETER D. O'BRYAN**

**14.C.1. UPDATE ON THE INDIAN RIVER COUNTY ACTION PLAN FOR THE INDIAN RIVER LAGOON**

Commissioner O'Bryan provided a brief update on some of the activities of the Indian River County Action Plan for the Indian River Lagoon.



#### **14.C.2. CONNECTED 4 KIDS / 2-1-1 FAMILY RESOURCE GUIDE**

Commissioner O'Bryan introduced and provided an update on Connected 4 Kids, and the 2-1-1 Family Resource Guide.

**Althea McKenzie**, 4876 30<sup>th</sup> Avenue, stressed that Connected 4 Kids is a great resource for families, but was concerned about the age group of 13 through 19 having limited resources in the County. She suggested that a community partnership be formed to examine this situation.

#### **14.C.3. SAFESPACE WALK A MILE IN HER SHOES CHALLENGE**

Commissioner O'Bryan challenged the Board, County Attorney, and County Administrator to participate in the SafeSpace Walk a Mile in Her Shoes cause, when the Proclamation is read at the Board of County Commissioners meeting on Tuesday, October 1<sup>st</sup>, and for the SafeSpace Walk event scheduled for Saturday, October 26<sup>th</sup>.

#### **14.C.4. IMPLEMENTATION OF NEW FERTILIZER ORDINANCE**

Commissioner O'Bryan brought forth a situation that involves John Deere, Landscapes, Inc., a local retailer/distributor, who supplies most of the commercial landscape operations in Indian River County, and has approximately 100 tons of residential fertilizer in stock that will be out of compliance when the Fertilizer Ordinance goes into effect in October. He explained why the 50% slow release nitrogen requirement would hurt their business, and asked that the Board consider three options: (1) do nothing, (2) reimburse the company for shipping costs to Counties within the State that do not have an Ordinance (about \$5,000), or (3) modify the ordinance so that effective October 14<sup>th</sup> all nitrogen products will require a 25% slow release nitrogen formula, and effective June 1<sup>st</sup> all products will require 50%.

The Commissioners discussed tweaking the ordinance for one corporation, when the effective date should start for the 50% slow release nitrogen requirement, and ordinance compliance. They commended Commissioner O'Bryan for taking a realistic approach to ensure that the Board would not do more damage to the people or environment, than what otherwise could have been.

**Bob Bruce** suggested the Board send a letter to the Florida Department of Environmental Protection, to explain the situation, and the Board's concerns for local businesses.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved to modify Ordinance 2013-012, stating that effective October 14, 2013, all nitrogen content fertilizer will contain a minimum of 25% slow release nitrogen; and effective June 1, 2014, said product will require 50% slow release nitrogen.

Attorney Reingold said he would incorporate this change, and bring the amendment to the Board on October 1, 2013 for approval.

A brief discussion ensued between the Board and staff regarding the Chairman's letter and the bullet points that will be sent to Council Members.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

Commissioner O'Bryan announced that soil testing can be done at John Deere Landscapes, Inc., and Commissioner Solari expressed that the University of Florida Institute of Food and Agriculture Sciences offers a soil test that provides a computerized printout.

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

**14.E. COMMISSIONER TIM ZORC**

**14.E.1. PRESENTATION BY THE GENEALOGY SOCIETY OF INDIAN RIVER  
COUNTY**

Commissioner Zorc requested Board consideration in hosting an event by the Genealogy Society of Indian River County, presenters from the Historical Society, and other individuals that would provide a unique historic educational perspective on the County, on Tuesday, October 15, 2013 from 5:00 p.m. to 7:00 p.m., at the Indian River County Administration Building “A,” in the Commission Chambers, which will be open to the public.

MOTION WAS MADE by Vice Chairman Davis,  
SECONDED by Chairman Flescher, authorizing  
Commissioner Zorc to host an event by the Genealogy  
Society of Indian River County, on Tuesday, October 15,  
2013 from 5:00 p.m. to 7:00 p.m., at the Indian River  
County Administration Building “A” in the Commission  
Chambers, as requested in the memorandum of August 26,  
2013.

