

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF JUNE 15, 2010

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JEFFREY K. BARTON

Clerk to the Board



June 15, 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, June 15, 2010. Present were Chairman Peter D. O'Bryan, Vice Chairman Bob Solari, and 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 Maureen Gelfo.

1. CALL TO ORDER

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

2. INVOCATION

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

3. PLEDGE OF ALLEGIANCE

Commissioner Flescher led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

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

MOVE: ITEM 8.C. TO ITEM 5.C. PROCLAMATIONS AND PRESENTATIONS

MOVE : ITEM 8.I. TO ITEM 12.D.1. HUMAN RESOURCES

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. UPDATE FROM ASSISTANT COUNTY ADMINISTRATOR, MICHAEL ZITO, REGARDING PARKS AND RECREATION FACILITIES MARKETING PLAN

Assistant County Administrator Michael Zito provided a PowerPoint presentation (on file) outlining marketing strategies for the Fairgrounds and Exposition Center, and the North County Aquatic Center. He said staff's primary goal was website development, optimization, and promotion; outlined some of the dedicated websites already existing for some of the recreational facilities; and invited Scott Johnson, the County's webmaster, to discuss two new dedicated websites, which will be an integral tool for generating business at the Fairgrounds and North County Aquatic Center.

Mr. Johnson used the PowerPoint to display and describe the two aforementioned websites, Expofairflorida.com, and SwimTrainFlorida.com. Mr. Johnson noted that the focus of the Aquatic Center's site was to attract into the County, swim meet competitions from outside the state. He explained that the dedicated websites were a departure from the usual government websites, and that staff was going to continue this trend with all the stand-alone County facilities, including both pools, the golf course, the shooting range, and the non-revenue generating facilities, such as parks and conservation lands, to show the public what the County has to offer.

Commissioner Davis wished to see a tracking mechanism established to evaluate the success of the websites, and also wanted to be sure hyperlinks to the County's facilities would be situated on pertinent websites.

Chairman O'Bryan requested that staff establish some type of clearing house to ensure that events which are booked at the County facilities are well-publicized.

**5.B. UPDATE FROM DIRECTOR OF EMERGENCY SERVICES, JOHN KING,
REGARDING THE DEEPWATER HORIZON OIL SPILL**

Emergency Services Director John King, through a PowerPoint Presentation (on file), provided an update on Day 57 of the Deepwater Horizon oil spill in the Gulf of Mexico. Director King stated the majority of impacts to Florida's shorelines would occur as tar balls, oil sheens, and tar mats or mousse. He described the areas which have been impacted by the spill, which include the Florida Panhandle, and outlined the mitigation efforts of the State and preemptive actions being taken by staff. Director King advised that Florida beaches still remain open, and reported that further information can be obtained at the Florida Oil Spill Information Line at 1-888-337-3569 and DEP's website at www.dep.state.fl.us/deepwaterhorizon. Volunteer information can be found at www.VolunteerFlorida.org, or by calling British Petroleum's (BP's) information line at 866-448-5816.

**5.C. PROCLAMATION HONORING JAMES T. (DUTCH) PERRY ON HIS
RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY
COMMISSIONERS DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE**

Chairman O'Bryan read and presented the Retirement Award and Proclamation to James T. (Dutch) Perry.

6. APPROVAL OF MINUTES

**6.A. JOINT WORKSHOP WITH PLANNING AND ZONING COMMISSION OF APRIL
19, 2010 EAR BASED AMENDMENTS TO COMPREHENSIVE PLAN**

6.B. REGULAR MEETING OF MAY 4, 2010

The Chairman asked if there were any corrections or additions to the Minutes of the April 19, 2010 Joint Workshop with the Planning and Zoning Commission, or to the Minutes of the Regular Meeting of May 4, 2010. There were none.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Joint Workshop with the Planning and Zoning Commission of April 19, 2010 EAR Based Amendments to the Comprehensive Plan, and the Minutes of the Regular Meeting of May 4, 2010, as written.

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

8. CONSENT AGENDA

Vice Chairman Solari requested Item 8.E. be pulled for discussion.

