

JEFFREY R. SMITH

Clerk to the Board



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BOARD OF COUNTY COMMISSIONERS
DECEMBER 17, 2013

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JEFFREY R. SMITH

Clerk to the Board



December 17, 2013

REGULAR MEETING OF THE BOARD OF COUNTY

COMMISSIONERS

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27th Street, Vero Beach, Florida, on Tuesday, December 17, 2013. Present were Chairman Peter D. O'Bryan, Vice Chairman Wesley S. Davis, and Commissioners Joseph E. Flescher, 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 O'Bryan called the meeting to order at 9:02 a.m.

2. INVOCATION

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

3. PLEDGE OF ALLEGIANCE

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

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman O'Bryan requested the following change to the Agenda:

**ADDITION: ITEM 8.I. EMERGENCY ITEM - FRANK P. BROSENS' REQUEST FOR
RELEASE OF A PORTION OF AN EASEMENT AT 3340 SAVANNAH PLACE
(LOTS 4 AND 5, BLOCK 23, WINDSOR PHASE IV PD)**

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

5. PROCLAMATIONS AND PRESENTATIONS

**5.A. PRESENTATION OF PROCLAMATION AND RETIREMENT AWARD HONORING
ROGER LIGHTLE ON HIS RETIREMENT FROM INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF EMERGENCY
SERVICES/FIRE RESCUE WITH THIRTY-TWO YEARS OF SERVICE**

Roger Lightle was not in attendance.

**5.B. PRESENTATION BY MICHAEL ZITO, INDIAN RIVER COUNTY ASSISTANT
COUNTY ADMINISTRATOR, OF THE UNITED STATES TENNIS ASSOCIATION
EVENT ANNOUNCEMENT: THE 2014 VERO BEACH INTERNATIONAL
TENNIS OPEN AT THE VERO BEACH TENNIS AND FITNESS CLUB**

Assistant County Administrator Michael Zito announced that the Indian River County Recreation Department, in cooperation with the Treasure Coast Sports Commission, would be hosting the Vero Beach International Tennis Open, a professional women's tennis event featuring the top 100 players from 25 countries from January 3 - 12, 2014. He said the event

would be held at the Vero Beach Tennis and Fitness Club, and hoped this would be the first of a 5-year commitment.

Marco Osario provided further details of the event.

6. APPROVAL OF MINUTES

6.A. MEETING OF NOVEMBER 5, 2013

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

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the meeting minutes of November 5, 2013, as written.

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

7.A. HOLIDAY HOURS OF OPERATION DURING DECEMBER 2013 AND JANUARY 1, 2014

Noted for the record were the holiday hours of operation for the County's public facilities, and the dates and times of their closure (page 4 of the Agenda Packet).

**7.B. PROCLAMATION AND RETIREMENT AWARD HONORING GARY BAGGALEY
ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY
COMMISSIONERS DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE
WITH THIRTY-TWO YEARS OF SERVICE**

Noted for the record was the Proclamation and Retirement award honoring Gary Baggaley on his retirement.

**7.C. PROCLAMATION AND RETIREMENT AWARD HONORING LENNIE ROGERS
ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY
COMMISSIONERS DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE
WITH TWENTY-FOUR YEARS OF SERVICE**

Noted for the record was the Proclamation and Retirement award honoring Lennie Rogers on his retirement.

8. CONSENT AGENDA

Chairman O'Bryan requested to add Item 8.I. Frank P. Brosens' Request for Release of a Portion of an Easement at 3340 Savannah Place (Lots 4 and 5, Block 23, Windsor Phase IV PD), to the Agenda.

Commissioner Flescher requested to pull Item 8.C. for discussion.

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

8.A. APPROVAL OF WARRANTS – NOVEMBER 22, 2013 TO NOVEMBER 29, 2013

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller's Office for the time period of November 22, 2013 to November 29, 2013, as requested in the memorandum of November 29, 2013.

8.B. APPROVAL OF WARRANTS – NOVEMBER 31, 2013 TO DECEMBER 5, 2013

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the list of Warrants and Wires issued by the Comptroller's Office for the time period of November 31, 2013 to December 5, 2013, as requested in the memorandum of December 5, 2013.

