

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF JANUARY 18, 2011

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JEFFREY K. BARTON

Clerk to the Board



January 18, 2011

**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, January 18, 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

Reverend Tom Harris, First Presbyterian Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman Solari led the Pledge of Allegiance to the Flag. He thereafter announced that the Board would adjourn at 10:30 a.m. to hold a closed Attorney/Client session in the Commissioners' conference room, after which the Board would reconvene in the County Commission Chambers.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

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

ADDITION: ITEM 8.M. CHANGE IN EQUIPMENT LIST DECLARED SURPLUS

ADDITION: ITEM 14.C. 1. DISCUSSION REGARDING THE JANUARY 11, 2011 JOINT MEETING ON THE VERO BEACH SPORTS VILLAGE

DELETION: ITEM 15.A.1. EMERGENCY SERVICES DISTRICT REQUEST FOR AUTHORIZATION TO PREPARE AND ADVERTISE REQUEST FOR QUALIFICATIONS (RFQ) NOTICES FOR DESIGN/BUILD SERVICES

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION BY THE HUMANE SOCIETY OF INDIAN RIVER COUNTY – PET OF THE WEEK

Ilka Daniel, 6230 77th Street, Outreach Director, Humane Society, introduced and provided information on the pet of the week, Harmony, a three- month-old puppy in need of a home. She conveyed that further information could be found at the Humane Society’s website at [www. hsvb.org.](http://www.hsvb.org), or by telephoning 772-388-3331.

5.B. PRESENTATION OF PROCLAMATION HONORING JERALYN SUE SMITH ON HER RETIREMENT FROM THE TAX COLLECTOR’S OFFICE OF INDIAN RIVER COUNTY

Commissioner O’Bryan read and presented the Proclamation to Jeralyn Sue Smith.

5.C. PRESENTATION OF PROCLAMATION DESIGNATING JANUARY 18, 2011, AS INDIAN RIVER COUNTY MENTORING DAY

Commissioner Flescher read and presented the Proclamation to Dee Benjamin, Development Specialist; and Marta Snyder, Board Chairman; of the Children’s Home Society. Ms. Benjamin said that information on volunteering may be found at [www.chsfl.org.](http://www.chsfl.org), or by calling Sharon Lear at 772-344-4020. Ms. Snyder, with input from Commissioner Davis, talked about upcoming fund raisers sponsored by Quail Valley Charities, a contributor to the Children’s Home Society and other organizations.

5.D. PRESENTATION BY THE SENIOR RESOURCE ASSOCIATION AND METROPOLITAN PLANNING ORGANIZATION ON TRANSIT SERVICE IN INDIAN RIVER COUNTY

Karen Deigl, President and CEO, Senior Resource Association, used a PowerPoint presentation (on file) to provide an overview of the County's GoLine Transit System, which has received Statewide Awards from the Florida Public Transit Association. Additionally, she noted that Phil Matson, the Metropolitan Planning Organization's (MPO) staff director has received the Commission of Transportation Disadvantaged of Florida Department of Transportation's award for the official planning agency of the year. Ms. Deigl outlined details on ridership profile; the bus shelter program; the upcoming transit administration/maintenance facility; the transit routes/schedules; funding; and upcoming activities for 2011, which include the search for a future location for a permanent transit hub site. She thereafter thanked the Commissioners for their support of the transit system.

Phil Matson, MPO Staff Director, continuing the presentation, described the components which make the GoLine both efficient and cost-effective, and conveyed ridership demographics, noting that there has been a large increase in people utilizing the busses. He stated that in addition to providing a valuable service for individuals needing transportation, the busses provide congestion relief and reductions in vehicle accidents and emissions. He talked about upcoming improvements to the routes and thanked the Commissioners for supporting the transit system.

Chairman Solari noted that he has seen more and more people utilizing the busses.

