

JEFFREY K. BARTON
Clerk to the Board



INDEX TO MINUTES OF REGULAR MEETING

OF BOARD OF COUNTY COMMISSIONERS

MAY 18, 2010

1.	CALL TO ORDER.....	1
2.	INVOCATION	1
3.	PLEDGE OF ALLEGIANCE	1
4.	ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS	2
	ADDITION: ITEM 5.G. UPDATE FROM DIRECTOR OF EMERGENCY SERVICE JOHN KING, REGARDING THE OIL SPILL IN THE GULF OF MEXICO	2
	DELETION: ITEM 8.B. AWARD OF BID # 2010034, 58 TH AVENUE ROADWAY MODIFICATIONS, IRC PROJECT NO. 0550.....	2
	DELETION: ITEM 10.B.1. REQUEST TO SPEAK FROM FRED MENSING REGARDING BUILDING PERMITS	2
5.	PROCLAMATIONS AND PRESENTATIONS	2
5.A.	PRESENTATION OF PROCLAMATION HONORING CAROL ANN SCURLOCK ON HER RETIREMENT FROM THE TAX COLLECTOR’S OFFICE OF INDIAN RIVER COUNTY.....	2
5.B.	PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF MAY AS CIVILITY MONTH	2

5.C.	PRESENTATION OF PROCLAMATION DESIGNATING MAY 25, 2010 AS RENEWABLE AND ALTERNATIVE ENERGY DAY	3
5.D.	PRESENTATION OF PROCLAMATION DESIGNATING MAY 31, 2010 AS MEMORIAL DAY	3
5.E.	PRESENTATION OF ANNUAL REPORT OF THE WORKFORCE DEVELOPMENT BOARD OF THE TREASURE COAST BY GWENDA THOMPSON, PRESIDENT/CEO, WORKFORCE SOLUTIONS.....	4
5.F.	PRESENTATION OF YOUTH GUIDANCE UPDATE BY BARBARA SCHLITT FORD, EXECUTIVE DIRECTOR	4
5.G.	ADDED: UPDATE FROM DIRECTOR OF EMERGENCY SERVICES JOHN KING, REGARDING THE OIL SPILL IN THE GULF OF MEXICO.....	4
6.	APPROVAL OF MINUTES	5
6.A.	PRELIMINARY BUDGET WORKSHOP APRIL 8, 2010	5
6.B.	REGULAR MEETING OF APRIL 13, 2010, 2010.....	5
7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION.....	5
7.A.	RESIGNATION OF FDOT DISTRICT 4 APPOINTEE TO THE TDLCB	5
7.B.	CLAIM ON BID BOND FOR H&D CONSTRUCTION, NORTH WATER TREATMENT PLANT RAW WATER TRANSMISSION SYSTEMS	6
8.	CONSENT AGENDA	6
8.A.	APPROVAL OF WARRANTS AND WIRES, APRIL 30, 2010 TO MAY 6, 2010.....	6
8.B.	AWARD OF BID # 2010034, 58 TH AVENUE ROADWAY MODIFICATIONS, IRC PROJECT NO. 0550	6
8.C.	APPROVAL OF EXPENDITURES FOR THE INDIAN RIVER COUNTY PET FRIENDLY SHELTER	6
8.D.	APPROVAL OF RESOLUTION ADOPTING THE 2010 INDIAN RIVER COUNTY EMERGENCY PLAN FOR HAZARDOUS MATERIALS.....	7
8.E.	BID AWARD IRC #2010016 FOR FX SOFTWARE SERVICES – AMENDED CONTRACT	7

