

JEFFREY K. BARTON  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS  
OF FEBRUARY 8, 2011

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**JEFFREY K. BARTON**

Clerk to the Board



**February 8, 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 8, 2011. Present were Chairman Bob Solari, Vice Chairman Gary C. Wheeler, and Commissioners Joseph E. Flescher, and Peter D. O'Bryan. Commissioner Wesley S. Davis joined the meeting at 9:04 a.m. 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**

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

### **3. PLEDGE OF ALLEGIANCE**

Vice Chairman Wheeler led the Pledge of Allegiance to the Flag.

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

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

#### **ADDITION: ITEM 10.B. REQUEST TO SPEAK FROM PETE SHARMAN**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, by a 4-0 vote (Commissioner Davis absent), the Board approved the Agenda as amended.

### **5. PROCLAMATIONS AND PRESENTATIONS**

#### **5.A. PRESENTATION OF PROCLAMATION HONORING 2-1-1 AWARENESS WEEK FEBRUARY 11 – 17, 2011**

Chairman Solari read and presented the Proclamation to Susan Buza, Executive Director; Page Woodward, Community Relations Specialist, and Lee Moore, Board Members, of Palm Beach/Treasure Coast 2-1-1. Ms. Buza related how the current economic climate has resulted in increased calls from people seeking assistance with various problems, including those suffering from domestic violence or contemplating suicide. She asked the Board to help publicize the service, and to provide some advice about locating additional sources of funding.

*(Clerk's Note: Commissioner Davis entered the meeting at this time).*

**5.B. PRESENTATION BY ERIC MENGER, MAYOR JAY KRAMER, AND MICHAEL DAVID REGARDING AVIATION DAY AT THE VERO BEACH MUNICIPAL AIRPORT ON SATURDAY, FEBRUARY 12, 2011**

**Eric Menger**, Airport Director for the City of Vero Beach Airport, invited community residents to attend Aviation Day, to occur at the Vero Beach Municipal Airport on Saturday, February 12, 2011, from 9:00 a.m. to 4:00 p.m. He used a PowerPoint presentation to highlight some of the airplanes that will be featured at the event, and described the beneficial economic impact the airport has had on the community.

**Barbara Drndak**, Chairman, Airport Commission, noted that the airport is an asset for not just Vero Beach, but for the entire community, and thanked the Commissioners for supporting the activities at the Airport.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF DECEMBER 14, 2010**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of December 14, 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 December 14, 2010, as written.

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

**7.A. NOTICE OF REGULAR MEETINGS OF THE INDIAN RIVER COUNTY  
HOSPITAL DISTRICT BOARD OF TRUSTEES, FOR THE YEAR 2011, IS ON  
FILE IN THE OFFICE OF THE CLERK TO THE BOARD**

**7.B. 2011 ELECTION OF METROPOLITAN PLANNING ORGANIZATION CITIZEN  
ADVISORY COMMITTEE CHAIRMAN AND VICE CHAIRMAN**

Noted for the record was the election of Juliana Young as Chairman, and Chuck Mechling as Vice Chairman, of the MPO Citizen Advisory Committee for the year 2011.

**7.C. CITY OF SEBASTIAN APPOINTMENT TO THE MPO BICYCLE ADVISORY  
COMMITTEE**

Noted for the record was the election of Chris McCarthy as the City of Sebastian's representative to the MPO Bicycle Advisory Committee.

**8. CONSENT AGENDA**

Commissioner Flescher requested Item 8.B. be pulled for discussion.  
Vice Chairman Wheeler requested Item 8.F. 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 – JANUARY 21, 2011 TO JANUARY 27, 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 January 21, 2011 to January 27, 2011, as requested in the memorandum of January 21, 2011.

**8.B. INDIAN RIVER COUNTY APPOINTMENTS TO THE ECONOMIC OPPORTUNITIES COUNCIL (EOC)**

Commissioner Flescher pulled this item so the Commissioners could vote on a Commissioner-designee to the Economic Opportunities Council.

Commissioner Davis nominated Anjani Cirillo.  
Commissioner Flescher SECONDED the nomination.

There being no further nominations, the Chairman called for a vote.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the appointment of Anjani Cirillo to the Economic Opportunities Council (EOC), for a one-year term.

**8.C. PERMISSION TO ADVERTISE FOR PUBLIC HEARING: AN ORDINANCE**  
**AMENDING THE COUNTY CODE OF INDIAN RIVER COUNTY, CHAPTER 302,**  
**ANIMAL CONTROL**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized staff to advertise for a Public Hearing for Ordinance amendments pertaining to Chapter 302, Animal Control, Sections 302.05(A) and 302.11(B)(2), as recommended in the memorandum of February 2, 2011.