Commissioner O'Bryan spoke to the positive economic impact the system has had on the community, and acknowledged the generosity of Kimley-Horn and Associates, Inc., who sponsored a shelter on Indian River Boulevard.

**5.E. PUBLIC ANNOUNCEMENT FOR VERO BEACH ELECTRONICS RECYCLING
EVENT ON JANUARY 22, 2011**

Himanshu Mehta, Managing Director, Solid Waste Disposal District, introduced Vicki Wild, the new Executive Director of Keep Indian River Beautiful (KIRB). He thereafter provided details on the Vero Beach Electronics Recycling Event, to be held Saturday, January 22, 2011, from 9 a.m. - 3 p.m. at the Indian River Mall south parking lot. He noted that in addition to electronics recycling, this year a shredding service would be provided at the event. Director Mehta divulged that the recycling goal for this year's event is the collection of 10,000 tons of unwanted electronics.

Vicki Wild, new Executive Director, KIRB, provided additional details on the recycling event and on the KIRB Re-Use Exchange Center, which has utilized 35,000 pounds of materials which would have otherwise gone to the landfill.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF NOVEMBER 9, 2010

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of November 9, 2010. There were none.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Minutes of the Regular Meeting of November 9, 2010, as written.

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

**7.A. REPLACEMENT OF REPRESENTATIVE OF FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES APPOINTEE TO THE TRANSPORTATION
DISADVANTAGED LOCAL COORDINATING BOARD**

Noted for the record was the replacement of Florida Department of Children and Families Appointee, Ellen Higinbotham, with Melissa McInturff, to the Transportation Disadvantaged Local Coordinating Board.

**7.B. APPOINTMENT OF DISTRICT 5 REPRESENTATIVE TO THE PLANNING &
ZONING COMMISSION**

Noted for the record was the appointment of Brad Emmons as the District 5 representative to the Planning & Zoning Commission, to replace the vacancy left by Pilar Turner.

**7.C. APPOINTMENT OF WORKFORCE SOLUTIONS REPRESENTATIVE TO THE
ENTERPRISE ZONE DEVELOPMENT AGENCY**

Noted for the record was the appointment of Richard Stetson as the Workforce Solutions Representative to the Enterprise Zone Development Agency, with Glenda Matesic designated his alternate. Mr. Stetson's term will expire in 2013. The position was previously held by Gwenda Thompson, who had submitted her resignation effective immediately.

7.D. WORKFORCE SOLUTIONS APPOINTEE TO THE ECONOMIC DEVELOPMENT COUNCIL

Noted for the record was the appointment of Richard Stetson as the Workforce Solutions Representative to the Economic Development Council, with Glenda Matesic designated his alternate. Mr. Stetson's term will expire in 2013. The position was previously held by Gwenda Thompson, who had submitted her resignation effective immediately.

8. CONSENT AGENDA

Chairman Solari requested Items 8.H., 8.L., and 8.M. 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 – DECEMBER 29, 2010 TO JANUARY 6, 2011

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 December 29, 2010 to January 6 2011, as requested in the memorandum of January 6, 2011.

8.B. AUTHORIZATION TO ATTEND FLORIDA RESEARCH COAST LEGISLATIVE CONFERENCE

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized the County Administrator to attend legislative conferences and travel out-of-County for legislative purposes, including travel to Tallahassee, Florida, as requested in the memorandum of January 7, 2011.

8.C. REQUEST FOR THE BOARD OF COUNTY COMMISSIONERS TO ENTER INTO A PUBLIC TRANSPORTATION SUPPLEMENTAL JOINT PARTICIPATION AGREEMENT (SJPA) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2011-001**, authorizing the execution of a Public Transportation Supplemental Joint Participation Agreement with the Florida Department of Transportation.