8.F.	OSLO ROAD IMPROVEMENTS PHASE II, BETWEEN 43 RD AVENUE AND 27 TH AVENUE, CUMBERLAND FARMS – GEOSYNTEC CONSULTANTS, INC., WORK ORDER NO. 27 – SITE ASSESSMENT, CLEAN UP AND CLOSURE	8
8.G.	APPROVAL WORK ORDER NO. 17 – BRIDGE DESIGN ASSOCIATES, INC., PEDESTRIAN BRIDGE – OLD DIXIE HIGHWAY SIDEWALK FROM 38 TH LANE TO 65 TH STREET, IRC PROJECT NO. 0845.....	8
9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE	9
10.	PUBLIC ITEMS.....	9
10.A.	PUBLIC HEARING(S)	9
10.A.1.	CONSIDERATION OF AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING TITLE X, IMPACT FEES, OF THE CODE OF INDIAN RIVER COUNTY TO AMEND CODE SECTION 1000.09 “PAYMENT”, AND AMENDING CHAPTER 201, COUNTY WATER AND SEWER SERVICES, OF THE CODE OF INDIAN RIVER COUNTY, TO AMEND SECTION 201.09 “IMPACT FEES”, TO ALLOW FOR PAYMENT OF IMPACT FEES AT THE CERTIFICATION OF OCCUPANCY (CO) (LEGISLATIVE).....	9
10.B.	PUBLIC DISCUSSION ITEMS	11
10.B.1.	REQUEST TO SPEAK FROM FRED MENSING REGARDING BUILDING PERMITS	11
10.B.2.	REQUEST TO SPEAK FROM JACKI JACKSON, EARLY LEARNING COALITION OF INDIAN RIVER, MARTIN AND OKEECHOBEE COUNTIES, INC. REGARDING INFORMATION ABOUT CHILD CARE EXECUTIVE PARTNERSHIP	12
10.B.3.	REQUEST TO SPEAK FROM CITY OF VERO BEACH COUNCILMEMBER BRIAN HEADY REGARDING UPDATE ON LATEST DEVELOPMENTS REGARDING CITY OF VERO BEACH ELECTRIC UTILITY	12
10.C.	PUBLIC NOTICE ITEMS - NONE	12
11.	COUNTY ADMINISTRATOR MATTERS - NONE.....	13
12.	DEPARTMENTAL MATTERS	13
12.A.	COMMUNITY DEVELOPMENT	13

12.A.1.	REQUEST BY STAFF FOR THE BOARD OF COUNTY COMMISSIONERS TO EXTEND THE “OTHER CORRIDORS” LAND DEVELOPMENT REGULATION COMPLIANCE DEADLINE FOR MODIFYING NON-CONFORMING FREE-STANDING SIGNS (LDR SECTION 911.22(9)(I)1.V) AND INVOKE THE PENDING ORDINANCE DOCTRINE.....	13
12.B.	EMERGENCY SERVICES - NONE.....	14
12.C.	GENERAL SERVICES - NONE	14
12.D.	HUMAN RESOURCES - NONE.....	14
12.E.	HUMAN SERVICES - NONE	14
12.F.	LEISURE SERVICES.....	14
12.F.1.	INTERNATIONAL GOLF MAINTENANCE CONTRACT REVISION AND EXTENSION	14
12.G.	OFFICE OF MANAGEMENT AND BUDGET - NONE.....	15
12.H.	RECREATION - NONE.....	15
12.I.	PUBLIC WORKS - NONE.....	15
12.J.	UTILITIES SERVICES.....	15
12.J.1.	WATER STUDY OF SCALING AND CORROSION CONSIDERATIONS AT BOTH REVERSE OSMOSIS FACILITIES	15
13.	COUNTY ATTORNEY MATTERS.....	16
13.A.	VISTA GARDENS GOLF COURSE – CODE ENFORCEMENT ALTERNATIVES	16
13.B.	MONROE COUNTY V. PRICELINE.COM, ET AL NOTICE OF PENDENCY OF CLASS ACTION	17
13.C.	RESOLUTION DELEGATING THE AUTHORITY TO THE COUNTY ATTORNEY OR HIS DESIGNEE TO EITHER ATTEND IN PERSON OR APPOINT A REPRESENTATIVE BY PROXY TO VOTE ON ANY MATTERS AT ANNUAL MEETINGS OF ANY WATER CONTROL DISTRICTS WITHIN INDIAN RIVER COUNTY WHERE INDIAN RIVER COUNTY AND/OR THE SOLID WASTE DISPOSAL DISTRICT IS A LAND OWNER WITHIN THAT DISTRICT	18
13.D.	EMPLOYMENT CONTRACT POLICY	19
14.	COMMISSIONER ITEMS.....	22
14.A.	COMMISSIONER PETER D. O’BRYAN, CHAIRMAN	22
14.A.1.	A DISCUSSION ON THE RECOMMENDATIONS FOR DISSOLVING AND SUNSETTING ADVISORY COMMITTEES	22