**8.D. AWARD OF BID # 2011023, INDIAN RIVER BOULEVARD SIDEWALK**  
**IMPROVEMENTS (FROM 12<sup>TH</sup> ST. TO 17<sup>TH</sup> ST.), IRC PROJECT No. 0745**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the bid award in the amount of \$461,316.82, to the lowest bidder, Timothy Rose Contracting, Inc., as recommended in the memorandum of January 27, 2011.

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

**8.E. REQUEST FOR BOARD APPROVAL OF A WORK PLAN MODIFICATION, A**  
**BUDGET AMENDMENT AND CLOSEOUT OF THE COUNTY'S HURRICANE**  
**WILMA DISASTER RECOVERY INITIATIVE (DRI) COMMUNITY**  
**DEVELOPMENT BLOCK GRANT (CDBG)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1)

approved the Hurricane Wilma Disaster Recovery Initiative (DRI) Community Development Block Grant (CDBG) Modification No. 2 by authorizing the Chairman to execute the modification forms; (2) approved the Hurricane Wilma DRI CDBG closeout document by authorizing the Chairman to execute the closeout documents; (3) authorized the Chairman to execute and submit any additional CDBG related documents to allow the County to complete the grant modification and to close out the grant; and (4) authorized staff to make any changes to the closeout and/or amendment documents that may be required by the Department of Community Affairs (DCA), all as recommended in the memorandum of January 27, 2011.

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

**8.F. PROFESSIONAL SERVICE AGREEMENT WITH G. K. ENVIRONMENTAL, INC.**  
**FOR: VERO BEACH SPORTS VILLAGE (FKA DODGERTOWN) PROPERTY**  
**EXCHANGE, PHASE I/ENVIRONMENTAL SITE ASSESSMENT WITH**  
**PRELIMINARY WETLAND & ENDANGERED SPECIES SURVEY**

Vice Chairman Wheeler requested clarification as to whether the proposed site assessment was a requirement or a technicality imposed by the State or Federal Government.

Director of Public Works Christopher Mora explained that there was a need to ascertain whether any harmful substances had been dumped at the site. He noted that the environmental site assessment was the first step in commencing the site plan for the new cloverleaf ball fields.

Attorney Polackwich pointed out that while the County was negotiating the contract with the City of Vero Beach (the City), several individuals had expressed concerns about the land sitting vacant for so long, and recommended having the environmental assessment done. He explained that the contract with the City was written to grant the County the right to do the environmental assessment, but it was not a requirement.

Vice Chairman Wheeler questioned the need for the environmental study.

Chairman Solari and Commissioner Davis presented arguments supporting the environmental study.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-1 vote (Vice Chairman Wheeler opposed), the Board approved and authorized the Chairman to execute the Professional Service Agreement with G.K. Environmental, Inc., for the lump sum fee of \$2,850.00, authorizing the *Vero Beach Sports Village (FKA Dodgertown) Property Exchange Pond Phase I/Environmental Site Assessment with Preliminary Wetland and Endangered Species Survey Project*, as outlined in the description of services on pages 61-64 of the agenda packet, and as recommended in the memorandum of January 31, 2011.

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

**8.G. RFQ 2011020 DESIGN SERVICES FOR JAIL FIRE ALARM – AGREEMENT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved the Agreement for Fire Alarm Design Services

with HAI, Inc., a Maryland Corporation d/b/a/ Hughes Associates, Inc.; and (2) authorized staff to issue a Notice to Proceed with design, as recommended in the memorandum of January 31, 2011.

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

**8.H. MISCELLANEOUS BUDGET AMENDMENT 007**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2011-008**, amending the Fiscal Year 2010/2011 budget.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

**9.A. INDIAN RIVER COUNTY SHERIFF – DERYL LOAR**

**REQUEST FOR USE OF SEX OFFENDER FEE FUNDS FOR PURCHASE OF TRACKING SOFTWARE**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Flescher, the Board unanimously authorized the Sheriff to use \$4,771.00 from the Sex Offender Fee Fund to purchase sex offender tracking software, as requested in the letter of February 2, 2011.

## **10. PUBLIC ITEMS**

### **10.A. PUBLIC HEARINGS-NONE**

### **10.B. PUBLIC DISCUSSION ITEMS**

#### **10.B.1. REQUEST TO SPEAK FROM PETE SHARMAN**

**Pete Sharman**, Vero Beach, recapped a handout (copy on file) he had provided to the Board, outlining the County's amenities and services. He believed that instead of looking elsewhere to enhance economic development, the Commissioners, in conjunction with the municipalities and community organizations, should make a targeted effort to create and promote a retirement industry as its economic driver.