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

8.D. WORK ORDER No. 10 – RELEASE OF RETAINAGE, BRIDGE DESIGN ASSOCIATES, INC. FOR 5TH ST S.W. BRIDGE OVER 43RD AVENUE CANAL, IRC PROJECT No. 0206

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved

payment of Bridge Design Associates, Inc. Invoice No. 03-537/R dated January 14, 2011, in the amount of \$2,734.24 for release of retainage, as recommended in the memorandum of January 10, 2011.

8.E. MISCELLANEOUS BUDGET AMENDMENT 005

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2011-002**, amending the fiscal year 2010/2011 budget.

8.F. MISCELLANEOUS BUDGET AMENDMENT 006

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2011-003**, amending the fiscal year 2010/2011 budget.

**8.G. DECLARE EXCESS EQUIPMENT SURPLUS FOR SALE OR DISPOSAL –
ADDITIONAL LIST FOR SWDD AUCTION**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) declared as surplus, GTS-229 Topcon Total Station and miscellaneous non-asset hand tools, tool boxes, and shop equipment, and authorized its sale and/or proper disposal; and (2) authorized the delivery of the excess equipment to the Indian River County Solid Waste Disposal District

Landfill to be sold at a public auction scheduled to take place at 10:00 a.m. on January 26, 2011, to be conducted by the auction company, Karlin Daniel & Associates, Inc., as recommended in the memorandum of January 10, 2011.

8.H. APPROVAL OF RENEWAL FOR A CLASS “E1” CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR CONSULATE HEALTH CARE, TO PROVIDE WHEELCHAIR SERVICES

Assistant Fire Chief Brian Burkeen addressed Chairman Solari’s request for further information on this item. He noted that a change in administration at Consulate Health Care may have led to some confusion about the application for the Certificate of Public Convenience and Necessity (COPCN).

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved renewal of the Class “E1” Certificate of Public Convenience and Necessity for Consulate Health Care, to be effective for a period of two (2) years from June 15, 2010, to June 15, 2012, as recommended in the memorandum of January 5, 2011.

8.I. LETTER OF INTEREST TO US ARMY CORPS OF ENGINEERS – SECTOR 5 BEACH RESTORATION PROJECT

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute the proposed Letter of Interest, pertaining to the Sector 5 Beach

Restoration Project, to the US Army Corps of Engineers (USACE), as recommended in the memorandum of January 10, 2011.

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

8.J. APPROVAL OF A ONE-YEAR EXTENSION OF THE AGREEMENT WITH THE HEVERON GROUP, INC., D/B/A BEACHLAND CLEANING SERVICES FOR CUSTODIAL SERVICES

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved a one-year extension as allowed for in the contract with the Heveron Group, Inc., d/b/a Beachland Cleaning Services; and (2) authorized the Chairman to execute Amendment 2, the *Second Renewal of Custodial Services Agreement*, as prepared and approved by the County Attorney's office and executed by the Contractor, subject to the acceptance of insurance certificates by the Risk Manager. After this extension, the annual contract will have one additional one (1) year period available subject to vendor acceptance, satisfactory performance and staff's determination that a renewal would be in the best interest of the County, as stated and recommended in the memorandum of January 3, 2011.

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

8.K. POINTE WEST EAST VILLAGE PHASE 1 PD – CONSIDERATION OF DEVELOPER’S REQUEST TO: 1) MODIFY THE COVENANT TO DEFER MAINTENANCE SECURITY FOR POINTE WEST EAST VILLAGE PHASE 1 PD TO REDEFINE PHASE 1A AND 2) RELEASE REMAINDER OF PROPERTY UNDER COVENANT TO DEFER SIDEWALK SECURITY

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute the following documents for recordation in the Public Records of Indian River County, Florida: (1) *Release of Remainder of Property from Covenant Deferring Sidewalk Development* and (2) *Modification to Covenant Deferring Maintenance Security for Development* with Pointe West of Vero Beach, Ltd. (by Pointe West of Vero Beach, Inc.) and The Links at Pointe West, LLC; all recommended in the memorandum of January 12, 2011.