14.A.2.	COUNTY’S “SUSTAINABLE EDUCATION CENTER”	23
14.B.	COMMISSIONER BOB SOLARI, VICE CHAIRMAN - NONE	24
14.C.	COMMISSIONER WESLEY S. DAVIS - NONE.....	24
14.D.	COMMISSIONER JOSEPH E. FLESCHER - NONE	24
14.E.	COMMISSIONER GARY C. WHEELER - NONE	24
15.	SPECIAL DISTRICTS AND BOARDS	24
15.A.	EMERGENCY SERVICES DISTRICT - NONE.....	24
15.B.	SOLID WASTE DISPOSAL DISTRICT	24
15.B.1.	WASTE MANAGEMENT’S REQUEST FOR A TIME EXTENSION ON SUBMITTAL OF 2009 CERTIFIED FINANCIAL REPORT	25
15.C.	ENVIRONMENTAL CONTROL BOARD - NONE.....	25
16.	ADJOURNMENT.....	25

JEFFREY K. BARTON

Clerk to the Board



May 18, 2010

**REGULAR MEETING OF THE BOARD OF COUNTY
COMMISSIONERS**

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27th Street, Vero Beach, Florida, on Tuesday, May 18, 2010. Present were Chairman Peter D. O'Bryan, Vice Chairman Bob Solari, Commissioners Wesley S. Davis, Joseph E. Flescher, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Leona Adair Allen.

1. CALL TO ORDER

Chairman O'Bryan called the meeting to order at 9:00 a.m.

2. INVOCATION

Commissioner Davis ~~Jeffrey R. Smith, Chief Deputy Clerk of Circuit Court~~, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Wheeler led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

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

**ADDITION: ITEM 5.G. UPDATE FROM DIRECTOR OF EMERGENCY SERVICE JOHN KING,
REGARDING THE OIL SPILL IN THE GULF OF MEXICO**

**DELETION: ITEM 8.B. AWARD OF BID # 2010034, 58TH AVENUE ROADWAY MODIFICATIONS,
IRC PROJECT No. 0550**

**DELETION: ITEM 10.B.1. REQUEST TO SPEAK FROM FRED MENSING REGARDING BUILDING
PERMITS**

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

5. PROCLAMATIONS AND PRESENTATIONS

**5.A. PRESENTATION OF PROCLAMATION HONORING CAROL ANN SCURLOCK
ON HER RETIREMENT FROM THE TAX COLLECTOR'S OFFICE OF INDIAN
RIVER COUNTY**

Commissioner Davis read and presented the Proclamation to Carol Ann Scurlock.

**5.B. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF MAY
AS CIVILITY MONTH**

Commissioner Solari read the Proclamation designating the month of May as Civility
Month.

ON MOTION by Commissioner Wheeler, SECONDED by Chairman O'Bryan, the Board unanimously approved to send a copy of this Proclamation to the Democratic and Republican parties in Washington, D.C.

5.C. PRESENTATION OF PROCLAMATION DESIGNATING MAY 25, 2010 AS RENEWABLE AND ALTERNATIVE ENERGY DAY

Chairman O'Bryan read and presented the Proclamation to Penny Chandler, Indian River County Chamber of Commerce, who accepted it on behalf of the Florida Research Coast.

Ms. Chandler announced that there was a Renewable and Alternative Energy Forum event scheduled for the morning of May 25, 2010, at the Indian River State College.

5.D. PRESENTATION OF PROCLAMATION DESIGNATING MAY 31, 2010 AS MEMORIAL DAY

Commissioner Flescher read and presented the Proclamation to Dr. Michael Weiss.

Dr. Weiss invited the Board and public to attend the Memorial Day ceremonies at Veterans Memorial Island Sanctuary on Monday, May 31, 2010, at 10:00 a.m.

5.E. PRESENTATION OF ANNUAL REPORT OF THE WORKFORCE DEVELOPMENT BOARD OF THE TREASURE COAST BY GWENDA THOMPSON, PRESIDENT/CEO, WORKFORCE SOLUTIONS

Gwenda Thompson, President/CEO of Workforce Solutions, provided the Board with an update on Workforce Solution's annual report, which covered activities through March 2010, and last year's program report (on file) which ended June 30, 2009.

5.F. PRESENTATION OF YOUTH GUIDANCE UPDATE BY BARBARA SCHLITT FORD, EXECUTIVE DIRECTOR

Barbara Schlitt Ford provided an update regarding the Youth Guidance Mentoring and Activities Program, what it provides, its goals, vision, mentoring opportunities, and fund raisers. She thanked the County and Board for their support, and provided the website ircyouth.com for anyone interested in participating.

