

JEFFREY K. BARTON  
Clerk to the Board



INDEX TO MINUTES OF REGULAR MEETING

OF BOARD OF COUNTY COMMISSIONERS

FEBRUARY 1, 2011

1.	CALL TO ORDER.....	1
2.	INVOCATION.....	1
3.	PLEDGE OF ALLEGIANCE .....	1
4.	ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS .....	2
	DELETE: ITEM 10.B.2. REQUEST TO SPEAK FROM ARDRA RIGBY AND GEORGE RIGBY REGARDING GRANTING OF FRANCHISE AGREEMENT.....	2
5.	PROCLAMATIONS AND PRESENTATIONS .....	2
5.A.	PRESENTATION IN RECOGNITION OF SANDRIDGE GOLF CLUB AS A CERTIFIED AUDUBON COOPERATIVE SANCTUARY .....	2
6.	APPROVAL OF MINUTES .....	3
6.A.	REGULAR MEETING OF NOVEMBER 16, 2010.....	3
6.B.	REGULAR MEETING OF DECEMBER 7, 2010 .....	3
7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION.....	3

7.A.	2011 ELECTION OF CODE ENFORCEMENT BOARD CHAIRMAN AND VICE CHAIRMAN .....	3
7.B.	SURVEY SERVICES: PURCHASE ORDERS PROCESSED OCTOBER 1, 2010 THROUGH JANUARY 14, 2011 .....	4
7.C.	2011 ELECTION OF ECONOMIC DEVELOPMENT COUNCIL CHAIRMAN AND VICE CHAIRMAN .....	4
7.D.	2011 ELECTION OF METROPOLITAN PLANNING ORGANIZATION (MPO) BICYCLE ADVISORY COMMITTEE CHAIRPERSON AND VICE CHAIRMAN .....	4
8.	CONSENT AGENDA .....	5
8.A.	APPROVAL OF WARRANTS AND WIRES – JANUARY 7, 2011 TO JANUARY 13, 2011.....	5
8.B.	APPROVAL OF WARRANTS AND WIRES – JANUARY 14, 2011 TO JANUARY 20, 2011.....	6
8.C.	CURRENT COMMITTEE APPLICATIONS FOR PLANNING & ZONING COMMISSION .....	6
8.D.	CURRENT COMMITTEE APPLICATIONS FOR TOURIST DEVELOPMENT COUNCIL.....	7
8.E.	CURRENT COMMITTEE APPLICATIONS FOR ECONOMIC DEVELOPMENT COUNCIL .....	8
8.F.	APPROVAL OF CHANGE ORDER NO. 1 TO WORK ORDER NO. L-1 WITH G. K. ENVIRONMENTAL, INC. FOR EGRET MARSH REGIONAL STORMWATER PARK LANDSCAPING .....	8
8.G.	APPROVAL OF DEP AGREEMENT NO. LP31010 FOR PC SOUTH (POLLUTION CONTROL SOUTH) PILOT ALGAL TURF SCRUBBER SYSTEM AND PHASE 1 CONSTRUCTION .....	9
8.H.	VERO BEACH SPORTS VILLAGE SPORTS LIGHTING SYSTEMS, IRC PROJECT NO. 1042.....	9
8.I.	APPROVAL OF BID AWARD FOR IRC BID NO. 2011028, DEMOLITION OF THREE (3) CONDEMNED STRUCTURES.....	10
8.J.	FINAL PAY TO RK CONTRACTORS, INC. FOR BID NO. 2010036 FOR CONSTRUCTION OF 16” WATER MAIN EXTENSION ON COLLEGE LANE TO KINGS HIGHWAY TANK, UCP No. 4051, WIP No. 472-169000-10504 .....	10
8.K.	OPEB TRUST REPORT FOR THE PERIOD 10/1/10 THROUGH 12/31/10.....	11
8.L.	INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDING 12/31/2010 .....	11