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

8.A. APPROVAL OF WARRANTS AND WIRES, MAY 28, 2010 TO JUNE 3, 2010

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of May 28, 2010 to June 3, 2010, as requested in the memorandum of June 3, 2010.

**8.B. RETENTION OF EXPERTS FOR EMINENT DOMAIN CASES WILLIAM
BETHEL, BUSINESS CLAIMS EXPERT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved retaining Donald W. Hendry, CPA, of the firm of Hendry and Company, PA, at the rate of \$175.00 per hour, and authorized the County Administrator to execute a contract with Mr. Hendry under his delegated authority pursuant to

IRC Code, Section 105.01, as recommended in the memorandum of June 8, 2010.

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

8.C. PROCLAMATION HONORING JAMES T. (DUTCH) PERRY ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE

Moved to Item 5.C.

8.D. FINAL PAYMENT TO CAMP, DRESSER & MCKEE FOR BIOSOLIDS DEWATERING FACILITY – UCP-2697

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved payment for Work Order No. 2 to Camp, Dresser & McKee for a final payment of \$2,537.50, as recommended in the memorandum of June 1, 2010.

8.E. APPROVAL OF BID AWARD FOR IRC BID NO. 2010045, GIFFORD COMMUNITY CENTER BUILDING REPAIRS

General Services Director Thomas Frame addressed Vice Chairman Solari's inquiry regarding the estimated allocation of funds for completion of the remaining repairs at the Gifford Community Center.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved the Bid Award to A. Thomas Construction, Inc., as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (2) approved the Sample Agreement; and (3) authorized the Chairman to execute said agreement after receipt and approval of the Certificate of Insurance and after the County Attorney has approved the agreement as to form and legal sufficiency, all as recommended in the memorandum of June 3, 2010.

8.F. SENIOR RESOURCE ASSOCIATES (SRA) TRANSIT FACILITY

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) affirmed the approach outlined by staff for construction of the Senior Resource Associates (SRA) Bus Transit Facility – approving, once construction has been completed, for staff to present an as-built drawing depicting the specific amount of building encroachment; and (2) directed staff to submit a revised lease to have a modified legal description providing for all buildings to be contained within the boundary description of the lease as modified, all as stated and recommended in the memorandum of June 9, 2010.

8.G. KENNETH AND SHIRLEY BERRY'S REQUEST FOR PARTIAL RELEASE OF AN EASEMENT AT 760 12TH PLACE SW (VERO BEACH HIGHLANDS UNIT 3)

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2010-049**, releasing a portion of an easement on Lot 2, Block 78, Vero Beach Highlands Subdivision Unit 3.

8.H. FINAL PAY TO SCHULKE, BITTLE & STODDARD FOR CONTINUING CONSULTING SERVICES FOR WORK ORDER NO. 12 FOR ENGINEERING DESIGN, SURVEYING AND CONSTRUCTION ADMINISTRATION SERVICES FOR SHELL LANE EAST GRAVITY SEWER ASSESSMENT, WIP No. 473-169000-10501, BID NUMBER 2010023 – UCP #4039

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) the total amount of engineering services of \$13,653.47 to Schulke, Bittle and Stoddard, LLC; and (2) Final Invoice Number 09-069-8, for a total amount of \$800.00, as recommended in the memorandum of June 2, 2010.

8.I. BLUE CROSS BLUE SHIELD OF FLORIDA – ADMINISTRATIVE SERVICES AGREEMENT – JULY 1, 2010 – SEPTEMBER 30, 2013

Moved to Item 12.D.1.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES-NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS-NONE

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM WALTER GEIGER, TAXPAYERS'

ASSOCIATION OF INDIAN RIVER COUNTY, REGARDING FIRE/RESCUE OVERTIME PAY

Walter Geiger, 3944 58th Circle, representing the IRC Taxpayers Association, addressed the Board regarding the shortfall in the County's budget. He believed the deficit could be diminished by \$1 million by having less fire rescue personnel at the slower fire stations; by the reduction of overtime by 50%; and through the elimination of step increases.

Commissioner Davis advised Mr. Geiger that the scheduled Budget Workshops would begin on July 14, 2010.