Commissioner Solari felt the Board should be consistent in applying a rental fee to organizations for use of the facility.

A lengthy discussion ensued among the Board and staff regarding the details of the event, the policy of charging a rental fee for using the facility, whether to charge a rental fee for this event, and whether staff would be needed for the event.

MOTION WAS AMENDED by Vice Chairman Davis, SECONDED by Chairman Flescher, to authorize Commissioner Zorc to host said event at no charge, and with no County staff.

Public Works Director Chris Mora conveyed that the lobby doors are set to lock at a certain time, and if the meeting ended after that time, a staff member would need to stay.

Commissioner Zorc anticipated that everyone would be out of the building by 7:00 p.m., and Director Mora replied that additional staff time would not be required.

The Chairman CALLED THE QUESTION and the amended motion carried by a 4-1 vote (Commissioner Solari opposed). The Board approved to allow Commissioner Zorc to host an event by the Genealogy Society of Indian River County, on Tuesday, October 15, 2013 from 5:00 p.m. to 7:00 p.m., at the Indian River County Administration Building “A” in the Commission Chambers at no charge, and with no County staff.

#### **14.E.2. BEST VALUE PROCUREMENT**

Commissioner Zorc said he had not heard of “Best Value Procurement” until the Board went through the County Attorney interview process, when two applicants revealed that this is a tool used in examining how purchasing in Procurement is done for County purposes. He explained the process and suggested the County Attorney review the details to see if it might be something the Board should consider implementing.

Commissioner Solari felt it would be helpful to obtain a copy of Polk County’s staff report for evaluation.

Administrator Baird expressed his concerns, and asked that his staff be involved in the evaluation process.

Commissioner Zorc said the process would only apply to anticipated projects of large scale.

Discussion ensued regarding the evaluation process, and staff articulating to the Board how this would affect the cost of a project.

Administrator Baird said that staff would explore this and report back to the Board.

Commissioner O'Bryan asked Administrator Baird to also check out the ISO 9000 compliance standards.

NO ACTION REQUIRED OR TAKEN

## **15. SPECIAL DISTRICTS AND BOARDS**

### **15.A. EMERGENCY SERVICES DISTRICT - NONE**

### **15.B. SOLID WASTE DISPOSAL DISTRICT**

The Board reconvened as the Board of Commissioners of the Solid Waste District. Those Minutes are available separately.

#### **15.B.1. APPROVAL OF MINUTES JULY 17, 2013 SWDD BUDGET WORKSHOP**

**15.B.2. FINAL PAY FOR GEOSYNTEC WORK ORDER NO. 6 – ENGINEERING AND CONSTRUCTION SUPPORT SERVICES FOR THE LANDFILL EXPANSION PROJECT**

**15.C. ENVIRONMENTAL CONTROL BOARD - NONE**

*(Clerk's Note: After the Solid Waste Disposal District meeting, the Board invited Bob Bruce back to the podium to discuss his item.)*

**Bob Bruce** informed the Board that there was going to be a “Hands Across the Lagoon” rally on September 28<sup>th</sup>, from 9:00 a.m. to 10:00 a.m. at the Wabasso Causeway. He voiced safety concerns over County staff not wanting to close the bridge for this event, and asked the Board to coordinate the situation with himself or Holly Dill, Executive Director of the Environmental Learning Center.

Chairman Flescher encouraged Mr. Bruce to contact the Florida Department of Transportation since the Board has no authority to close the bridge.

Administrator Baird informed Mr. Bruce that he would meet with the Sheriff to see if the traffic could be stopped for about 15 minutes, and the Chairman mentioned that he would work with Administrator Baird to see what can be done to make it happen.

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

**16. ADJOURNMENT**

There being no further business, the Chairman declared the meeting adjourned at 12:59 p.m.

ATTEST:

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

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Joseph E. Flescher, Chairman

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

BCC/LA/2013Minutes