5.G. ADDED: UPDATE FROM DIRECTOR OF EMERGENCY SERVICES JOHN KING, REGARDING THE OIL SPILL IN THE GULF OF MEXICO

Emergency Services Director John King, using a PowerPoint presentation (on file), informed the Board on the current situation of the oil spill, State and County actions, forecasted conditions and locations, efforts in capturing leaking oil, and volunteer opportunities. He said that further information is available at the Department of Environmental Protection's website, www.dep.state.fl.us, and a new number of 1-888-337-3569, for quick and updated oil spill information.

6. APPROVAL OF MINUTES

6.A. PRELIMINARY BUDGET WORKSHOP APRIL 8, 2010

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of April 8, 2010. There were none.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Preliminary Budget Workshop of April 8, 2010, as written.

6.B. REGULAR MEETING OF APRIL 13, 2010, 2010

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of April 13, 2010. There were none.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of April 13, 2010, as written.

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

7.A. RESIGNATION OF FDOT DISTRICT 4 APPOINTEE TO THE TDLCB

Noted for the record was the vacancy of Tracy G. Dean, who resigned as the Florida Department of Transportation's District 4 Appointee to the Indian River County Transportation Disadvantaged Local Coordinating Board (TDLCB).

**7.B. CLAIM ON BID BOND FOR H&D CONSTRUCTION, NORTH WATER
TREATMENT PLANT RAW WATER TRANSMISSION SYSTEMS**

8. CONSENT AGENDA

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

8.A. APPROVAL OF WARRANTS AND WIRES, APRIL 30, 2010 TO MAY 6, 2010

ON MOTION by Commissioner Flescher, SECONDED
by Commissioner Davis, the Board unanimously approved
the list of Warrants and Wires as issued by the Clerk to the
Board for the time period of April 30, 2010 to May 6,
2010, as requested in the memorandum of May 6, 2010.

**8.B. AWARD OF BID # 2010034, 58TH AVENUE ROADWAY MODIFICATIONS,
IRC PROJECT NO. 0550**

Deleted

**8.C. APPROVAL OF EXPENDITURES FOR THE INDIAN RIVER COUNTY PET
FRIENDLY SHELTER**

ON MOTION by Commissioner Flescher, SECONDED
by Commissioner Davis, the Board unanimously approved
the expenditures in the amount of \$8,654.00, for the Pet

Friendly Shelter from the Community of Village Green shelter enhancement funding, located at Liberty Magnet School, as recommended in the memorandum of May 11, 2010.

8.D. APPROVAL OF RESOLUTION ADOPTING THE 2010 INDIAN RIVER COUNTY EMERGENCY PLAN FOR HAZARDOUS MATERIALS

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2010-040**, approving the Indian River County Hazardous Materials Emergency Plan.

8.E. BID AWARD IRC #2010016 FOR FX SOFTWARE SERVICES – AMENDED CONTRACT

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute the Amendment to EDACS FX Agreement with M/A-COM, Inc. (formerly Ericsson Inc.), reflecting a change of ownership, as recommended in the memorandum of May 12, 2010.

Note: The wireless systems business of Tyco Electronics (M/A-COM Inc.) was acquired by Harris Corporation on May 29, 2009.

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

8.F. OSLO ROAD IMPROVEMENTS PHASE II, BETWEEN 43RD AVENUE AND 27TH AVENUE, CUMBERLAND FARMS – GEOSYNTEC CONSULTANTS, INC., WORK ORDER No. 27 – SITE ASSESSMENT, CLEAN UP AND CLOSURE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved Work Order No. 27 (Engineering), with Geosyntec Consultants, Inc.; (2) authorized the project as outlined in the Scope of Services under Attachments A and B; and (3) authorized the Chairman to execute the Work Order for the not-to-exceed amount of \$13,797.00, as recommended in the memorandum of May 5, 2010.

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

8.G. APPROVAL WORK ORDER No. 17 – BRIDGE DESIGN ASSOCIATES, INC., PEDESTRIAN BRIDGE – OLD DIXIE HIGHWAY SIDEWALK FROM 38TH LANE TO 65TH STREET, IRC PROJECT No. 0845

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved Work Order No. 17 (Engineering) with Bridge Design Associates, Inc.; (2) authorized the project as outlined in the Scope of Services; and (3) authorized the Chairman to execute the Work Order for the lump sum fee of \$18,315.00, as recommended in the memorandum of May 11, 2010.