Chairman O'Bryan acknowledged that staff would explore every possible means to try to find some savings, and that discussion would ensue with the firefighters regarding the step increases.

**10.B.2. REQUEST TO SPEAK FROM FRANK L. ZORC, REGARDING FUTURE
BEACH SAND RENOURISHMENT USING TAX DOLLARS – REQUEST FOR
COUNTY-WIDE REFERENDUM**

(Clerk's Note: This item was heard following Item 10.B.3., and is placed here for continuity).

Frank Zorc, 1695 20th Avenue, read from a letter addressed to County officials (on file) regarding the negative effects of beach renourishment projects. He requested a copy of any public records establishing when the City authorized the County to pump sand on all of the beaches. He wanted the public officials to take a stand on this issue, and also requested the Board give the voters a chance to vote on the issue by referendum.

Vice Chairman Solari advised Mr. Zorc that the next beach restoration project was three years away, which would allow sufficient time for the candidates to state their positions on this issue.

**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, City of Vero Beach Council Member (speaking in his capacity as a citizen), acknowledged that the City Council has not yet responded to requests for a joint meeting with the County on the electric utility issues. He requested that the Board set up the meeting for any City Council Members who wished to attend, and affirmed that he, as a Council Member, would attend the meeting.

Chairman O'Bryan did not feel it appropriate to call a meeting at this time, as the City had declined the invitation (which had been extended to them personally by Vice Chairman Solari) to attend the meeting.

Concluding his presentation, Mr. Heady addressed the Board on a different matter, requesting that the Board place on November's ballot a non-binding item to see how the public feels about future sand renourishment projects.

A brief discussion ensued.

Vice Chairman Solari wanted to know if Mr. Heady had received any financial analysis to support the City's decision to repeal the increase in sewer and water rates.

Mr. Heady stated he had received no analysis, and explained why he was opposed to the rate repeal.

Commissioner Davis expressed a willingness to meet with all the municipalities, subsequent to receiving further information from the County Attorney regarding what the franchise agreements entail, and who owns the infrastructure.

Attorney Polackwich affirmed that working on this issue is a priority, and revealed that he was gathering information, as well as requesting additional records from the City.

Tracy Carroll, Live Oak Road, Chairman of Operation Clean Sweep, stated that her organization was trying to get enough signed petitions to have an item placed on the November ballot requiring the City of Vero Beach to accept an offer to sell the Electric Utility, provided it covers all utility debt. She reported that the petitions are available at sellveroelectric.com, and at Operation Clean Sweep's facebook page at <http://www.facebook.com/pages/Operation-Clean-Sweep/118862941467091>.

Charles Wilson, Vero Beach, suggested that the Commissioners designate a Board Member to serve as the County's liaison with FPL. He also advocated having the Board send a written request to FPL asking them for a public briefing.

Mr. Heady noted that an open forum between the City of Vero Beach and FPL was tentatively scheduled for July 20, 2010, and voiced that it would be more appropriate for the Commissioners to attend that meeting, than approach FPL at this point.

J. Rock Tonkel, Grand Harbor, stated that John Lee, Acting Director of Vero Beach Electric Utility, had indicated that there would be no favorable change in the rate structure for the utility customers. He urged the Board to take any possible steps to see that an agreement between the City and FPL is finally executed.

Commissioner Wheeler remarked it was important to get the City's perspective on this matter, and was dismayed that in spite of the County's invitations, no joint meetings with the City had occurred. He suggested that the Chairman appoint one Commissioner-liaison to the Vero Beach City Council, for the purpose of obtaining information on the status of the Electric Utility.

Commissioner Davis suggested having the Chairman designate two Commissioner-liaisons - one for the water/sewer/wastewater issue, and one for the electric utility issue.

Chairman O'Bryan stated that he would bring this matter back under Commissioners' Items on the June 15, 2010 agenda.