8.C. 2014 COMMITTEE ASSIGNMENTS

Commissioner Flescher thanked Chairman O'Bryan for continuing the fair and equitable process pertaining to committee assignments, and noted that there would be an additional committee assignment under Juvenile Justice.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the 2014 Commissioner Committee assignments outlined on pages 25 and 26 of the Agenda Packet, as recommended in the memorandum of December 9, 2013.

8.D. PERMISSION TO ADVERTISE FOR PUBLIC HEARING FOR AMENDMENT TO SECTION 100.03(4) OF THE INDIAN RIVER COUNTY CODE, CODIFYING AND PUBLISHING THE ORDINANCES TO READOPT THE CODE AS PUBLISHED BY THE MUNICIPAL CODE CORPORATION

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously authorized staff to advertise for a public hearing on January 14, 2014, to amend Section 100.03(4) of the Indian River County Code, as recommended in the memorandum of December 10, 2013.

8.E. GHO FIELDSTONE RANCH CORP'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS FIELDSTONE RANCH PHASE 3

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously granted final plat approval for GHO Fieldstone Ranch Phase 3, as recommended in the memorandum of December 9, 2013.

8.F. INTEREST RATE CHANGE ON ALL COUNTY FINANCING (PETITION PAVING, UTILITY ASSESSMENT PROJECTS, UTILITY IMPACT FEES, ETC.)

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the fixed interest rate of 5.75%; and that the rate remains in effect for calendar year 2014 for all County financing with the exception of projects directly affiliated

with a bond issue for which the bond covenants dictate a different interest rate, as recommended in the memorandum of December 9, 2013.

8.G. FINAL PAY REQUEST NO. 2 TO MELVIN BUSH CONSTRUCTION COMPANY FOR WATER MAIN LOOPS ON 9TH MANOR SW AND 13TH STREET SW, UCP 4101, WIP No. 471-169000-13525 AND 471-206-13525

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved: (1) payment to Melvin Bush Construction Company, in the total amount of \$30,311.16 for labor for 9th Manor SW and 13th Street SW Water Main Loops project; and (2) Pay Request No. 2 Final for \$15,060.61, as recommended in the memorandum of December 9, 2013.

8.H. AMENDMENT TO ELEVATED WATER TANK SPACE LICENSE AGREEMENT WITH T-MOBILE

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the First Amendment to the Elevated Water Tank Space License Agreement with T-Mobile South LLC, and authorized the Chairman to execute the Lease on their behalf, as recommended in the memorandum of December 4, 2013.

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

**8.I. ADDITION: EMERGENCY ITEM - FRANK P. BROSENS' REQUEST FOR
RELEASE OF A PORTION OF AN EASEMENT AT 3340 SAVANNAH PLACE
(LOTS 4 AND 5, BLOCK 23, WINDSOR PHASE IV PD)**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution 2013-134**, releasing a portion of an easement on Lot 5, Block 23, Windsor Phase IV PD.

Before the close of the meeting, Vice Chairman Davis explained why this emergency item was not posted on the website, and asked staff to ensure that the Board did not violate the Sunshine Law. Commissioner Solari suggested adding this item to the next meeting Agenda.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

9.A.1. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF - PURCHASE OF ITEMS TO COMPLETELY EQUIP THE NEW CRIME SCENE BUILDING

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved: (1) reimbursement for items purchased out of the Sheriff's 2013 budget relevant to the new crime scene building; and (2) purchase of additional equipment to completely equip the new Crime Scene Building, as requested in the letter of December 10, 2013.

Bud Spencer, Chief Deputy, on behalf of Sheriff Deryl Loar and the Indian River County Sheriff's Office, thanked the Board for their approval.

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS - NONE

10.B. PUBLIC DISCUSSION ITEMS

**10.B.1. REQUEST TO SPEAK FROM FRED MENSING REGARDING SETTLEMENT
OF LAWSUIT AND FAILURE TO GIVE PROPER NOTICE OF LAWSUIT TO
INSURANCE CARRIER**

County Attorney Dylan Reingold reminded the Commissioners of the pending lawsuit that Mr. Mensing filed against the County, and cautioned the Board not to engage in conversation pertaining to this item.