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

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARING(S)

10.A.1. CONSIDERATION OF AN ORDINANCE OF THE BOARD OF COUNTY

COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING TITLE X, IMPACT FEES, OF THE CODE OF INDIAN RIVER COUNTY TO AMEND CODE SECTION 1000.09 "PAYMENT", AND AMENDING CHAPTER 201, COUNTY WATER AND SEWER SERVICES, OF THE CODE OF INDIAN RIVER COUNTY, TO AMEND SECTION 201.09 "IMPACT FEES", TO ALLOW FOR PAYMENT OF IMPACT FEES AT THE CERTIFICATION OF OCCUPANCY (CO) (LEGISLATIVE)

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

Community Development Director Bob Keating, through a PowerPoint Presentation (on file), recapped staff's Memorandum dated May 10, 2010. He conveyed that this proposed Amendment would change the timing of collecting the Impact Fee and Capacity Charge payments from Building Permit Issuance to Certificate of Occupancy (CO). He provided background and analysis, spoke about issues relating to collecting Impact Fees at CO, water and

sewer capacity charges, Municipality concerns, and the results of staff's Impact Fee Collection survey. He recommended the Board not change the timing of Impact Fee collections.

A lengthy discussion ensued whereby the Board discussed payment and dispute issues, administration issues, impact fee determinations, water and sewer Impact Fees, the collection of Impact Fees and base facility charges, capacity, and the survey results.

The Chairman opened the Public Hearing.

Joseph Paladin, Black Swan Consulting, opposed the proposal, feeling this would benefit out-of-town builders and developers, not small local developers.

John Higgs, 45 Wax Myrtle Way, provided reasons as to why he felt this proposal would be unfair and impractical.

John Scurlock, 1656 71st Court, stressed the significance of water and sewer Impact Fees, and urged the Board to support staff's recommendation to not change the timing of the Impact Fee collection.

Carolyn Corum, Dolores Street, felt that due to the economic downturn, the Impact Fees should be paid up front. She requested the Board not change the timing of Impact Fees.

Peter Robinson, 315 Greytwig Road, revealed that he had suggested moving the Impact Fee to CO at the Economic Summit Meeting, believing that it would encourage businesses and jobs to come to the County. He believed that if the Impact Fee was moved to CO, it would be the builder's decision to pay early or later because it could sometimes be easier to pay at the end of the project than at the beginning. He encouraged the Board to take the risk, see if moving the collection of Impact Fee payments to CO would work, and if it does not work, then change it back to collection at Building Permit Issuance.

Discussion followed.

Jay Cramer, 5035 Tradewinds Drive, conveyed his understanding of Impact Fees, and wanted to know why the public should absorb the risk of Impact Fees and the market of development. He did not support changing the collection of Impact Fees.

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

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

The Board voiced their views and support to not change the timing of the Impact Fee collection.

The Chairman CALLED THE QUESTION and the Motion Carried unanimously. The Board approved to **not** change the timing of Impact Fee collection from Building Permit Issuance to Certificate of Occupancy (CO), as recommended in the memorandum of May 10, 2010.

The Chairman called a break at 11:02 a.m. and reconvened the Meeting at 11:15 a.m. with all members present.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM FRED MENSING REGARDING BUILDING PERMITS

Deleted

**10.B.2. REQUEST TO SPEAK FROM JACKI JACKSON, EARLY LEARNING
COALITION OF INDIAN RIVER, MARTIN AND OKEECHOBEE COUNTIES,
INC. REGARDING INFORMATION ABOUT CHILD CARE EXECUTIVE
PARTNERSHIP**

Jacki Jackson, Early Learning Coalition, 10 SE Central Parkway, Suite 400, Stuart, clarified that the Early Learning Coalition helps working-poor families with child care assistance, and that most of their money comes from the State and Federal Government. She provided childcare statistics, and read an excerpt from Florida Statute 411.01.02 which states the purpose of the Childcare Executive Partnership Program and talks about incentives for matching local funds. Since June 18th is the deadline, she asked the Board to consider providing local funding next year.