8.M.	QUARTERLY SUMMARY REPORT FOR ASSESSMENT OF ADDITIONAL COURT COSTS IN ACCORDANCE WITH 318.18(13) FLORIDA STATUTES .....	11
8.N.	DORI SLOSBERG DRIVER EDUCATION SAFETY ACT, INDIAN RIVER COUNTY TRAFFIC EDUCATION PROGRAM TRUST FUND .....	12
8.O.	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) .....	12
8.P.	RETROACTIVE APPROVAL OF INDIAN RIVER LAGOON NATIONAL ESTUARY PROGRAM FISCAL YEAR 2011-2012 ANNUAL WORK PLAN PROJECT PROPOSAL FOR PC SOUTH (POLLUTION CONTROL – SOUTH RELIEF CANAL) – PHASE 1 ALGAL TURF SCRUBBER SYSTEM .....	13
9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE .....	13
10.	PUBLIC ITEMS .....	13
10.A.	PUBLIC HEARING(S) - NONE .....	13
10.B.	PUBLIC DISCUSSION ITEMS .....	13
10.B.1.	REQUEST TO SPEAK FROM FRED MENSING REGARDING THREE ISSUES .....	13
10.B.2.	REQUEST TO SPEAK FROM ARDRA RIGBY AND GEORGE RIGBY REGARDING GRANTING OF FRANCHISE AGREEMENT - DELETE .....	15
10.B.3.	REQUEST TO SPEAK FROM DR. STEPHEN J. FAHERTY, SR. REGARDING PROPOSED BALLOT RESOLUTIONS .....	15
10.C.	PUBLIC NOTICE ITEMS .....	16
10.C.1.	NOTICE OF SCHEDULED PUBLIC HEARING FEBRUARY 8, 2011:.....	16
10.C.1.A.	THE POINTES DEVELOPMENT, LLC’S REQUEST FOR VACATION OF THE MIRA-MAR SUBDIVISION PLAT (LEGISLATIVE) .....	16
10.C.1.B.	THE POINTES DEVELOPMENT, LLC’S REQUEST FOR VACATION OF FRED R. TUERK DRIVE EXTENSION (LEGISLATIVE).....	17
11.	COUNTY ADMINISTRATOR MATTERS - NONE.....	17
12.	DEPARTMENTAL MATTERS .....	17
12.A.	COMMUNITY DEVELOPMENT .....	17

12.A.1.	CONSIDERATION OF EXTENSION OF TEMPORARY SUSPENSION OF IMPACT FEES .....	17
12.B.	EMERGENCY SERVICES - NONE.....	20
12.C.	GENERAL SERVICES - NONE .....	20
12.D.	HUMAN RESOURCES - NONE .....	20
12.E.	HUMAN SERVICES - NONE .....	20
12.F.	LEISURE SERVICES - NONE .....	20
12.G.	OFFICE OF MANAGEMENT AND BUDGET.....	20
12.G.1.	REQUEST FOR QUALIFICATIONS FOR PREQUALIFICATION OF AGENT/BROKERS, SELF-INSURANCE FUNDS AND DIRECT WRITING INSURERS FOR PROPERTY AND CASUALTY INSURANCE .....	20
12.H.	RECREATION - NONE.....	21
12.I.	PUBLIC WORKS - NONE .....	21
12.J.	UTILITIES SERVICES.....	21
12.J.1.	DIRECT PURCHASE OF MATERIALS FOR 3 MG REUSE STORAGE TANK & PUMPING FACILITY & DEDUCTIVE CHANGE ORDER 1 – UCP-3099.....	21
13.	COUNTY ATTORNEY MATTERS.....	22
13.A.	RESOLUTION OF NECESSITY FOR THE LAUREL HOMES PARCEL OF PROPERTY LOCATED ON 66 <sup>TH</sup> AVENUE SOUTH OF 16 <sup>TH</sup> STREET .....	22
13.B.	UNCONDITIONAL OFFER TO PURCHASE NEEDED RIGHT-OF-WAY AND POND SITE FROM LAUREL HOMES PARCEL OF PROPERTY LOCATED ON 66 <sup>TH</sup> AVENUE SOUTH OF 16 <sup>TH</sup> STREET.....	23
13.C.	FRED MENSING DEMAND DELIVERED DURING JANUARY 18, 2011 MEETING .....	24
13.D.	EXCHANGE OF DODGERTOWN PROPERTIES WITH THE CITY OF VERO BEACH .....	24
14.	COMMISSIONER ITEMS.....	25
14.A.	COMMISSIONER BOB SOLARI, CHAIRMAN .....	25
14.A.1.	COUNTY ATTORNEY’S EMPLOYMENT AGREEMENT .....	25
14.B.	COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN - NONE .....	26
14.C.	COMMISSIONER WESLEY S. DAVIS - NONE.....	26
14.D.	COMMISSIONER JOSEPH E. FLESCHER - NONE .....	26
14.E.	COMMISSIONER PETER D. O’BRYAN - NONE .....	26
15.	SPECIAL DISTRICTS AND BOARDS .....	26