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

8.L. GOLINE/INDIAN RIVER TRANSIT, PUBLIC TRANSIT SHELTER PROGRAM – BUS SHELTER MAINTENANCE AGREEMENT AND RESOLUTION AUTHORIZING THE PUBLIC WORKS DIRECTOR’S SIGNATURE

Chairman Solari requested information on the cost of maintaining the bus shelters.

Administrator Baird advised that the County would be emptying the trash receptacles and doing minor maintenance of the shelters within the County, at an estimated cost of less than

\$1,000 annually. The municipalities will be responsible for maintaining certain other shelters within their cities.

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously approved **Resolution 2011-004**, granting authorization to the Public Works Director to execute the Bus Shelter Maintenance Agreement with the Senior Resource Association on behalf of Indian River County.

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

8.M. CHANGE IN EQUIPMENT LIST DECLARED SURPLUS

County Administrator Joseph Baird recalled that on December 21, 2010, the Board had approved a list of surplus items for the January 26, 2011 auction at the sanitary landfill. He relayed that Traffic Engineering requested amending the surplus list by removing the 2008 Ford truck and adding the 2005 Chevrolet truck. Additionally, staff proposed removing from the list the 2001 Ford truck to accommodate the Senior Resource Association's request for a vehicle for its Community Transportation Operations.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized staff to update the Surplus/Auction list by removing Asset Number 23947, a 2008 Ford F250 ¾ ton pickup; and 195340, a 2001 Ford F250 ¾ Ton Diesel Truck; and adding Asset No. 224731, a 2005 Chevrolet Silverado 1500 ½ ton gasoline pickup truck; as recommended in the memorandum of January 17, 2011.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

9.A. LESLIE SWAN, INDIAN RIVER COUNTY ASSISTANT SUPERVISOR OF ELECTIONS
MUNICIPAL GENERAL ELECTIONS REVENUES INTO 2010/2011 BUDGET

Tricia Verdugo, Accountant for the Elections Office, presented Ms. Swan's request for the Board to approve the rollback of \$13,578.00 of Municipal General Election revenues into the 2010/2011 budget.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved to roll \$13,578.00 of Municipal General Elections Revenues into the 2010/2011 budget for the Elections Office, as requested in the letter of January 4, 2011.

9.B. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF
BUDGET AMENDMENT

Sheriff Deryl Loar requested approval to use \$33,250.00 of proceeds garnered at a public auction of surplus property and vehicles, to acquire new like-kind property within Fiscal Year 2010/2011. He noted that the Department had been able to affect further budget reductions by taking sixteen automobiles off of the insurance roll.

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved for the Sheriff's Office to use \$33,250.00 of proceeds garnered at a public auction of surplus property and vehicles, to acquire new like-kind property within Fiscal

Year 2010/2011, pursuant to Chapter 274, Florida Statutes, as requested in the letter of January 7, 2011.

10. PUBLIC ITEMS

10.A. PUBLIC HEARING CONTINUED FROM JANUARY 11, 2011:

POINTE WEST OF VERO BEACH, LTD.'S REQUEST TO MODIFY THE APPROVED PLANNED DEVELOPMENT (PD) CONCEPTUAL PLAN FOR THE POINTE WEST SCHOOL SITE (TRACT M) (LEGISLATIVE)

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

The Chairman noted that this Public Hearing was being continued from January 11, 2011.

Planning Director Stan Boling, through a PowerPoint presentation (on file), provided background and analysis on Pointe West of Vero Beach, Ltd's request to modify the approved Planned Development (PD) Conceptual Plan for the Pointe West School Site, also known as Tract M. He explained that the proposed modification would change the school site PD condition from a 200' building setback to a 50' green buffer between Westlake Estates (a neighboring subdivision) and the school. He noted that County staff, the developer, the School Board, and Westlake Estates residents all preferred the proposed buffer, and conveyed the recommendations of the Planning & Zoning Commission and staff for the Board to approve the proposed modifications to the conceptual PD plan.

