

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF DECEMBER 14, 2010

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JEFFREY K. BARTON

Clerk to the Board



December 14, 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, December 14, 2010. Present were Chairman Bob Solari, Vice Chairman Gary C. Wheeler, and Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Maureen Gelfo.

1. CALL TO ORDER

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

2. INVOCATION

Commissioner Davis delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman Solari led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman Solari requested the following changes to today's Agenda:

ADDITION: ITEM 10.B.2. REQUEST TO SPEAK FROM LINDA HILLMAN ON GOLINE BUS HUB LOCATION

ADDITION: ITEM 13.C. COUNTY ATTORNEY MATTERS: FINAL CONTRACT WITH REPUBLIC SERVICES OF FLORIDA, LIMITED PARTNERSHIP, D/B/A TREASURE COAST REFUSE ("REPUBLIC SERVICES")

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION DESIGNATING DECEMBER 12, 2010 THROUGH DECEMBER 18, 2010 AS "NETBOSS TECHNOLOGIES, INC. WEEK" IN INDIAN RIVER COUNTY

Commissioner O'Bryan read and presented the Proclamation to Jim Odom, President, and Tim Keithahn, CEO, of NetBoss Technologies, Inc., Sebastian, Florida. Mr. Odom conveyed that the grant program and the helpfulness of County staff and Commissioners had facilitated NetBoss Technologies' decision to place its headquarters in the County. Mr. Keithahn reported that the company has thus far hired forty-five individuals, and stated that further openings continue to be posted on their website, www.netboss-technologies.com.

Commissioners Davis and Solari commended the Economic Development Council for its role in attracting and securing new businesses.

5.B. ECONOMIC DEVELOPMENT ANNUAL REPORT PRESENTED BY INDIAN RIVER COUNTY CHAMBER OF COMMERCE: BILL PENNEY, CHAIRMAN, ECONOMIC DEVELOPMENT DIVISION AND HELENE CASELTINE, DIRECTOR, ECONOMIC DEVELOPMENT

Bill Penney, Chairman of the Economic Development Division of the Indian River County Chamber of Commerce, related that as the primary economic development agency in the County, the Chamber has been working hard to bring jobs into the community. He thanked the Board, County Administrator, and staff for their efforts towards the same goal, and invited Helene Caseltine to highlight some of the Chamber's efforts and successes.

Helene Caseltine, 1216 21st Street, Director of Economic Development, Indian River County Chamber of Commerce, through a PowerPoint presentation (on file), presented an overview of the Chamber's Fiscal Year 2009/2010 Economic Development Annual Report. She outlined the actions taken by the Chamber to promote the County for business recruitment, retention, expansion, and small business development. Ms. Caseltine reported that through the local Jobs Grant Program, four businesses (eMindful, INEOS New Planet BioEnergy, AlgaGen, and NetBoss Technologies) had located in the County, creating 187 new high-wage jobs. In addition, the Chamber has helped other companies create or retain 1,445 jobs over the past five years. Ms. Caseltine disclosed that eMindful and INEOS New Planet BioEnergy have also benefited from the State's Qualified Target Industry (QTI) Tax Refund Program. At the request of Commissioner Davis, she confirmed that the Chamber was promoting the ad valorem tax exemptions approved at the November 2, 2010 General Election, and the amendments to the commercial/industrial node at SR 60 and 98th Avenue that were approved at the October 12, 2010 Board of County Commission meeting.

6. APPROVAL OF MINUTES-NONE

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

**7.A. 2011 ELECTION OF ENVIRONMENTAL CONTROL HEARING BOARD
CHAIRPERSON AND VICE CHAIRMAN**

Noted for the record was the election of Cynthia Hall as Chairperson, and Steve Snoberger as Vice Chairman, of the Environmental Control Hearing Board for 2011.

8. CONSENT AGENDA

Commissioner O'Bryan requested Item 8.I. be pulled for discussion.

Vice Chairman Wheeler requested Item 8.K. be pulled for discussion.