NO BOARD ACTION REQUIRED OR TAKEN

**10.B.3. REQUEST TO SPEAK FROM CITY OF VERO BEACH COUNCILMEMBER
BRIAN HEADY REGARDING UPDATE ON LATEST DEVELOPMENTS
REGARDING CITY OF VERO BEACH ELECTRIC UTILITY**

Brian Heady provided the Board an update pertaining to the current developments with the Vero Beach Electric Utility, his ongoing lawsuit, and his recent trip to Washington, D.C.

NO BOARD ACTION REQUIRED OR TAKEN

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. REQUEST BY STAFF FOR THE BOARD OF COUNTY COMMISSIONERS TO EXTEND THE “OTHER CORRIDORS” LAND DEVELOPMENT REGULATION COMPLIANCE DEADLINE FOR MODIFYING NON-CONFORMING FREE- STANDING SIGNS (LDR SECTION 911.22(9)(I)1.V) AND INVOKE THE PENDING ORDINANCE DOCTRINE

Community Planning Director Stan Boling recapped his Memorandum dated May 5, 2010, by using a PowerPoint Presentation (on file). He spoke about the corridors that were adopted since 1995, corridor regulations, sign regulations and compliance, the deadline to modify or enhance non-conforming free-standing signs, and property owners' compliance choices. He requested the Board consider directing staff to initiate a formal Land Development Regulation (LDR) Amendment for a two-year deadline extension, and invoke the pending ordinance doctrine based on the Ordinance in the backup.

Discussion ensued regarding the two-year deadline, considering this an unfunded mandate forced upon businesses to comply to new signage requirements, consideration of a grandfather clause, and not placing the cost burden on struggling businesses.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved the Pending Ordinance Doctrine as amended, eliminating Section 911.22(9)(i)1.v.

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES - NONE

12.D. HUMAN RESOURCES - NONE

12.E. HUMAN SERVICES - NONE

12.F. LEISURE SERVICES

**12.F.1. INTERNATIONAL GOLF MAINTENANCE CONTRACT REVISION AND
EXTENSION**

Bob Komarinetz, Sandridge Golf Course Director, requested the Board approve the contract modification and extension with International Golf Maintenance (I.G.M.). He divulged that through negotiations, I.G.M. agreed to reduce the current year contract price by \$71,000.00, the new contract price by \$160,000.00, and continue the contract extension through September 30, 2015.

MOTION WAS MADE by Commissioner Davis,
SECONDED by Commissioner Flescher, to accept staff's
recommendation.

A brief discussion ensued regarding provisions of the contract, and revenue sources coming from golfers, not taxpayers.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board: (1) accepted the current contract as modified; (2) accepted the contract extension beginning October 1, 2010 through September 30, 2015; and (3) authorized the Chairman to execute the Agreement with International Golf Maintenance, Inc., as recommended in the memorandum of April 29, 2010.

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

12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

12.H. RECREATION - NONE

12.I. PUBLIC WORKS - NONE

12.J. UTILITIES SERVICES

12.J.1. WATER STUDY OF SCALING AND CORROSION CONSIDERATIONS AT BOTH REVERSE OSMOSIS FACILITIES

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

Director of Utility Services Erik Olson explained the water scaling process, corrosion issues, and the balance that staff is attempting to achieve to alleviate any future problems.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board authorized Task Order No. 1 with Carollo Engineers, for a Water Quality Review and Evaluation, in the amount of \$39,545.00, as recommended in the memorandum of April 30, 2010.

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

13. COUNTY ATTORNEY MATTERS

13.A. VISTA GARDENS GOLF COURSE – CODE ENFORCEMENT ALTERNATIVES

County Attorney Alan Polackwich, Sr. recapped his Memorandum dated May 12, 2010, providing background from the April 20, 2010 Board of County Commission Meeting where the Board authorized staff to abate a recurring nuisance on the Vista Gardens golf course property by mowing the grass and weeds, and recording a lien for costs. He gave his analysis and advised the Board on the code enforcement alternatives.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Wheeler, to approve Alternative 2 - the less aggressive but also less expensive approach of awaiting the outcome of the mediation in the Vista Golf lawsuit against the Vista Associations to see if a settlement results which eliminates the problem.

The Commissioners debated whether to add a 60-day time limit to the mediation process to allow for possible settlement, or to request an informational update in 60 days.

Attorney Polackwich explained the details of how the current owner obtained the property through a foreclosure sale; divulged the lien amounts due from violations, mowing, and abatement; and agreed to order the title search and provide an informational update in 60 days.