No Board Action Required or Taken

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

#### **10.C.1. NOTICE OF POSTPONEMENT OF PUBLIC HEARINGS SCHEDULED FOR FEBRUARY 8, 2011**

Attorney Polackwich announced that the following public hearings, originally scheduled for February 8, 2011, have been postponed at the applicant's request:

1. The Pointes Development, LLC's request for vacation of the Mira-Mar Subdivision Plat (Legislative)
2. The Pointes Development, LLC's request for vacation of a portion of the replat of Fred R. Tuerk Drive Extension (Legislative)

## **11. COUNTY ADMINISTRATOR MATTERS-NONE**

## **12. DEPARTMENTAL MATTERS**

### **12.A. COMMUNITY DEVELOPMENT**

#### **12.A.1. CONSIDERATION OF APPLYING FOR A NEIGHBORHOOD STABILIZATION**

##### **PROGRAM 3 (NSP3) COMMUNITY DEVELOPMENT BLOCK GRANT**

Community Development Director Robert Keating gave a comprehensive overview on staff's request for the Board to consider accepting a \$1.5 million Neighborhood Stabilization Program 3 (NSP 3) Community Development Block Grant (CDBG). He reviewed the objective of the program and explained how the NSP 3 would differ from the NSP 1, during which various difficulties had arisen. Director Keating conveyed staff's proposal to manage the NSP 3 program in-house, and to partner with Habitat for Humanity, who would act as the developer for the purchase and rehabilitation of the homes. He outlined the steps the County would need to take in order to receive the NSP 3, which included the preparation of an Abbreviated Action Plan for management of the plan; identification of target housing locations; and a public hearing which staff has tentatively scheduled for February 15, 2011, contingent upon the Board's approval of staff's recommendation to authorize staff to proceed with NSP 3 preparations.

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

Director Keating addressed Commissioner O'Bryan's questions on the status and cost of the homes purchased and rehabilitated through the NSP 1 program.

Commissioner O'Bryan expressed concerns that the same difficulties experienced in the NSP 1 would resurface in the NSP 3 program, and was also apprehensive about a recurrence of

complaints he had previously received, pertaining to Habitat for Humanity's constructing homes in a concentrated area.

**Andy Bowler**, President, Indian River Habitat for Humanity, provided a brief overview of Habitat's objectives and several diversified target areas for the NSP 3 homes. He assured the Board that there would be no problem in obtaining and placing families in the homes, adding that Habitat was doing more rehabilitation than construction of homes.

Additional discussion ensued, wherein the Board questioned staff on the criteria for buyers to qualify for the rehabilitated properties; how much funding remains from the NSP1 grant funding and what was spent in rehabilitating the homes; and what would happen to the grant money if the Board decides not to participate in the NSP 3 program.

Vice Chairman Wheeler had mixed emotions about participating in the NSP 3 program, and felt it was almost time to say that the County does not want the government's money with all the strings attached.

Commissioner Flescher observed that Habitat for Humanity's broad-range approach in locating the homes would have a beneficial impact on the community.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Vice Chairman Wheeler opposed), the Motion carried. The Board authorized staff to proceed with preparation of a formal Neighborhood Stabilization Program 3 (NSP 3) Abbreviated Action Plan and a formal application for the NSP 3 funds, as requested in the memorandum of January 31, 2011.

**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-NONE**

**13. COUNTY ATTORNEY MATTERS**

**13.A. ACQUISITION OF RIGHT-OF-WAY AND POND PARCEL ALONG 66<sup>TH</sup> AVE,  
GAMMA DELTA, CORP GAMMA DELTA CORPORATION**

Deputy County Attorney William DeBral recapped his memorandum of February 1, 2011, providing a description on the terms of the agreement offer and the required right-of-way parcels owned by Gamma Delta Corporation, located along 66<sup>th</sup> Avenue between 41<sup>st</sup> Street and 45<sup>th</sup> Street. He recommended the Board approve the contract at the \$728,103.18 all inclusive price, and noted that there is a leaseback clause allowing Gamma Delta to continue agricultural use of the property for one year; at the end of that term, a fair market value would be negotiated if renewal of the lease is appropriate.

ON MOTION by Commissioner Davis, SECONDED by Chairman Solari, the Board unanimously approved the Agreement to Purchase and Sell Real Estate with Gamma Delta Corporation, for purchase of the five parcels from Gamma Delta for \$671,258.80, together with attorney's fees of \$50,344.38, and engineering costs of \$6,500.00 for a total of \$728,103.18, as requested in the memorandum of February 1, 2011.