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

**8.A. APPROVAL OF WARRANTS AND WIRES – NOVEMBER 24, 2010 TO
DECEMBER 2, 2010**

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of November 24, 2010 to

December 2, 2010, as requested in the memorandum of
December 2, 2010.

8.B. RESOLUTION CANCELLING TAXES ON PROPERTY ACQUIRED FOR PUBLIC

PURPOSE

ON MOTION by Commissioner Davis, SECONDED by
Vice Chairman Wheeler, the Board unanimously approved
Resolution 2010-121, cancelling certain taxes upon
publicly owned lands, pursuant to Section 196.28, Florida
Statutes. *86th Avenue, Sebastian, Florida*

*Susan K. Russell, individually and as Trustee of the Susan
K. Russell Revocable Trust of December 13, 2005, and
Robert M. Russell, individually, and as Trustee of the
Robert M. Russell Revocable Trust of December 13, 2005*

**8.C. REQUEST FOR AUTHORIZATION TO SUBMIT AN APPLICATION FOR 49 USC
CHAPTER 53, SECTION 5311 TRANSIT OPERATING ASSISTANCE FUNDS FOR
FY 2011/12**

ON MOTION by Commissioner Davis, SECONDED by
Vice Chairman Wheeler, the Board unanimously
approved **Resolution 2010-122**, authorizing the
submission of a FY 2011/12 grant application for 49 USC
Chapter 53, Section 5311 Public Transit Operating
Assistance.

8.D. REQUEST FOR APPROVAL OF A RESOLUTION ENDORSING EVERY DREAM HAS A PRICE AS A SPONSORING AGENCY FOR A LOW INCOME HOUSING PROJECT UNDER THE FLORIDA COMMUNITY CONTRIBUTION TAX CREDIT PROGRAM

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously approved **Resolution 2010-123**, endorsing Every Dream Has A Price (EDHAP) as a sponsoring agency under the Florida Community Contribution Tax Credit Program; and finding that EDHAP's Halfway Home To The Dream: A Safe Place To Call Home project is consistent with the Indian River County Comprehensive Plan and the Indian River County Land Development Regulations.

8.E. APPROVAL OF BID AWARD FOR IRC BID NO. 2011024 REMOVE AND REPLACE AN UNINTERRUPTIBLE POWER SYSTEM

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously: (1) approved the Bid Award to Creative Power Solutions, Inc., as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; and (2) approved the issuance of a purchase order in the amount of \$28,321.00 for equipment purchase, installation and first year Annual Maintenance, after receipt of the appropriate certificate of insurance, as recommended in the memorandum of December 7, 2010.

**8.F. WORK ORDER No. 1 – G. K. ENVIRONMENTAL, INC., INDIAN RIVER
BOULEVARD SIDEWALK IMPROVEMENT FROM 12TH STREET TO 17TH
STREET, IRC PROJECT No. 0745**

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously approved and authorized the Chairman to execute Work Order No. 1 with G.K. Environmental, Inc., for the not-to-exceed sum of \$10,675.00, authorizing the services outlined in the Scope of Services, as recommended in the memorandum of December 6, 2010

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

**8.G. BARBER STREET FDOT ROADWAY AND DRAINAGE IMPROVEMENTS,
RESOLUTION OF CONFLICTS WITH WATER MAIN, APPROVAL OF FINAL
PAY TO SHELTRA & SON CONSTRUCTION Co. INC., W.I.P. No. 471-
23536-044699-10503**

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously: (1) approved the total project construction cost of \$8,160.66; (2) approved Application for Payment No. 2 – Final as final payment to the contractor, Sheltra and Son Construction Company, Inc., in the amount of \$408.03, as recommended in the memorandum of December 1, 2010.

**8.H. 16" FORCE MAIN RELOCATION ON US1 AT SOUTH RELIEF CANAL, UCP
No. 4055, FINAL PAYMENT TO SHELTRA AND SONS-SON CONSTRUCTION
Co., INC. AND RELEASE OF RETAINAGE, W.I.P. No. 471-23536-044699-
10512**

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously: (1) approved the total project construction cost of \$32,141.89; and (2) approved Application for Payment No. 2 – Final as final payment to the Contractor, Sheltra and Son Construction Company, Inc., in the amount of \$1,607.09, as recommended in the memorandum of November 30, 2010.