Fred Mensing, 7580 129th Street, Sebastian, presented this item to the Board.

No discussion followed.

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

**12.A.1. CONDEMNATION, DEMOLITION AND REMOVAL OF UNSAFE
STRUCTURES LOCATED AT 4470 31ST AVENUE, 4251 31ST AVENUE, 4301
28TH AVENUE, 4333 31ST AVENUE, 8310 63RD COURT, AND 8386 63RD
COURT**

Building Official Scott McAdam recapped his memorandum dated November 21, 2013, providing description, conditions, and analysis on six condemned structures that were found to be unsafe and detrimental to the health, safety, and welfare of the public. He recommended that the Board declare the structures unsafe, order them removed, and approve the proposed Resolution for the recovery of condemnation and demolition fees. He revealed that a demolition permit had been pulled on December 11, 2013, for the property located at 8386 63rd Court, and asked the Board to allow the property to remain on the demolition agenda in case the owner does not follow through with the demolition.

A brief discussion ensued regarding title work, tax certificates, and the total dollar amounts of delinquent taxes on the properties.

Deputy County Attorney William DeBraul informed the Board that his office conducts an ownership and encumbrance report at the beginning of the demolition and condemnation process, and are duty bound to notify lien holders and those with interest in the property.

Chairman O'Bryan conveyed that Attorney Reingold had been exploring the possibility of crafting a report for an ordinance that would create a non-ad valorem tax assessment instead of a lien for these types of activities.

Mr. McAdam responded to Chairman O'Bryan, stating that certified notices of the potential demolition hearing had been sent to all property owners, that responses pertaining to the properties had been received, and that notices were posted on the properties.

Althea McKenzie, 2405 16th Avenue, stated that two in every five properties designated for demolition are located in Gifford, and she voiced her concerns. She did not believe there were local programs that reach out to people in need. She did not feel that all individuals wanted their structures torn down because of the impact and permit fees involved in rebuilding. She listed several options, asked the Board to review the programs that are currently in place to assist

those who have ties to the properties, investigate what is still needed to make Gifford a healthy and viable neighborhood, and to ensure long term consistency with specific programs.

Administrator Joseph Baird and Ms. McKenzie discussed the County's Rental Assistance program.

Attorney Reingold informed the Board that three properties were current on their taxes, two had tax certificates on them, and one was currently unknown.

Administrator Baird reiterated that since the sites had structures on them, and should the owner of the structure build a new structure, there would be no impact fees unless they increase the size.

Vice Chairman Davis and Ms. McKenzie discussed the auctioning process and the property surplus program.

Julianne Price, Florida Department of Health, thanked staff for taking action on the condemnations. She informed the Board that the Health Department had conducted a survey on the Gifford community in 2009, and the number one issue was abandoned housing.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Flescher, to: (1) declare the structures located at 4470 31st Avenue, 4251 31st Avenue, 4301 28th Avenue, 4333 31st Avenue, 8310 63rd Court, and 8386 63rd Court, unsafe and a nuisance; (2) order the buildings demolished with related debris removed from the property by a private vendor that is approved through standard bid procedures; (3) give staff additional time to research whether the property owner of 8386 63rd Court follows through with the demolition

permit; and (4) approve **Resolution 2013-135** providing for the demolition of unsafe structures and the recovery of costs.

(Walter C. Hurst 4470 31st Avenue

James and Margaret Webb, Sr. 4251 31st Avenue

Pamela R. Cummings 4301 28th Avenue

Alfred and Miriam Davis 4333 31st Avenue

Corine Ethridge and Hope N. Campbell 8310 63rd Court

Dorothy Scott, Willie Edwards, Jr., and Waddell Weaver
8386 63rd Court)

Mr. McAdam confirmed that none of the homes were on the Historical Registry, and stated that the majority of the homeowners requested to have staff move forward with the demolition, realizing there may be future costs.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES - NONE