10.C. PUBLIC NOTICE ITEMS

10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING JUNE 22, 2010:

CONSIDER ADOPTION OF AN ORDINANCE ESTABLISHING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION (LEGISLATIVE)

10.C.1.2. NOTICE OF SCHEDULED PUBLIC HEARING JUNE 22, 2010:

**WAUREGAN BOAT CLUB'S REQUEST FOR ABANDONMENT OF A PORTION
OF 133RD PLACE BETWEEN 83RD AVENUE AND THE ST. SEBASTIAN RIVER
(LEGISLATIVE)**

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

The Chairman called a break at 10:15 a.m. and reconvened the meeting at 10:30 a.m., with all members present.

11. COUNTY ADMINISTRATOR MATTERS

11.A. APPEAL OF DECISION OF COUNTY ADMINISTRATOR (QUASI-JUDICIAL)

Scott R. Sanders, P.E., 725 61st Avenue, representing Patrick McCalister, provided background information on his client's appeal of the County Administrator's decision supporting staff's conclusion to not allow the installation of High Density Polyethylene (HDPE) pipe (a.k.a. A.D.S. pipe) in the drainage ditch in front of Mr. McCalister's residence on 26th Avenue. He provided a handout containing data on various types of culvert pipe (on file), after which he rebutted the concerns which were outlined by staff in the February 19, 2010 letter advising Mr. McCalister of the current policy prohibiting the use of HDPE pipe in County-maintained right-of-ways. Mr. Sanders stated that there is no evidence for disallowing this product, and requested the Board either allow Mr. McCalister to put in the HDPE pipe, or have the culvert pipe installed using County labor and materials.

Tom Lowther, Vero Beach, who has been involved in this project, spoke to the benefits of using the HDPE pipe.

Public Works Director Chris Mora, used a PowerPoint Presentation (on file) to provide background on Mr. McCalister's request to re-pipe with HDPE pipe, a swale in front of his house, from which County staff had removed a substandard PVC pipe. He outlined staff's concerns on the HDPE pipe, and upheld the recommendation to allow only concrete or metal stormwater pipes within the County right-of-ways. Director Mora acknowledged that staff was willing to try the pipe in certain circumstances, but did not feel that residential application was a good usage.

Director Mora, with assistance from County Engineer Chris Kafer, addressed a series of questions posed by the Board regarding FDOT and County regulations; Mr. McCalister's specific job; and the costs for utilizing the HDPE versus other types of pipe. Staff also provided extensive information and analysis regarding the performance characteristics of the HDPE pipe.

A broad-ranging discussion ensued, during which the Board and staff considered what would be the best methods for making the HDPE pipe suitable for residential roadways.

The Board CONSENSUS was to direct staff to draft and bring back for Board consideration some specifications for using the HDPE pipe for residential applications. The specifications should include mandatory boxed ends (headwalls); ensuring that the pipe is three years of age or less; and making sure the pipe is compacted properly, with the invert positioned evenly.

Commissioner Davis asked if there was a way for Mr. McCalister to put the pipe in now, and not to have to wait until staff develops the standards.

Director Mora affirmed that the aforementioned standards could be applied to the permit application for Mr. McCalister, and that staff would subsequently follow up with drafting the new standards for residential use of the HDPE pipe.

ON MOTION BY Commissioner Davis, SECONDED by Chairman Flescher, the Board GRANTED Patrick McCalister's appeal of the County Administrators' decision to uphold the determination of the Public Works Director to not approve High Density Polyethylene (HDPE) pipe for installation in the drainage ditch in front of Mr. McCalister's residence at 775 26th Avenue; and authorized staff to issue a permit for Mr. McCalister to install High Density Polyethylene Pipe (HDPE) in the aforementioned drainage ditch, subject to the following conditions: the HDPE pipe must have headwalls, be no older than three years old, and be compacted properly, with the invert positioned evenly.

The Chairman called a break at 12:03 p.m., and reconvened the meeting at 12:15 p.m., with all members present.