**8.I. REQUEST TO APPROVE A MEMORANDUM OF AGREEMENT WITH THE
MARINE RESOURCES COUNCIL (MRC) FOR MRC MANAGEMENT OF THE
"RUSSELL NORTH PARCELS" OF THE ST. SEBASTIAN RIVER GREENWAY**

Commissioner O'Bryan observed that the above initiative is a great example of the County working with private nonprofit organizations to bring to the entire community improvements that would otherwise be unaffordable.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute the Memorandum of Agreement for MRC (Marine Resources Council) management of the Russell parcels of the St. Sebastian Greenway, as recommended in the memorandum of December 6, 2010.

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

**8.J. ACQUISITION OF RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION
EASEMENT (TCE), 66TH AVENUE BETWEEN 4TH STREET AND 16TH STREET,
PARCEL I.D. # 33-39-18-00001-0090-00002.0, PROJECT PARCEL #4
(RIGHT-OF-WAY) AND #4-TCE, OWNER: GEORGE A. AND SANDRA R.
KAHLE**

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously approved the purchase of the needed right-of-way and easements at a price of \$7,100, inclusive of all fees, and authorized the Chairman to execute the Purchase and Sale Agreement with George A. and Sandra R. Kahle, as recommended in the memorandum of December 6, 2010.

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

8.K. COMMITTEE ASSIGNMENTS FOR COMMISSIONERS

Vice Chairman Wheeler requested that he and Commissioner O'Bryan exchange positions on the Treasure Coast Regional Planning Council. Commissioner O'Bryan will become the regular member, and Vice Chairman Wheeler the alternate.

Chairman Solari acquiesced, noting that no Motion was required. He thereafter detailed his request for Commissioner O'Bryan to remain as the Chairman of the Tourist Development Council; there were no objections.

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

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 CHERYL GONDEK REGARDING ~~GO-LINE~~
GO LINE BUS HUB LOCATION**

Cheryl Gondek, 2456 16th Avenue, Original Town, provided to the Board and displayed via overhead projection, a map (copy on file) depicting the area surrounding the GoLine bus hub, which is situated diagonally across the street from the County Administration Building. She relayed the importance of the hub to her and other residents who rely on public transportation, and beseeched the Commissioners to retain the hub in its current location.

Chairman Solari acknowledged Ms. Gondek's concerns, and related that the Metropolitan Planning Organization (MPO) and the City of Vero Beach are working with neighborhood residents to determine the best place to locate the GoLine hub. He invited her to attend future Board of County Commission meetings for updates on this matter.

No Board Action Required or Taken

10.B.2. REQUEST TO SPEAK FROM LINDA HILLMAN ON GOLINE BUS HUB

LOCATION

(Clerk's Note: This item was added to the agenda).

Linda Hillman, 2315 18th Avenue, Original Town, acknowledged the importance of the bus transportation system, but told Commissioners that the majority of Old Town residents want the GoLine Hub to be located elsewhere. She explained that the neighbors were worried that crime and litter would become problematic to the residents, who were diligently working to preserve the historical character of the small area remaining in Old Town.

Chairman Solari, for informational purposes, wanted to alert Ms. Hillman that the proposal to bring Amtrak railway service to the County might also pose a challenge to retaining the character of the Old Town neighborhood.

No Board Action Required or Taken

10.C. PUBLIC NOTICE ITEMS-NONE

11. COUNTY ADMINISTRATOR MATTERS-NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT-NONE

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. AMENDMENT NO. 1 TO DEVELOPER'S AGREEMENT BETWEEN INDIAN RIVER COUNTY, FLORIDA AND ACTS, INC., A PENNSYLVANIA CORPORATION, W.I.P. No. 47123536-044699-11501

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved: (1) Amendment No. 1 to the Developer's Agreement with ACTS, Inc. for Paving 26th Street Between 74th Avenue and 82nd Avenue; (2) the additional estimated construction cost of \$12,825.00; and (3) the estimated engineering consulting services cost of \$8,039.00, as recommended in the memorandum of November 29, 2010.