A brief discussion followed, during which Director Boling addressed the Board's questions on the 50' buffer, parking, the deadline for construction of the school, and whether there were plans for any surplus property not utilized by the School District.

The Chairman opened the Public Hearing.

Bob Johnson, Coral Wind Subdivision, asked for clarification on the ownership of the property.

Steve Melchiori, 1999 Pointe West Drive, revealed that the School District does not yet own the property, but Pointe West and the Property Owner's Association anticipated deeding it to them in the near future.

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

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the conceptual Planned Development (PD) plan modification to change the Pointe West school site PD condition from a 200' building setback to a 50' buffer, as recommended in the memorandum of December 13, 2010.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM JOE WIGGINS REGARDING SIDEWALK ON 11TH STREET, S.W.

Mr. Wiggins was not present. However, Commissioner O'Bryan provided background information on this item, which is related to schoolchildren being forced to walk in the road because there is no sidewalk. He acknowledged previous discussions with Mr. Wiggins and the need for a sidewalk, but said that because of the narrow configuration of the road, there would be insufficient room to construct the project unless the property owners step forward and provide some right-of-way to the County.

Director Mora displayed a map of the subject area, indicating where the proposed sidewalk could be located, should the right-of-way become available.

Discussion ensued, as Commissioners and staff discussed traffic calming measures.

Commissioner O'Bryan asked Director Mora to look into the possibility of placing some stop signs in the area.

Commissioner Davis preferred to work on securing the rights-of-way and get the sidewalk construction accomplished.

No Board Action Required or Taken

**10.B.2. REQUEST TO SPEAK FROM FRED MENSING REGARDING RESOLUTION
TO AVOID LAWSUIT**

Fred Mensing, 7580 129th Street, Roseland, presented to each Commissioner a written settlement demand (copy on file) regarding his complaints about certain County actions, practices, and employees. He conveyed that if a suitable response is not received by February 1, 2011, lawsuits, for an amount not to exceed \$10 million, will be filed directly against the five Commissioners and four County staff members.

Chairman Solari advised Mr. Mensing that the County Attorney would be handling this matter.

10.C. PUBLIC NOTICE ITEMS-NONE

11. COUNTY ADMINISTRATOR MATTERS-NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. REQUEST TO AMEND THE NEIGHBORHOOD STABILIZATION PROGRAM

COMMUNITY DEVELOPMENT BLOCK GRANT HOUSING ASSISTANCE PLAN AND REQUEST TO AMEND THE PROCUREMENT POLICIES AND PROCEDURES FOR THE COUNTY'S COMMUNITY DEVELOPMENT BLOCK GRANTS

Community Development Director Robert Keating recapped staff's memorandum of January 10, 2011, presenting background and details pertaining to the proposed amendments (see page 107 of the Agenda Packet) to: (1) the Neighborhood Stabilization Program (NSP) Community Development Block Grant (CDBG) Application Housing Assistance Plan (HAP); and (2) the CDBG Procurement Policies and Procedures, which apply to the NSP. He detailed and outlined the following proposed amendments:

HOUSING ASSISTANCE PLAN:

- Increase closing cost assistance from 6% to 10% of purchase price
- Increase gap financing from 30% to 35% of purchase price
- Allow staff to use real estate brokers to sell the NSP houses
- Replace an incorrect reference to a *second mortgage*, to consistently indicate the 15-year term

COMMUNITY DEVELOPMENT BLOCK GRANT PROCUREMENT POLICIES:

- Director Keating noted that the CDBG Procurement Policies have not been updated or modified for 15 years, and that the major change is to have them generally conform to the County's purchasing procedures (outlined on page 134 of the Agenda Packet).

Concluding his analysis, Director Keating presented staff's recommendation for the Board to approve the changes to the HAP and to the CDBG Procurement Policies and Procedures, and to authorize the Chairman to execute the corresponding documents.