15.A. EMERGENCY SERVICES DISTRICT ..... 26

15.A.1. REQUEST FOR AUTHORIZATION TO PREPARE AND ADVERTISE REQUEST FOR  
QUALIFICATIONS (RFQ) NOTICES FOR DESIGN/BUILD SERVICES ..... 27

15.B. SOLID WASTE DISPOSAL DISTRICT - NONE ..... 27

15.C. ENVIRONMENTAL CONTROL BOARD - NONE..... 27

  

16. ADJOURNMENT.....27

**JEFFREY K. BARTON**

Clerk to the Board



**February 1, 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 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, February 1, 2011. Present were Chairman Bob Solari, Vice Chairman Gary C. Wheeler, 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 Leona Adair Allen.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Pastor Steve Ponce, Student Ministries, Central Assembly of God, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Commissioner O'Bryan led the Pledge of Allegiance to the Flag.

**4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS**

Chairman Solari requested the following change to the Agenda:

**DELETE: ITEM 10.B.2. REQUEST TO SPEAK FROM ARDRA RIGBY AND GEORGE RIGBY  
REGARDING GRANTING OF FRANCHISE AGREEMENT**

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

**5. PROCLAMATIONS AND PRESENTATIONS**

**5.A. PRESENTATION IN RECOGNITION OF SANDRIDGE GOLF CLUB AS A  
CERTIFIED AUDUBON COOPERATIVE SANCTUARY**

Director of the Sandridge Golf Course Bob Komarintez informed the Board that IGM - Sandridge Golf Club had received a Certificate of Achievement and had also retained its designation as a Certified Audubon Cooperative Sanctuary through the Audubon Cooperative Sanctuary Program (ACSP) for Golf Courses.

A brief discussion ensued between Mr. Komarintez and the Board regarding the certification, the pristine condition of the course, and maintaining the course using reduced herbicides and better watering practices.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF NOVEMBER 16, 2010**

**6.B. REGULAR MEETING OF DECEMBER 7, 2010**

The Chairman asked if there were any corrections or additions to the minutes of the Regular Meeting of November 16, 2010, or the Regular Meeting of December 7, 2010. There were none.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of November 16, 2010, and the Regular Meeting of December 7, 2010, as written.

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

**7.A. 2011 ELECTION OF CODE ENFORCEMENT BOARD CHAIRMAN AND VICE CHAIRMAN**

Noted for the record was the election of Keith Hedin as Chairman, and Joe Petrulak as Vice Chairman.



**7.B. SURVEY SERVICES: PURCHASE ORDERS PROCESSED OCTOBER 1, 2010  
THROUGH JANUARY 14, 2011**

Noted for the record were the following Purchase Orders:

4<sup>th</sup> Street and 82<sup>nd</sup> Avenue Bridge Replacement  
IRC Project No. 0208  
Kimley-Horn and Associates, Inc.  
\$13,255.00

Oslo Boat Ramp  
IRC Project No. 0381  
Carter Associates, Inc.  
\$2,855.00

12<sup>th</sup> Street SW, from 9<sup>th</sup> Court SW to 17<sup>th</sup> Avenue SW  
IRC Project No. 1039  
IRC Survey Work, Inc.  
\$14,260.00

**7.C. 2011 ELECTION OF ECONOMIC DEVELOPMENT COUNCIL CHAIRMAN AND  
VICE CHAIRMAN**

Noted for the record was the election of Scott Carson as Chairman, and Beth Mitchell as Vice Chairman.

**7.D. 2011 ELECTION OF METROPOLITAN PLANNING ORGANIZATION (MPO)  
BICYCLE ADVISORY COMMITTEE CHAIRPERSON AND VICE CHAIRMAN**

Noted for the record was the re-election of Libby Harrow as Chairperson, and George Sharpe as Vice Chairman.

## **8. CONSENT AGENDA**

Commissioner Flescher requested to pull Items 8.C., 8.D., and 8.E. from the Consent Agenda for individual discussion and nominations.

Commissioner O'Bryan requested to pull Item 8.H. from the Consent Agenda for discussion.

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

### **8.A. APPROVAL OF WARRANTS AND WIRES – JANUARY 7, 2011 TO JANUARY 13, 2011**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period January 7, 2011 to January 13, 2011, as recommended in the memorandum of January 13, 2011.

**8.B. APPROVAL OF WARRANTS AND WIRES – JANUARY 14, 2011 TO JANUARY 20, 2011**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O’Bryan, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period January 14, 2011 to January 20, 2011, as recommended in the memorandum of January 20, 2011.