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

13. COUNTY ATTORNEY MATTERS

13.A. REIMBURSEMENT TO DEVELOPER PURSUANT TO PROPOSED SECOND AMENDMENT TO AGREEMENT FOR CONSTRUCTION OF OFF-SITE UTILITIES (WOODSIDE TUSCANY / FIELDSTONE RANCH)

County Attorney Alan S. Polackwich, Sr. recapped the memorandum of December 8, 2010 to provide background and conditions pertaining to a proposed second amendment to the original agreement between the County and Woodside Tuscan, LLC, for the installation of a water line along the north side of 77th Street from the northwest corner of 58th Avenue and 77th Street to the west property line of Tuscan Lakes Subdivision. He explained that the name of the original developer was changed from Woodside Tuscan, LLC to Woodside Fieldstone Ranch, LLC, and that the current developer, GHO Homes Corporation, is the entity entitled to receive the reimbursement of \$115,608.59, which is due on or before January 31st, 2011. He thereafter recommended that the Board approve the Second Amendment to Agreement between Indian River County, Florida and GHO Homes Corporation.

Attorney Polackwich, with input from Director of Utilities Erik Olson, addressed the Commissioners' questions about future developments connecting to the water line, and if the process whereby developers install the water facilities and receive reimbursement by the County will remain in effect.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute the Second Amendment to Agreement with GHO Homes Corporation, as recommended in the memorandum of December 8, 2010.

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

13.B. CITY FIRST MORTGAGE CORPORATION V. INDIAN RIVER COUNTY

REQUEST FOR "SHADE" MEETING UNDER 286.11(8), FLORIDA STATUTES

Attorney Polackwich provided background pertaining to a lawsuit filed against the County by City First Mortgage Corporation (City First), pertaining to the County's code enforcement lien on property formerly owned by Lewis Barton, on which City First had foreclosed without knowledge of the lien. He relayed that the lawsuit was dismissed by the Court, and the Court's decision was appealed by City First to the Fourth District Court of Appeal. Attorney Polackwich requested that the Board set a closed (Shade) meeting at the regular Board of County Commission meeting of January 11, 2011, to receive input on what the County's settlement position might be, and also wanted Board authorization to schedule the mediation, noting that he would return to the Board for approval of any negotiated settlement terms.

Discussion ensued, wherein Attorney Polackwich responded to the Board's questions and comments. Topics included, but were not limited to: the location of City First; whether the mediation would occur with the Title Company or with City First; the recouping of the County's legal fees; what would occur if the County wins the appeal and forecloses on the property; the current amount of the lien (\$253,000) and whether this includes interest; the procedure for a Shade meeting; and whether Lewis Barton or his family retain any claims to the subject property.

Chairman Solari directed Attorney Polackwich to have available at the Shade Meeting the amount of the lien, with and without accumulated interest, and the legal fees thus far incurred, and anticipated to be incurred.

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

Chairman Solari suggested that the Shade meeting be held, and if all goes well, the Board would authorize Attorney Polackwich to schedule the mediation.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Commissioner Davis, to authorize the County Attorney, contingent upon the success of the Shade meeting, to enter into mediation with City First Mortgage Corporation.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board: (1) scheduled for January 11, 2011, a closed (Shade) meeting to discuss settlement negotiations between City First Mortgage Corporation v. Indian River County, relating to a lien recorded by the County on property formerly owned by Lewis Barton; and (2) authorized the County Attorney, contingent upon the success of the Shade meeting, to enter into mediation with City First Mortgage Corporation.