Chairman Solari provided clarity on the NSP Program, a Federal program which was established to stabilize neighborhoods in areas where there were a number of foreclosed homes. He explained that the program has been filtered through the State, and that the County needed to amend some of the rules in public fashion to ensure the success of the program.

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

Board discussion ensued about the proposal to use a real estate broker to market the NSP homes. The Board considered and rejected a suggestion to use as the real estate brokers County staff who are licensed as same.

The Board CONSENSUS was to explore having the Realtor's Association become the listing agent.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board: (1) approved the proposed changes to the Neighborhood Stabilization

Program (NSP) Community Development Block Grant (CDBG) Housing Assistance Plan (HAP) and authorized the Chairman to execute the revised Housing Assistance Plan; and (2) approved the proposed changes to the Procurement Policies and Procedures for Community Development Block Grant Programs and Projects and authorized the Chairman to execute the revised Procurement Policies and Procedures, all as recommended in the memorandum of January 10, 2011.

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

The Chairman called a break at 10:17 a.m. and reconvened the meeting at 10:30 a.m.

(Clerk's Note: The Board adjourned the regular Board of County Commission Meeting to conduct the Attorney-Client Session that was scheduled at time certain of 10:30 a.m. See item 13.A.).

12.B. EMERGENCY SERVICES-NONE

12.C. GENERAL SERVICES

12.C.1. DISCUSSION REGARDING REQUESTS FOR COMMEMORATIVE WORKS TO BE DISPLAYED AT COUNTY PARKS AND FACILITIES

(Clerk's Note: This item was heard at 11:10 a.m., following Item 13.A. the Attorney/Client Session).

Assistant County Administrator Michael Zito provided background on staff's request for the Board to consider adopting a policy regarding the placement of commemorative works, such as plaques, signage, or plantings, at various County sites. He described the request of a citizen to

memorialize her sister by putting a plaque at Round Island Park, and staff's dilemma in finding a connection between the park and the proposed honoree. He provided an overview of the policies of Brevard and Palm Beach Counties, and the City of Vero Beach, which has a tree planting program. He recommended that if the Board adopts a policy, it should be cost-neutral and require a connection between the memorialized individual and the location of the commemorative item. Assistant Administrator Zito noted that if an individual or group is otherwise worthy of recognition, a proclamation may be a more appropriate way to acknowledge their contribution.

Discussion ensued, as the Board considered what would be appropriate ways to accommodate the citizens wishing to donate memorial items, while retaining some control over County spaces. Ideas mentioned included developing a good set of consistent rules; mirroring Vero Beach's tree planting program; and ensuring that the memorial donation is appropriate for a park location or associated with some type of amenity the County needs, such as additional bus shelters.

Commissioner Wheeler emphasized that an elected official who receives remuneration for his/her job should not be eligible for this type of memorial.

Administrator Baird conveyed his support for instituting a program similar to Vero Beach's tree dedication program.

Chairman Solari suggested staff compile data on specific items and places that would be available for various public dedications, and desirable for tree plantings.

Assistant Administrator Zito confirmed that staff would draft a policy which would include a tree dedication program modeled on that of Vero Beach, as well as an identification of areas that need benches or structures. He noted that the Board could oversee requests for memorial plaques on a case-by-case basis.

The Board CONSENSUS was to have staff draft and return to the Board with a comprehensive policy on commemorative works, to include: (1) the planting of memorial trees, modeled after the tree planting policy of the City of Vero Beach; and (2) donations by individuals of benches/other improvements in designated areas, subject to Board approval on a case-by-case basis, and providing to the donor naming/dedication rights, which may include a donor-supplied name or dedication plaque.