Ray Batt, 36 Vista Gardens Trail, requested that when the contractor mows the property, they do a “double pass”.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved Alternative 2 - the less aggressive but also less expensive approach of awaiting the outcome of the mediation in the Vista Golf lawsuit against the Vista Associations to see if a settlement results, which would eliminate the problem, as recommended in the memorandum of May 12, 2010.

13.B. MONROE COUNTY V. PRICELINE.COM, ET AL NOTICE OF PENDENCY OF CLASS ACTION

Attorney Polackwich provided a detailed background of Monroe County’s 2009 lawsuit against Priceline.com and other internet companies that allegedly failed to pay the full amount of tourist development taxes for booking hotel rooms. Monroe County has stated that the companies have been paying the tourist development taxes based on the wholesale rate that hotels are charging the companies for the room, not the full rate which the customers are paying. He conveyed that the lawsuit has been certified as a Class Action on behalf of all Counties within Florida (unless they opt out), and is scheduled for trial on July 19, 2010. He recommended the County remain in the Class Action and not opt out, since the County could benefit without cost or risk.

Staff addressed Board questions pertaining to Class Action status, the benefits Monroe County or outside counsel would gain if Indian River County remains in Class Action, and tourist tax revenues and losses.

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

Discussion ensued regarding the services provided by the websites, whether the Board should move forward, and the benefits of not opting out.

The Chairman CALLED THE QUESTION and by a 4-1 vote (Commissioner Wheeler opposed), the Motion carried. The Board approved to do nothing, which allows the County to remain in the Class Action status, as recommended in the memorandum of May 12, 2010.

13.C. RESOLUTION DELEGATING THE AUTHORITY TO THE COUNTY ATTORNEY OR HIS DESIGNEE TO EITHER ATTEND IN PERSON OR APPOINT A REPRESENTATIVE BY PROXY TO VOTE ON ANY MATTERS AT ANNUAL MEETINGS OF ANY WATER CONTROL DISTRICTS WITHIN INDIAN RIVER COUNTY WHERE INDIAN RIVER COUNTY AND/OR THE SOLID WASTE DISPOSAL DISTRICT IS A LAND OWNER WITHIN THAT DISTRICT

Vice Chairman Solari felt it would be more appropriate that the Public Works Department or the Utilities Department address Water Control District matters, rather than the Legal Department.

Attorney Polackwich announced that his intent was to streamline the process, not attend the Water Control District Meetings or retain this function. He suggested designating the County Administrator or his designee to either attend the Annual Meetings in person, or appoint a representative to vote on matters by Proxy.

Commissioner Davis believed it would be best for the delegations to go through the Commission Office, and Commissioner Wheeler felt it best to go through either the County Administrator or County Attorney.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Wheeler, the Board unanimously approved **Resolution 2010-041**, as amended, delegating the authority to the ~~County Attorney~~ County Administrator or his designee to either attend in person or appoint a representative by Proxy to vote on any matter at Annual Meetings of any Water Control Districts within Indian River County where Indian River County and/or the Solid Waste Disposal District is a land owner within that District.

13.D. EMPLOYMENT CONTRACT POLICY

Attorney Polackwich recapped his Memorandum dated May 12, 2010, providing background and analysis on the policy for contract employees. Presently there are five County contract employees: County Administrator, Assistant County Administrator, County Attorney, Deputy County Attorney, and Assistant County Attorney, and by Ordinance, the only one not required to have a contract is the Assistant County Administrator. He said that according to Code, the Board directly controls the contract terms of the County Administrator and the County Attorney; therefore, he did not think a policy was necessary.

With respect to the Deputy County Attorney and Assistant County Attorney, their new contracts were approved on April 13, 2010, treating them like all other County employees, except they can be terminated at will upon 30 days notice, without the progressive disciplinary process, and if they are terminated without cause, they will receive severance based on one month of salary for each completed two years of service, with a cap of four months salary for the Deputy County Attorney, and three months salary for the Assistant County Attorney.

With respect to the Assistant County Administrator, the existing individual has a contract that runs through February 2011, follows the template of the Deputy and the Assistant County Attorneys, provides for termination at will upon 30 days notice, receives severance based on one month of salary for each one year served up to six months, and pays in full upon termination for unused vacation and sick time.