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. REQUEST FROM GROVE ISLE AT VERO BEACH CONDOMINIUM

ASSOCIATION TO DELETE THE SITE PLAN APPROVAL CONDITION

REQUIRING MAINTENANCE OF THE NAVIGABILITY OF THE CANAL

LYING BETWEEN GROVE ISLE AND RIVER SHORES AND TO RELEASE

AND TERMINATE GROVE ISLE'S COVENANT WITH THE COUNTY TO

MAINTAIN CANAL NAVIGABILITY

Planning Director Stan Boling used a PowerPoint Presentation (on file) to provide background and analysis on the request from Grove Isle at Vero Beach Condominium Association for the Board to release them from a site plan approval condition and a covenant with the County to maintain navigability of the canal situated between Grove Isle and the River Shores Community. He described the proposed settlement and presented staff's recommendation to approve the Settlement Agreement, delete the site plan approval maintenance condition, and authorize the Chairman to execute the appropriate documents to terminate and release Grove Isle's canal maintenance covenant to the County.

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

Attorney Polackwich confirmed for Chairman O'Bryan that only the River Shores homeowners of Lots 1-16 would be impacted by the Settlement Agreement.

During discussion, the Board expressed concerns about finding a way to codify into perpetuity the condition requiring the River Shores homeowners to maintain the Canal.

Attorney Polackwich recommended that a copy of the Settlement Agreement between Grove Isle and River Shores be attached to the Release from Covenant to Maintain, when the document is recorded in the Public Records.

MOTION WAS AMENDED by Commissioner Wheeler,
SECONDED by Vice Chairman Solari, to include
direction to the County Attorney to attach a copy of the
Settlement Agreement between Grove Isle and River
Shores, when the Release from Covenant to Maintain is
recorded in the Public Records.

The Chairman CALLED THE QUESTION, and the Amended Motion carried. The Board unanimously: (1) approved the Settlement Agreement with Grove Isle of Vero Beach Condominium Association, Inc., and River Shores; (2) deleted Grove Isle's site plan approval condition requiring maintenance of canal navigability; (3) authorized the Chairman to execute the document (Release from Covenant to Maintain) to terminate and release Grove Isle's covenant to the County to maintain canal navigability; and (4) directed the County Attorney to attach a copy of the Settlement Agreement between Grove Isle and River Shores to the Release from Covenant to Maintain, when the latter document is recorded in the Public Records.

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

**12.A.2. BOARD CONSIDERATION OF PETER TYSON'S REQUEST FOR
CONCEPTUAL APPROVAL OF PROPOSED CHANNEL RESTORATION AT
HEAD COVE/HEAD ISLAND (A.K.A. THE GREEN SALT MARSH LAAC
SITE) WEST OF ST. CHRISTOPHER HARBOR SUBDIVISION**

Chief of Environmental Planning and Code Enforcement Roland DeBlois used a PowerPoint Presentation (on file) to present description and conditions of Peter Tyson's proposal to restore the channel between Head Island and the Barrier Island to allow for passage to deep water from St. Christopher Harbor. He relayed that the County Conservation Lands Advisory Committee (CLAC) has reviewed the proposal, and along with staff, unanimously recommends conceptual approval, with the conditions outlined in staff's report (see page 169 of the backup).

Peter Tyson, Island Drive, Vero Beach, representing the St. Christopher Harbor Homeowners' Association, confirmed the need for the channel and responded to questions from Vice Chairman Solari regarding what agencies would be overseeing the environmental aspects of the channel restoration.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Wheeler, the Board unanimously approved the proposed channel restoration project at Head Island (a.k.a. the Green Salt Marsh LAAC Site) west of St. Christopher Harbor Subdivision, contingent upon approval from jurisdictional permitting agencies, proper removal and disposal of dredged materials, and installation of appropriate navigation and manatee protection signage, as recommended in the memorandum of June 4, 2010.

**12.A.3. REQUEST TO ENTER INTO A COUNTY INCENTIVE GRANT PROGRAM
AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION
AND A REVISED INTERLOCAL AGREEMENT WITH THE CITY OF VERO
BEACH FOR IMPROVEMENTS TO AVIATION BOULEVARD**

Staff Director of the Metropolitan Planning Organization (MPO) Phillip Matson used a PowerPoint Presentation (on file) to provide description and conditions on the Aviation Boulevard Project, which is eligible for funding through FDOT's Intermodal Projects Program. He thereafter presented staff's recommendation: (1) to re-enter into a County Incentive Grant Program Agreement with the Florida Department of Transportation (FDOT) for partial funding of the Aviation Boulevard improvements; and (2) to approve the updated Interlocal Agreement with the City of Vero Beach for completion of the Aviation Boulevard design and construction.