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. CONSULTING SERVICES WITH POST, BUCKLEY, SCHUH AND JERNIGAN
(PBS&J) FOR ENVIRONMENTAL TESTING AT THE WEST REGIONAL
WASTEWATER TREATMENT PLANT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved and authorized the Chairman to execute the Scope of Services proposed by Post, Buckley, Schuh and Jernigan in the amount of \$22,800.00 for work associated with the West Regional Treatment Plant Odor Control Study, as recommended in the memorandum of January 11, 2011.

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

13. COUNTY ATTORNEY MATTERS

13.A. 10:30 A.M. ATTORNEY/CLIENT SESSION:

**CITY FIRST MORTGAGE CORPORATION V. INDIAN RIVER COUNTY,
FLORIDA FOURTH DISTRICT COURT OF APPEAL, CASE No. 4D 10-4799**

The Chairman announced that at this time (10:30 a.m.), the Board of County Commission Meeting would recess and reconvene as the Attorney/Client Session in the County Commissioner's Conference Room. He read the opening remarks of the Attorney/Client Session into the record. He announced that those attending would be Commissioners Bob Solari,

Gary Wheeler, Peter O'Bryan, Wesley Davis, and Joseph Flescher. Also present would be County Administrator Joseph Baird, County Attorney Alan S. Polackwich, Sr., and Certified Court Reporter Gregory Campbell.

(Clerk's Note: The Board returned to the Chambers at 11:10 a.m., and the Chairman closed the Attorney/Client Session and reconvened the regular session of the Board of County Commission Meeting).

13.B. HISTORICAL PRACTICES RELATING TO GRANTING OF WASTE HAULING FRANCHISES

County Attorney Alan S. Polackwich, Sr. recalled that at the November 2, 2010 Board of County Commission meeting, George (Bill) and Ardra Rigby had addressed the Board with concerns about the County's procurement methods for waste hauling franchises. Pursuant to Board directive, he was returning with his analysis of two questions:

(1) Whether County Code and the Special Act governing franchises requires an application in conjunction with a waste hauling franchise.

(A) If so, has the County followed through; and if not, what is the consequence?

(2) Whether a competitive bid process is required for the curbside recyclable materials collections

Attorney Polackwich reviewed the information in his January 12, 2011 memorandum to present background history and his conclusion that the lack of applications does not invalidate the franchises for the current waste haulers, Republic Services d/b/a Treasure Coast Refuse, and Waste Management, Inc. He also conveyed that there is nothing requiring a competitive bid process for the collection of recyclables. Attorney Polackwich noted that his interpretations are

based on a strict analysis of the law and not policy. He commented that the County might wish to employ a competitive bidding process for future waste hauling franchises.

Discussion ensued, with input from Attorney Polackwich and Budget Director Jason Brown, regarding the County's other franchise agreements.

Administrator Baird responded to an inquiry from **Bob Johnson**, Coral Wind Subdivision, about a past situation involving a grove owner who wanted to have a water retention area.

Bill Rigby and Ardra Rigby, 8465 59th Avenue, Capital Sanitation, Inc., addressing the Board conjointly, quoted County Code and Statutory law to refute the County Attorney's analysis that the existing waste hauling franchises are legal. Additionally, they said that when they applied for a franchise on the Enterprise Zone, staff had inappropriately used in its evaluation a point system for which there was no legal directive, and that Capital Sanitation had been qualified and should have received the job. They asked the Board to do the right thing and abide by the franchise application process.

Attorney Polackwich, when queried by Commissioner Davis, confirmed that he stood by his legal opinion.

No Board Action Required or Taken

14. COMMISSIONER ITEMS

14.A. COMMISSIONER BOB SOLARI, CHAIRMAN

14.A.1. BCC MEETINGS IN SEBASTIAN

Chairman Solari detailed his request for the Board to consider holding two Board of County Commission meetings in the Sebastian City Council Chambers in the upcoming year.