**8.C. CURRENT COMMITTEE APPLICATIONS FOR PLANNING & ZONING COMMISSION**

NOMINATION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Davis, to appoint Todd A. Brognano to the Member-at-Large position on the Planning and Zoning Commission.

NOMINATION WAS MADE by Vice Chairman Wheeler, SECONDED by Commissioner O’Bryan, to appoint Bob Bruce to the Member-at-Large position on the Planning and Zoning Commission.

A brief discussion ensued among the Board regarding the applicants.

The Chairman CALLED FOR A VOTE on the nomination of Todd A. Brognano, and by a 3-2 vote (Commissioners Wheeler and O’Bryan opposed), the Board appointed Todd A. Brognano to the Member-at-Large position on the Planning and Zoning Commission.

Chairman Solari thanked the individuals who serve on the Planning and Zoning Commission, as well as those who applied for the vacant position.

**8.D. CURRENT COMMITTEE APPLICATIONS FOR TOURIST DEVELOPMENT COUNCIL**

NOMINATION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to appoint Keith Kite as the Owner/Operator Tourist Accommodations Representative to the Tourist Development Council.

Commissioner O'Bryan pointed out that there are two open positions on the Owner/Operator Tourist Accommodations Committee – the first is currently vacant, the second to be vacant upon the receipt of Mr. Jon Bates' resignation letter.

NOMINATION WAS MADE by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler to appoint Jennifer Bates as the Owner/Operator Tourist Accommodations Representative for the second position once it becomes officially vacant.

Discussion ensued among the Board regarding the candidates' qualifications.

The Chairman CALLED FOR A VOTE and the Board unanimously appointed Keith Kite to the current vacant position as Owner/Operator Tourist Accommodations Representative to the Tourist Development Council; and Jennifer Bates to the second vacant position as Owner/Operator Tourist Accommodations Representative position once it becomes officially vacant.

**8.E. CURRENT COMMITTEE APPLICATIONS FOR ECONOMIC DEVELOPMENT  
COUNCIL**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the appointment of Karl Zimmermann as the Member-At-Large Appointee to the Economic Development Council.

**8.F. APPROVAL OF CHANGE ORDER NO. 1 TO WORK ORDER NO. L-1 WITH G.  
K. ENVIRONMENTAL, INC. FOR EGRET MARSH REGIONAL STORMWATER  
PARK LANDSCAPING**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved Change Order No. 1 to Work Order No. L-1 with G. K. Environmental, Inc., and authorized the Chairman to execute it on behalf of the County, as recommended in the memorandum of January 12, 2011.

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

**8.G. APPROVAL OF DEP AGREEMENT NO. LP31010 FOR PC SOUTH  
(POLLUTION CONTROL SOUTH) PILOT ALGAL TURF SCRUBBER SYSTEM  
AND PHASE I CONSTRUCTION**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved DEP Agreement No. LP31010 and authorized the Chairman to execute it on behalf of the County, as recommended in the memorandum of January 21, 2011.

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

**8.H. VERO BEACH SPORTS VILLAGE SPORTS LIGHTING SYSTEMS, IRC  
PROJECT NO. 1042**

Commissioner O'Bryan pointed out that this bid award is for installing the field lights at Vero Beach Sports Village (f/k/a Dodgertown). He believed that the payment of the City of Vero Beach Electric Utility Impact Fee of \$36,670 is a fee that the City of Vero Beach should share since they are 10% owners of the facility. He suggested the Board delay the payment of the impact fee until it is certain that the City will make the payment.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, the Board unanimously approved awarding the contract to the lowest bidder, Electrical Contracting Services, Inc., in the amount of \$634,000.00, and \$810.00 (estimated) for the Initial Permanent Service Charge.

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

**8.I. APPROVAL OF BID AWARD FOR IRC BID NO. 2011028, DEMOLITION OF THREE (3) CONDEMNED STRUCTURES**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved: (1) the bid be awarded to the second low bidder, Cross Environmental Services, Inc., in the amount of \$8,900.00, as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the invitation to Bid, for the demolition of three structures: 8435 62<sup>nd</sup> Avenue, Vero Beach; 8715 103<sup>rd</sup> Avenue, Vero Beach; and 12995 100<sup>th</sup> Place, Fellsmere; and (2) approved the issuance of a purchase order after receipt of the appropriate certificate of insurance, all as recommended in the memorandum of January 24, 2011.

Note: The lowest apparent bidder, Redmarq Construction Services, was disqualified due to improper licensing.