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

Commissioner Davis preferred, if possible, to landscape the median along the Boulevard with oak trees, rather than palms.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved: (1) **Resolution 2010-050**, approving a County Incentive Program Agreement with the Florida Department of Transportation for roadway widening and intermodal improvements to Aviation Boulevard at the Vero Beach Airport; and (2) the amended Interlocal Agreement with the City of Vero Beach for completion of the Aviation Boulevard design and construction.

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

12.B. EMERGENCY SERVICES-NONE

12.C. GENERAL SERVICES-NONE

12.D. HUMAN RESOURCES

12.D.1. BLUE CROSS BLUE SHIELD OF FLORIDA – ADMINISTRATIVE SERVICES AGREEMENT – JULY 1, 2010 – SEPTEMBER 30, 2013

(Clerk's Note: Item 8.I. was moved to 12.D.1., under Item 4)

Director of Human Resources Jim Sexton reported that this item was moved from the Consent Agenda, Item 8.I., because Attorney Polackwich had revised some language in Exhibit “D”, the Confidentiality and Indemnity Agreement of the Administrative Services Agreement. He advised that Blue Cross and other stakeholders had been sent the revised document, and requested that the Board approve the following: (1) the Amendment to the Administrative Services Agreement with Exhibit “B” (Financial Arrangements); and (2) Exhibit “D”, contingent upon the stakeholders’ approval of Attorney Polackwich’s revision.

Attorney Polackwich outlined the aforementioned revisions to Exhibit “D” of the Administrative Services Agreement.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Amendment to the Administrative Services Agreement with Exhibit “B”, Financial Arrangements/Banking Arrangement.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously authorized the County Administrator to execute the 3-year Administrative Services Agreement and corresponding Exhibit “D”, Confidentiality Agreement with Blue Cross and Blue Shield of Florida, Inc., as amended by the County Attorney, and contingent upon the approval of the other parties.

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

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. CROSS CONNECTION CONTROL DATA MANAGEMENT: COUNTY RFP BID
No. 2010031, BID REVIEW & STAFF RECOMMENDATION**

MOTION WAS MADE by Commissioner Davis,
SECONDED by Commissioner Flescher, to approve
staff's recommendation to cancel the bid to establish
Cross Connection Control Data Management Services.

Director of Utility Services Erik Olson provided background on the need for Cross Connection Control Data Management Services, explaining that it is a program for data collection pertaining to the inspection of the water protection devices used by water purveyors. He reported that inspections of the devices must be done annually, and that the County would save \$8,000 to \$10,000 by going to a new electronic tracking mechanism, as opposed to accepting the lowest bid for the data management services.

Discussion ensued wherein Director Olson addressed Chairman O'Bryan's queries on violation letters and the costs to the purveyor for the annual inspections.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved canceling the bid to establish Cross Connection Control Data Management Services, to explore the more economical method of data collection, as recommended in the memorandum of May 26, 2010.

12.J.2. POSTPONE RECLAIMED WATER RATE INCREASE UNTIL JANUARY 1, 2010
2011

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2010-051**, amending Resolution No. 2010-014, which adopted rates, fees and charges for the Department of Utility Services, amending the reclaimed water rate per one thousand (1,000) gallons and creating a onetime dump fee for sludge and septage for recreation vehicles. First by amending the reclaimed water rates – per 1,000 gallons from \$0.15 to \$0.60 to begin January 1, 2011 and to be increased annually for four years beginning on January 1, 2012, by \$0.07 per thousand gallons per year. Thereby, creating rates annually of \$0.60 per thousand gallons, \$0.67 per thousand gallons, \$0.74 per thousand gallons, \$0.81 per thousand gallons and ending \$0.88 per thousand; and, creating a onetime dump fee per recreational vehicle for septage and sludge of \$10.00 per dump.