Discussion ensued, wherein individual Commissioners opined on the Chairman's suggestion. Comments and suggestions were made on times and dates; focusing the agenda on matters of interest to North County residents; and keeping staff attendance at a minimum, in the interests of cost-efficiency and productivity.

Fred Mensing, 7580 129th Street, suggested narrowing the agenda to issues directly concerning North County residents.

Chairman Solari summarized the CONSENSUS that if an issue arises concerning residents of North County, the Board will determine whether to hold the County Commission meeting at the Sebastian City Council Chambers.

14.B. COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN-NONE

14.C. COMMISSIONER WESLEY S. DAVIS

ADDITION: 14.C.1. DISCUSSION REGARDING THE JANUARY 11, 2011 JOINT MEETING ON THE VERO BEACH SPORTS VILLAGE

(Clerk's Note: This item was heard following Item 14.E.1., and is placed here for continuity).

Commissioner Davis recalled that at the January 11, 2011 Joint Meeting with the City of Vero Beach (the City), a property exchange was agreed upon, which would include the County's deeding to the City, approximately 10.38 acres near the Vero Beach Sports Village (f/k/a Dodgertown), known as the "Parking Property," which comes encumbered with deed restrictions to keep the property in green space, recreational uses, or a golf course. He felt it would be easier

and less problematic to remove the deed restrictions at this time, to maximize use of the facility and augment appropriate sporting venues without said constraints.

Discussion ensued, wherein several Commissioners expressed concerns that removing the deed restrictions might endanger the County's current parking rights on the Parking Property or allow an undesirable venue to be situated there; about the difficulty of future removal of deed restrictions from encumbered property; and about the possibility of the City putting in a competing use to the developer DT Commons, Inc., who is a party to the collateral agreement.

Attorney Polackwich did not recommend such action. Further, he advised that the deed on the approximately 11.93 acre parcel that the City is conveying to the County, may not require the signature of DT Commons; thus, allowing the County to control the question of removing the restrictions on its own parcel of property.

Commissioner Davis recapped some discussions which had ensued at the Joint Meeting, during which the City had seemed receptive to the removal of the deed restrictions. He reiterated that removing the deed restrictions from the property would make it easier to augment desirable sporting venues, and that it would be harder to remove the restrictions later.

MOTION WAS MADE by Commissioner Davis to remove the deed restrictions from the approximately 10.38 acre parcel west of the Vero Beach Sports Village (f/k/a Dodgertown), known as the "Parking Property" and being deeded to the City of Vero Beach. Motion DIED for lack of a second.

14.D. COMMISSIONER JOSEPH E. FLESCHER-NONE

14.E. COMMISSIONER PETER D. O'BRYAN

14.E.1. SECTOR 3 BEACH PROJECT LETTER OF APPRECIATION

(Clerk's Note: This item was heard following Item 14.A.1., and is placed here for continuity).

Commissioner O'Bryan relayed the request of the Beach and Shore Preservation Advisory Committee for the Board to send a letter thanking Congressman Bill Posey, Senators Mike Haridopolos and Joe Negron, Representative Debbie Mayfield and former Representative Ralph Poppell, for their assistance with the Sector 3 Beach Restoration project. He requested permission from the Board to draft said letter, which would come back under the Consent Agenda for Board approval.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized Commissioner O'Bryan to draft the Sector 3 Beach Project Letter of Appreciation to the Legislative Delegation comprised of Congressman Bill Posey, Senators Mike Haridopolos and Joe Negron, Representative Debbie Mayfield and former Representative Ralph Poppell, as requested in Commissioner O'Bryan's memorandum dated January 10, 2011.

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT-NONE

**15.A.1. REQUEST FOR AUTHORIZATION TO PREPARE AND ADVERTISE REQUEST
FOR QUALIFICATIONS (RFQ) NOTICES FOR DESIGN/BUILD SERVICES-
DELETED**

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 12:15
p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Bob Solari, Chairman

Minutes Approved: _____

BCC/MG/2011Minutes