**8.J. FINAL PAY TO RK CONTRACTORS, INC. FOR BID NO. 2010036 FOR CONSTRUCTION OF 16" WATER MAIN EXTENSION ON COLLEGE LANE TO KINGS HIGHWAY TANK, UCP No. 4051, WIP No. 472-169000-10504**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the total amount of construction services of \$197,600.74, and approved Final Application for Payment No. 2 for a total amount of \$58,534.99 to RK Contractors, Inc. This will release the retainage and discharge the County's

obligation to the Contractor, as recommended in the memorandum of January 17, 2011.

**8.K. OPEB TRUST REPORT FOR THE PERIOD 10/1/10 THROUGH 12/31/10**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the quarterly OPEB Trust Report for the period of October 1, 2010 through December 31, 2010, as recommended in the memorandum of January 26, 2011.

**8.L. INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDING 12/31/2010**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously accepted the Investment Advisory Committee Quarterly Report, as recommended in the memorandum of January 26, 2011.

**8.M. QUARTERLY SUMMARY REPORT FOR ASSESSMENT OF ADDITIONAL COURT COSTS IN ACCORDANCE WITH 318.18(13) FLORIDA STATUTES**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously accepted the Quarterly Summary Report for Assessment of Additional Court Costs in accordance with Florida Statute 318.18 (13), as recommended in the memorandum of January 26, 2011.



**8.N. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT, INDIAN RIVER  
COUNTY TRAFFIC EDUCATION PROGRAM TRUST FUND**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously accepted the Statement of Revenues, Expenditures and Changes in Fund Balances Traffic Education Program quarterly report, as recommended in the memorandum of January 26, 2011.

**8.O. 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 O'Bryan, the Board unanimously approved **Resolution 2011-005** 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.P. RETROACTIVE APPROVAL OF INDIAN RIVER LAGOON NATIONAL ESTUARY PROGRAM FISCAL YEAR 2011-2012 ANNUAL WORK PLAN PROJECT PROPOSAL FOR PC SOUTH (POLLUTION CONTROL – SOUTH RELIEF CANAL) – PHASE I ALGAL TURF SCRUBBER SYSTEM**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O’Bryan, the Board unanimously and retroactively approved the \$750,000 Indian River Lagoon National Estuary Program (IRLNEP) Project Proposal Application and its cover letter, as recommended in the memorandum of January 19, 2011.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE**

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARING(S) - NONE**

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM FRED MENSING REGARDING THREE ISSUES**

**Fred Mensing**, 7580 129th Street, Sebastian, addressed concerns regarding: (1) hiring and management practices in the County; (2) closing 129<sup>th</sup> Street to 130<sup>th</sup> Street to the public; and (3) the request to remove Attorney Polackwich from this case and appointing Deputy County Attorney William DeBraal or Assistant County Administrator Michael Zito. He questioned whether Attorney Polackwich wished to move *Agenda Item 13.C. County Attorney Matters* to be heard now.

Attorney Polackwich said Item 13.C. was placed on the Agenda so the Board could have an opportunity to discuss the situation, if they desired. He did not have anything to add, and did not recommend the Board take action at this time.

Attorney Polackwich added that he did not feel the dais was the appropriate place to discuss a lawsuit between an attorney and his clients (the Board). He believed the courts should take this item and let justice prevail.

The Commissioners expressed their confidence in Attorney Polackwich and his staff for ensuring the situation will be handled in the best interest of the County.

The Board discussed the survey and the 60-foot strip of property. Public Works Director Chris Mora informed the Board that the original survey for this property was provided to the County by Carter and Associates. He said the County's survey team reviewed it and felt it was valid at that time, but did not certify it.

Attorney Polackwich believed that based on where the County is today, adequate action has been taken.

**Mr. Mensing** provided a brief history of events that led up to today's issues and concerns, and he believed the only way to resolve the situation would be to go through the court system since the Board would not remove County Attorney Polackwich from the case and assign Deputy County Attorney DeBral or Assistant County Administrator Zito to resolve the situation with him.