Director Olson responded to Chairman O’Bryan’s questions pertaining to golf courses and their usage of the reclaimed water.

13. COUNTY ATTORNEY MATTERS

13.A. SHARK BAITING, CHUMMING AND FISHING

County Attorney Alan Polackwich related that he was returning with a sample Ordinance pertaining to shark fishing, baiting, and chumming in accordance with Board direction at the June 1, 2010 County Commission meeting. He explained that he had drafted the Ordinance with legal defensibility in mind, cognizant of State preemption issues pertaining to saltwater fishing, and outlined two exceptions to the State regulations which would allow the local Government to prohibit or regulate certain fishing operations for public safety and welfare reasons. Attorney Polackwich emphasized that the Ordinance before the Board, which prohibits shark baiting, chumming, or fishing within a certain distance from a County beach, was strictly for discussion purposes, and he outlined several other ways that shark fishing could be regulated.

Commissioner Flescher declared that while he did not wish to prohibit shark fishing, he was concerned about the safety of swimmers and bathers who might be in close proximity to shark fishing activities. He believed that if the County had some governance over the practice, it would be a deterrent to having the local beaches be considered as desirable sites for the shark fishing tournaments.

Commissioner Davis pointed out that prohibitions already exist against fishing in guarded areas of the beaches, thus making it unnecessary to add any additional legislation on shark fishing.

MOTION WAS MADE by Commissioner Davis,
SECONDED by Vice Chairman Solari, for the Board to
take no action pertaining to the regulation of shark fishing.

Commissioner Wheeler stated he would not support an Ordinance prohibiting shark fishing. He wanted to see an Ordinance giving public safety officers a tool to be able to evaluate

a situation, and if necessary, request that an angler relocate his activities farther away from nearby swimmers.

Chairman O'Bryan felt the sample Ordinance was too restrictive, and supported Commissioner Wheeler's objective to give public safety officers the authority to require an angler to either move or cease his or her activities for the time being.

Vice Chairman Solari suggested that education should be used as a public safety tool. In addition, he proposed waiting to see if the City of Vero Beach takes any action on shark fishing, since their beaches cover a lot of territory.

Attorney Polackwich read the current Code prohibiting fishing from any park or recreational area unless such area is specifically designated for such purpose.

Bob Cooney, Vice President, Board of Directors of the Carlton Condominium, used photos from a handout he had distributed to the Board, to augment his plea for the Board to ban shark fishing.

Doug Distl, Vero Beach, recalled that he had provided to the Board a signed petition supporting the banning of shark fishing in the County. He told Commissioners that the County was endorsing the practice by not having a law.

Al Benkert, Vero Beach, contended that shark fishing was not good for businesses or the public, and that it was the Board's job to protect both.

Vice Chairman Solari declared that autonomy was essential for a functioning democracy, and explained why he felt that individual autonomy would be undermined by government regulation of the shark fishing.

A lengthy debate ensued, as Board Members, Mr. Distl, Mr. Benkert, and Mr. Cooney continued to express their views and preferences regarding shark fishing, and whether the County needs to take steps to regulate the sport.

Chairman O'Bryan opposed the Motion, preferring to direct the County Attorney to return with a draft Ordinance giving public safety officials a tool to abate any public safety hazards with regards to the shark fishing.

The Chairman called the question, and by a 2-3 vote (Commissioners O'Bryan, Flescher, and Wheeler opposed), the Motion to take no action concerning shark fishing FAILED.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, by a 3-2 vote (Commissioners Davis and Solari opposed), the Board directed the County Attorney to draft an Ordinance whereby public safety officials may evaluate situations involving fishing or shark fishing from the public beaches, as to whether said activity poses a danger to others using the public beach, and if that determination is made, to authorize said officials to request that the angler/s move to a less populated area; and in cases where the angler/s are not cooperative, to authorize the public safety officials to issue a summons.

14. COMMISSIONER ITEMS

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

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-NONE

15.C. ENVIRONMENTAL CONTROL BOARD-NONE

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

16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 1:40 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Peter D. O'Bryan, Chairman

Minutes Approved: _____

BCC/MG/2010Minutes