13.C. FINAL CONTRACT WITH REPUBLIC SERVICES OF FLORIDA, LIMITED PARTNERSHIP, D/B/A TREASURE COAST REFUSE (“REPUBLIC SERVICES”)

(Clerk’s Note: This item was added to the agenda)

Attorney Polackwich recalled that on November 16, 2010, the Board, as the Board of County Commissioners of the Solid Waste Disposal District, had approved a Contract Agreement with Republic Services of Florida, Limited Partnership, d/b/a Treasure Coast Refuse (Republic Services) for the operations of the Class I Landfill and the Customer Convenience Centers. He said that some changes had subsequently been made to the Sample Contract

Agreement, and requested that the Board approve the final Contract Agreement. Attorney Polackwich outlined some of the changes (see pages 137-140 of the agenda packet) as follows:

Article 1 – Scope of Work

Addition of the Customer Convenience Centers

Article 5 – General Provisions

Indemnification Clause – Excluding Republic Services from liabilities, claims, damages, losses, and expenses directly caused by the County or the Solid Waste Disposal District

Article 6 – Specifications

Article 7 – Supplemental Specifications

Clarification as to responsibilities for County and Republic Services

Attorney Polackwich confirmed for Commissioner O’Bryan that there would be no change in service to the Customer Convenience Centers.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the final contract between Indian River County Solid Waste Disposal District and Republic Services of Florida, Limited Partnership, d/b/a Treasure Coast Refuse (“Republic Services”) for Solid Waste Operations and Maintenance, as recommended in the memorandum of December 10, 2010.

Commissioner Davis wanted Republic Services to contact the Customer Convenience Center employees as soon as possible, prior to the upcoming winter holidays.

Todd Westover, Division Manager, Republic Services d/b/a Treasure Coast Refuse, declared that employment offers would be made immediately following the execution of the Contract Agreement between the County and Republic Services.

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

14. COMMISSIONER ITEMS

14.A. COMMISSIONER BOB SOLARI, CHAIRMAN-NONE

14.B. COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN

14.B.1. DISCUSSION REGARDING A RESOLUTION OF SUPPORT FOR DEPARTMENT OF COMMUNITY AFFAIRS (DCA)

Vice Chairman Wheeler reported that the State of Florida has considered disbanding the Department of Community Affairs (DCA), and that Governor-Elect Scott has shown interest in the possibility. He (Vice Chairman Wheeler) felt it was important to retain DCA, as it provides a system of checks and balances to oversee future growth and prevent random development, and requested that the Board authorize the County Attorney to draft a Resolution of Support for DCA.

MOTION WAS MADE by Vice Chairman Wheeler,
SECONDED by Commissioner O'Bryan, to direct the
County Attorney to draft a Resolution of Support for
retention of the Department of Community Affairs (DCA).

Commissioner O'Bryan supported the Resolution of Support, noting that the Board is not asking to create another agency, but rather requesting that DCA be allowed to continue. He

echoed Commissioner Wheeler's assertion that DCA provides a good system of checks and balances.

Chairman Solari presented arguments opposing the Resolution, which included his disagreement with DCA's directive to include, at this time, an Energy Conservation Map in the County's Future Land Use Element; and his desire to limit bureaucracy. He pointed out, however, that his stance was not indicative of a wish to see DCA dismantled.

Commissioners Davis and Flescher, who both opposed the Resolution, asserted that decisions affecting a local region should be made at the regional, rather than State, level.

Brian Carman, Indian River Neighborhood Association, explained his view that DCA was indispensable to prevent urban/suburban sprawl.

The Chairman CALLED THE QUESTION, and by a 2-3 vote (Commissioners Flescher, Solari, Davis opposed), the Motion FAILED. The Board DENIED the request to direct the County Attorney to draft a Resolution of Support for the Department of Community Affairs (DCA).

14.C. COMMISSIONER WESLEY S. DAVIS-NONE

14.D. COMMISSIONER JOSEPH E. FLESCHER-NONE

14.E. COMMISSIONER PETER D. O'BRYAN- 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 10:41 a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Bob Solari, Chairman

Minutes Approved: _____

BCC/MG/2010Minutes