NO BOARD ACTION REQUIRED OR TAKEN

**10.B.2. REQUEST TO SPEAK FROM ARDRA RIGBY AND GEORGE RIGBY**  
**REGARDING GRANTING OF FRANCHISE AGREEMENT - DELETE**

**10.B.3. REQUEST TO SPEAK FROM DR. STEPHEN J. FAHERTY, SR. REGARDING**  
**PROPOSED BALLOT RESOLUTIONS**

**Dr. Stephen Faherty, Sr.**, 2120 Captain's Walk, Vero Beach, spoke about the 30-year agreements that the County entered into in 1987 regarding the City of Vero Beach's (the City) water, sewer and electric. He said the agreements would expire in 2017, and may require a 5-year advance notice by spring of 2012. He read statements from the Electric Territorial Agreement approved in 1981 by the Public Service Commission (PSC) between Florida Power and Light (FPL) and the City, and pointed out that all utility customers need to be contacted to obtain their preference/views regarding the change in territory. Mr. Faherty suggested, in view of the upcoming November 2011 election, that the Board consider obtaining the required information for the PSC on whether they should: (1) stay with the City for electricity or switch to Florida Power and Light (FPL); or (2) stay with the City or switch to the County (for water service) by adding a ballot initiative, conducting an independent survey, or using a "bill stuffer" in the City's billing system.

Discussion ensued between Mr. Faherty and the Board regarding the methods for obtaining information from the utility customers, the advantage of using a straw ballot, the consideration of a joint meeting between the City and County, there not being a County-wide ballot in 2011, the "bill stuffer" mailing method being the cheapest and best method, obtaining facts and figures to document public objection, and economic duplication in changing the service territory.

Chairman Solari felt it would be best for the County Attorney to: (1) look at the cost of a ballot initiative; (2) identify the pros and cons; and (3) discuss the PSC case with Mr. Faherty.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to direct the County Attorney to: (1) review today's presentation regarding the "bill stuffer" mailing method before engaging in dialogue with the City of Vero Beach, and (2) return to the Board with an opinion about joining the PSC lawsuit with Dr. Faherty.

Vice Chairman Wheeler wanted to have a joint meeting with the City of Vero Beach for more open dialogue that would allow the public to see where everyone stands, and to observe the City's response to Glenn Heran's economic analysis presentation.

Chairman Solari requested that the returning information be separated according to City residents, County residents, and Indian River Shores residents.

THE CHAIRMAN CALLED THE QUESTION and the Motion carried. The Board unanimously directed the County Attorney to review the "stuffer" mailing method before engaging in conversation with the City of Vero Beach, and to bring back to the Board an opinion about joining the PSC suit with Dr. Faherty.

### **10.C. PUBLIC NOTICE ITEMS**

#### **10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FEBRUARY 8, 2011:**

##### **10.C.1.A. THE POINTES DEVELOPMENT, LLC'S REQUEST FOR VACATION OF THE MIRA-MAR SUBDIVISION PLAT (LEGISLATIVE)**

**10.C.1.B. THE POINTES DEVELOPMENT, LLC'S REQUEST FOR VACATION OF  
FRED R. TUERK DRIVE EXTENSION (LEGISLATIVE)**

Attorney Polackwich read the above notices into the record.

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT**

**12.A.1. CONSIDERATION OF EXTENSION OF TEMPORARY SUSPENSION OF  
IMPACT FEES**

Community Development Director Robert Keating provided history, analysis, and alternatives relating to the current extension of five impact fees (Emergency Services Facilities Impact Fee, Correctional Facilities Impact Fee, Public Buildings Impact Fee, Law Enforcement Impact Fee, and the Solid Waste Facilities Impact Fee) that will expire on March 31, 2011. He asked for approval to move forward, and to extend the current suspension of collecting said impact fees from April 1, 2011 to March 31, 2012.

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

Discussion ensued regarding building permits pulled from April 1, 2010 to January 31, 2011.

Vice Chairman Wheeler expressed that additional demands for services and roads come from single-family homes and condominiums, not commercial development. He voiced concern over the breaks given to big businesses, Habitat for Humanity receiving Government money and

the inventory of single-family homes going into foreclosure at the expense of the local economy, builders, and realtors. He felt that single-family residential fees are too low for the demand on services.

Commissioner O'Bryan supported the suspension of three impact fees for the Correctional Facilities, Public Buildings, and Solid Waste Facilities for another year. He did not support suspending the impact fees for Emergency Services Facilities or Law Enforcement because the County needs those to keep the infrastructure at the level of service the community expects.

Chairman Solari felt impact fees should be used to pay for development, not to manage growth.

There was a lengthy discussion regarding the impact fee structure; reductions on impact fees; paying for a commercial business's impact fees on a case-by-case basis from the General Fund as an economic incentive; and reducing impact fees during these difficult economic times to encourage economic activity.

The Chairman opened the floor to public comment.

**Brian Carman**, Executive Director for the Indian River Neighborhood Association, asked the Board to consider whether impact fee revenues are being spent correctly.