Discussion ensued among the Board regarding the need for certain contracts, termination, grandfathering, parity, criteria as to who should have a contract with the County, why certain contracts came into existence, employee property rights, and fairness.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, that at the time of contract renewal, the Assistant County Administrator be offered the same contract that was approved for the Deputy County Attorney.

Commissioner Wheeler said he would support the Motion if this would end contracts.

Joseph Paladin, Black Swan Consulting, felt that if the contracts were negotiated and the individual accepted the position based on the contract negotiation and what was offered, then consideration should be given for both the Assistant County Administrator and the Deputy County Attorney.

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

There was a brief discussion regarding Attorney Polackwich's recommendation that future hires have a contract, be terminated at will with a 60-day notice, and receive no accumulation of severance benefits.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Wheeler, to approve that in the future, Deputy or Assistant County Attorneys shall be treated as other County employees, except they can be terminated at will upon 60 days notice and will not be entitled to severance benefits.

There was a brief discussion regarding the number of days notice could be given to an employee for termination.

Chairman O'Bryan confirmed with the Attorney that in the future, this will include new hires, not annual renewals of existing employees.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved there be no policy for the County Administrator or the County Attorney because both are hired directly by the Board, which controls negotiations and contract terms.

There was a brief discussion as to whether future Assistant County Administrators should be under contract.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Flescher, that in the future, Assistant County Administrators shall be treated as other County employees, except that they can be terminated at will upon 60 days notice and will not be entitled to severance benefits, and that the County Administrator has no authority to offer individuals below the position of Assistant County Administrator a contract without Board approval.

Commissioners Davis and O'Bryan emphasized that this would allow parity among the Deputy County Attorney, Assistant County Administrator, and Assistant County Attorney for future hires.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER PETER D. O'BRYAN, CHAIRMAN

14.A.1. A DISCUSSION ON THE RECOMMENDATIONS FOR DISSOLVING AND SUNSETTING ADVISORY COMMITTEES

Chairman O'Bryan requested the Board's consideration in providing the Advisory Committees guidance as to what information the Board is seeking before they are sunsetted, and

whether they should ask committee members if they would be recommending individuals to fill certain positions.

Vice Chairman Solari felt this was premature and that it presumes the committees will be needed. He reminded the Board that direction to staff was to take the wrap-up session and articulation of unmet needs, then determine what committee(s) would address those needs.

Debate and discussion ensued regarding Chairman O'Bryan's request to distribute guidance to the committees as a suggested framework.

Bill Glynn, 1802 East Barefoot Place, felt committees help to keep an open government, believed that various committees provide a security blanket, and asked the Board to consider keeping the North Barrier Island Corridor Ongoing Review Committee in place.

Peter Robinson, Development Appointee to the Professional Services Advisory Committee, described the purpose of his committee and encouraged the Board to retain it. He did not believe the County would save money by sunsetting committees.

ON MOTION by Chairman O'Bryan, SECONDED by Commissioner Davis, by a 4-1 vote (Vice Chairman Solari opposed), the Board approved submitting guidance to the Advisory Committees as a suggested framework.

14.A.2. COUNTY'S "SUSTAINABLE EDUCATION CENTER"

Chairman O'Bryan requested the Board consider designating the Environmental Learning Center's (ELC) Discovery Station and Classroom as the County's "Sustainable Education Center". He felt this process would show that our County is committed to a sustainable culture, and hoped that it might help the ELC to receive grants.

ON MOTION by Commissioner Wheeler, SECONDED by Chairman O'Bryan, the Board unanimously directed the County Attorney to draft a Resolution designating the Environmental Learning Center as Indian River County's sustainable Education Center, as requested in the memorandum of May 12, 2010.

14.B. COMMISSIONER BOB SOLARI, VICE CHAIRMAN - NONE

14.C. COMMISSIONER WESLEY S. DAVIS - NONE

14.D. COMMISSIONER JOSEPH E. FLESCHER - NONE

14.E. COMMISSIONER GARY C. WHEELER - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT - NONE

15.B. SOLID WASTE DISPOSAL DISTRICT

The Chairman announced that immediately upon adjournment, the Board would reconvene as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are being prepared separately.

**15.B.1. WASTE MANAGEMENT'S REQUEST FOR A TIME EXTENSION ON
SUBMITTAL OF 2009 CERTIFIED FINANCIAL REPORT**

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
1:26 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Peter D. O'Bryan, Chairman

Minutes Approved: _____

BCC/LA/2010 Minutes