12.D. HUMAN RESOURCES - NONE

12.E. HUMAN SERVICES - NONE

12.F. LEISURE SERVICES - NONE

12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

12.H. RECREATION - NONE

12.I. PUBLIC WORKS - NONE

12.J. UTILITIES SERVICES

12.J.1 WORK ORDER NO. 5 – MOIA, BOWLES, VILLAMIZAR & ASSOCIATES

(MBV), SOUTH COUNTY REVERSE OSMOSIS (RO) FACILITY STORAGE

TANK MODIFICATION – AMENDMENT 1 TO WORK ORDER NO. 5

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, the Board unanimously approved Amendment No. 1 to Work Order No. 5, to MBV Engineering, Inc., in the amount of \$1,500.00, bringing the total work order to \$18,300.00, as recommended in the memorandum of December 3, 2013.

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

13. COUNTY ATTORNEY MATTERS - NONE

14. COMMISSIONER ITEMS

14.A. COMMISSIONER PETER D. O'BRYAN, CHAIRMAN - NONE

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

14.C. COMMISSIONER JOSEPH E. FLESCHER - NONE

14.D. COMMISSIONER BOB SOLARI

14.D.1. SEVEN50

Commissioner Solari said that after having read the Seven50 Plan, and the Board's wisdom of withdrawing from the process, it was apparent that the name should be changed from Seven50 to a name that accurately reflects the number of counties still participating in the process. He provided a few highlights from the Treasure Coast Regional Planning Council's meeting of December 13, 2013, and suggested that staff formally draft a resolution to the Treasure Coast Regional Planning Council and the bureaucrats of Seven50 asking them to change the name.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Flescher, directing the County Attorney to draft a Resolution to the Treasure Coast Regional Planning Council and the bureaucrats of Seven50, requesting to change the name Seven50 to a name that accurately reflects the number of counties still participating in the process.

A brief discussion ensued as the Board discussed the counties that have withdrawn from the Seven50 Plan, and the YouTube link for Westchester County Executive Rob Astorino's State of the County Address.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Chairman O'Bryan opposed) the Motion carried.

Attorney Reingold said he would bring the draft Resolution to the Board at the January 7, 2014 Board of County Commission meeting.

14.E. COMMISSIONER TIM ZORC

14.E.1. ALL ABOARD FLORIDA AND FLORIDA EAST COAST (FEC) RAILROAD

CROSSINGS

Commissioner Zorc discussed the All Aboard Florida and Florida East Coast (FEC) railroad crossings in the County as they relate to future roadway plans. He suggested being proactive now by spending money for engineering that may lead to adding a turn lane at railroad crossings, widening certain roads, or adding sidewalks, which could all reduce County spending in the future.

Public Works Director Chris Mora said his staff reviewed a list of 32 FEC crossings, of which 21 belong to the County. He wanted staff to be able to work with FEC when their engineers review the plans so some improvements can be made in advance, such as adding fiber optic cable under the railroad crossings, new water or sewer crossings, sidewalks, or turn lane improvements, which would likely reduce the County's future spending. He believed that now was the time to do it, suggested looking at a long term plan of 5 to 15 years, and requested that the Board support staff in being more proactive.

There was consensus for staff to be more proactive in moving forward.

Bob Johnson, Coral Wind Subdivision, asked the Board to consider using high tech procedures for addressing emergency situations.

Commissioner Zorc thought staff could share the train schedule and crossings with Emergency Services for future planning.

Mr. Mensing requested the Board to consider obtaining a train station/stop in Vero Beach during their negotiations with FEC.

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. SEVENTH AMENDMENT TO SWDD FEEDSTOCK SUPPLY AGREEMENT WITH INEOS NEW PLANET BIOENERGY, LLC (INPB)

15.B.2. FINAL PAY FOR CDM SMITH WORK ORDER NO. 5 – WETLAND FILLING

15.B.3. FINAL PAY FOR CDM SMITH WORK ORDER NO. 9 – DESIGN, PERMITTING AND CONSTRUCTION OF THE NEW OSLO CUSTOMER CONVENIENCE CENTER

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 meeting adjourned at 10:25 a.m.

ATTEST:

Jeffrey R. Smith,
Clerk of Circuit Court and Comptroller

Peter D. O'Bryan, Chairman

Minutes Approved: 02/04/2014

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