**Danny Delisle**, Vero Beach, voiced concern over the high cost of impact fees and stressed that he cannot afford to do business in Indian River County any longer.

The Chairman CALLED THE QUESTION and the Motion FAILED by a 2-3 vote (Commissioners O'Bryan, Solari, and Wheeler opposed).

At the request of Commissioner Davis, Commissioner O'Bryan reiterated his earlier suggestion to support the suspension of three impact fees for the Correctional Facilities, Public Buildings, and Solid Waste Facilities for another year, but not suspending the impact fees for Emergency Services Facilities or Law Enforcement.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to suspend three impact fees: Correctional Facilities Impact Fee, Public Buildings Impact Fee, and Solid Waste Facilities Impact Fee, for one year.

A brief discussion ensued among the Commissioners regarding the motion, and manning required for new fire stations.

The Chairman CALLED THE QUESTION and the Motion carried by a 4-1 vote (Chairman Solari opposed). The Board authorized staff to advertise for a Public Hearing to amend the Temporary Suspension of Impact Fees Ordinance; to extend the current suspension of three impact fees: Correctional Facilities Impact Fee, Public Buildings Impact Fee, and Solid Waste Facilities Impact Fee, from April 1, 2011 to March 31, 2012.

ON MOTION by Vice Chairman Wheeler, SECONDED by Chairman Solari, the Board unanimously directed staff to begin an impact fee study, and bring it back to the Board with a report showing an estimated cost and timeframe.



*The Chairman called a break at 10:50 a.m. and reconvened the Meeting at 11:01 a.m., with all members present.*

**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**

**12.G.1. REQUEST FOR QUALIFICATIONS FOR PREQUALIFICATION OF  
AGENT/BROKERS, SELF-INSURANCE FUNDS AND DIRECT WRITING  
INSURERS FOR PROPERTY AND CASUALTY INSURANCE**

Management and Budget Director Jason Brown recalled that on November 2, 2010, the Board authorized Silver Insurance Consultants (Silver) to assist the County in a two-step marketing and placement process for property and casualty insurance. He said the first step of receiving proposals was completed, and of the five respondents, one was disqualified, and the remaining four were ranked. He urged the Board to authorize the top two firms – Arthur J. Gallagher Risk Management Services, Inc. and Employers Mutual, Inc., to procure insurance quotes for the County’s May 1, 2011 renewal. He said the process would take about six weeks to seek proposals, and once the information is received back, staff will make a selection and bring it back to the Board for approval.

Director Brown conveyed that about \$1.9 million was spent on like insurance last year. He explained the theory and competitive process of using two brokers instead of multiple brokers.

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Wheeler, the Board unanimously: (1) approved the selection of Arthur J. Gallagher Risk Management Services, Inc. and Employers Mutual, Inc. as the first and second ranked firms, respectively; (2) authorized staff to seek insurance proposals from these two brokers; and (3) once the proposals have been received, staff will report the results to the Board, along with a recommendation for the submittal to be used for the May 1, 2011 policy inception date, all as recommended in the memorandum of January 26, 2011.

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS - NONE**

**12.J. UTILITIES SERVICES**

**12.J.1. DIRECT PURCHASE OF MATERIALS FOR 3 MG REUSE STORAGE TANK & PUMPING FACILITY & DEDUCTIVE CHANGE ORDER 1 – UCP-3099**

ON MOTION by Commissioner Davis, SECONDED by Commissioner O’Bryan, the Board unanimously approved and authorized the Chairman to execute Change Order No. 1 with Summit Construction Management, Inc., to purchase equipment and material, as recommended in the memorandum of January 11, 2011.

**13. COUNTY ATTORNEY MATTERS**

**13.A. RESOLUTION OF NECESSITY FOR THE LAUREL HOMES PARCEL OF  
PROPERTY LOCATED ON 66<sup>TH</sup> AVENUE SOUTH OF 16<sup>TH</sup> STREET**

Deputy County Attorney William DeBraal recapped his memorandum dated January 24, 2011, providing introduction, project purpose, chronology, and recommendation regarding the Resolution of Necessity for the property acquisition associated with the construction of 66<sup>th</sup> Avenue, south of State Road 60 (between 16<sup>th</sup> and 4<sup>th</sup> Street). He recommended the Board: (1) approve the Resolution of Necessity, finding it necessary to acquire the property using the power of eminent domain; (2) authorize the County Attorney's office and outside Council (Policastro and LeRoux) to institute suit; and (3) pursue the matter to final judgment.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2011-006**, declaring a reasonable necessity to acquire certain real property for the purposes of improving and constructing 66<sup>th</sup> Avenue, including side street, intersection, sidewalk and water retention pond improvements; authorizing the County Attorney to acquire the attached properties by the institution of proceedings in eminent domain; and providing an effective date.

**13.B. UNCONDITIONAL OFFER TO PURCHASE NEEDED RIGHT-OF-WAY AND  
POND SITE FROM LAUREL HOMES PARCEL OF PROPERTY LOCATED ON  
66<sup>TH</sup> AVENUE SOUTH OF 16<sup>TH</sup> STREET**

Attorney DeBraal reviewed his memorandum dated January 26, 2011, relating to an unconditional offer to purchase the parcel of property located on 66<sup>th</sup> Avenue, south of 16<sup>th</sup> Street, and the pond site from Laurel Homes, Inc. (Peter and Debb Robinson), for needed right-of-way. He disclosed that the Spivey Group, Inc. was hired to provide an appraisal that would determine the good faith value, and he named several factors the appraisers had used for evaluating the highest and best use of the property (which would be a land use designation of RM-6). The total estimated acquisition of all four parcels needed for right-of-way is \$742,100, and the bifurcation and loss of land resulted in damages of about \$21,307 per acre. He encouraged the Board to approve the unconditional offer to Laurel Homes in the amount of \$742,100.

The Commissioners discussed the cost of severance/cost to cure, the RM-6 designation, and the uncertainty of future land changes.

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

Commissioner O'Bryan opposed the appraisal process, but believed 66<sup>th</sup> Avenue was a critical part of the County's infrastructure and connectivity.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved making an unconditional offer to Laurel Homes in the amount of \$742,100, as recommended in the memorandum of January 26, 2011.

**13.C. FRED MENSING DEMAND DELIVERED DURING JANUARY 18, 2011**  
**MEETING**

*(Clerk's Note: See Item 10.B.1. for additional information.)*

NO ACTION REQUIRED OR TAKEN

**13.D. EXCHANGE OF DODGERTOWN PROPERTIES WITH THE CITY OF VERO**  
**BEACH**

County Attorney Polackwich recalled that at the January 11, 2011 Joint Meeting with the City Council, certain terms were worked out and eventually both Boards were in favor of the transaction whereby the City would transfer the cloverleaf property to the County and the County would transfer the parking property to the City. He said the next step is to adopt a resolution approving the land exchange (swap) and authorize the Chairman to execute the Property Exchange Agreement. He reviewed the material terms of the transaction, and recommended the Board approve said documents.

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

Commissioner O'Bryan voiced concerns and suggestions over issues that he did not feel were resolved at the January 11, 2011 Joint Meeting; yet, as a team player he wanted this to move forward in support of the Vero Beach Sports Village.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved **Resolution 2011-007** approving an exchange of real property with the City of Vero Beach, Florida.

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

## **14. COMMISSIONER ITEMS**

### **14.A. COMMISSIONER BOB SOLARI, CHAIRMAN**

#### **14.A.1. COUNTY ATTORNEY'S EMPLOYMENT AGREEMENT**

Chairman Solari informed the Board that County Attorney Polackwich's annual Employment Agreement would be expiring on February 22, 2011. He expressed that his proposed Renewal Agreement (page 225 of the Agenda Packet) is coming forward with no changes from the prior year, except the request that he be given the right to use his vacation time whenever he wants during the employment year, rather than as it accrues. This change would state that if his employment terminates for any reason, at a time when he has used more vacation than what has actually accrued, he would reimburse the County for the overused vacation time.

MOTION WAS MADE by Vice Chairman Wheeler,  
SECONDED by Commissioner O'Bryan to approve the  
County Attorney's Employment Agreement as presented.

Each Commissioner offered words of appreciation to Attorney Polackwich and his staff.

Attorney Polackwich responded to the Commissioner's kind words and recognized his staff for the outstanding support they provide.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved the proposed Employment Agreement with County Attorney Alan S. Polackwich, Sr., which included changes to the language in Section 5, authorizing the County Attorney the right to use vacation time anytime during the employment year, not as it accrues, and upon termination for any reason, any overused vacation time would be deducted from his final paycheck, as recommended in the memorandum of February 1, 2011.

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

**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**

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

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

**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  
11:35 a.m.

ATTEST:

\_\_\_\_\_  
Jeffrey K. Barton, Clerk

\_\_\_\_\_  
Bob Solari, Chairman

Minutes Approved: \_\_\_\_\_

BCC/LA/2011 Minutes