### **13.B. CONCEALED WEAPONS IN COUNTY PARKS**

Attorney Polackwich revealed that he had been asked to research whether County Code, *Chapter 205 Parks and Recreation, Section 205.03 (5) Firearms or Fireworks*, which prohibits the possession of a weapon in any park or recreational area without a County permit, conflicts with State law. He reported that the entire field of firearms is preempted to the State of Florida, and further, that Florida Statutes, *Chapter 790.01 Carrying Concealed Weapons* permits an individual holding a Florida-issued concealed weapons permit to carry it in a park or recreational area. He presented his conclusion that the County Ordinance does violate State law, and asked the Board if they wanted him to draft an amendment bringing the Ordinance into compliance.

Commissioner Davis explained that he had referred this matter to the County Attorney, subsequent to an inquiry from a concerned citizen. He observed that a County regulation should be brought into compliance if it conflicts with State law.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to direct the County Attorney to initiate the process of amending Section 205.03, Indian River County Code, to be consistent with State law by allowing a person holding a

valid concealed weapons license to carry a concealed weapon in County parks and recreational facilities.

Commissioners Wheeler and O'Bryan agreed that the County's Ordinance should be aligned with State law.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously.

**13.C. INTERIM REPORT REGARDING COUNTY COMMITTEES, BOARD AND COUNCILS – MEMBER TERMS**

Attorney Polackwich reviewed his February 1, 2011 memorandum, providing background on the need for a review and re-structuring of policies regarding the term requirements for members of County committees, boards and councils (collectively "committees") that are governed by Chapter 103 *Commissions and Boards*, Section 103.02. He explained that in Section 103.02, there are internal inconsistencies regarding the staggering of committee member terms with the election terms of Board members. He also noted that certain committee members have served without periodic formal reappointments, and said the Attorney's office would be working on establishing the terms of existing committee members. Attorney Polackwich suggested that a permanent solution would entail: (1) amending Section 103.02 to provide four-year terms, thereby allowing the terms to be staggered in conjunction with County Commission elections; and (2) designating a County staff person to monitor the committee appointments going forward. He thereafter conveyed his recommendation for the Board to adopt the Resolution confirming all the committee appointments presently in place, so that no terms have ended while staff shapes a permanent solution.

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Flescher, the Board unanimously: (1) directed the County Attorney to proceed with the

implementation of a permanent solution acceptable to the Board, as recommended in the memorandum of February 1, 2011; and (2) adopted **Resolution 2011-009**, temporarily extending the terms of certain members of various committees, boards, and councils.

## **14. COMMISSIONER ITEMS**

### **14.A. COMMISSIONER BOB SOLARI, CHAIRMAN-NONE**

### **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**

#### **14.E.1. SENATE BILL 270**

Commissioner O'Bryan expressed concerns about the impact that Senate Bill 270 (slated for approval in July 2011), would have on the County's budget. He explained that the Bill proposed doubling the early payment discount for property taxes from 4% to 8%, which would result in approximately a \$4 million reduction in available ad valorem taxes. He outlined ways in which the reduction would hurt the budget, and anticipated that the County would have to increase the millage rate to handle fixed and other costs without dipping into the reserves. He pointed out that people who are experiencing economic struggles would be unable to take advantage of the early payment discount and derive no benefit from the Bill. Further, he affirmed that budget decisions should be made locally during the County's budget hearing process, not as a result of an unfunded State mandate.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Chairman Solari, to direct the County Attorney, in collaboration with Commissioner O'Bryan, to draft a Resolution in opposition to increasing discount rates for early payment of property taxes contained in Senate Bill 270, to be brought back for Board approval, as requested in the memorandum of February 1, 2011.

Chairman Solari echoed Commissioner O'Bryan's sentiments, commenting that the Bill would only benefit prosperous citizens because many low income residents would be unable to take advantage of the early payments. He also agreed that the Bill would result in increased millage rates, and that budget cuts should originate during the budget approval process.

Commissioner Davis mentioned that many municipalities do tax anticipation notes well in advance of their tax bills, and that it would not be a true 4% reduction for them, because they are borrowing money and paying interest on it. He felt that if the Bill entices more people to pay their taxes early, it would be beneficial, but wanted to see the draft Resolution before taking a final stance.

Vice Chairman Wheeler supported the initiative for Senate Bill 270. He believed that lower income people could take advantage of the tax discount by budgeting for the annual bill; and that it would be a boon for those individuals who are non-homesteaded, or have commercial property.

Commissioner Flescher remarked that decisions affecting the local community are best made at the local level. He stated he would support the drafting of the Resolution, contingent upon it returning for Board review.

Administrator Baird opined that if the State legislature wished to do something to help citizens, it should make agencies, rather than the County, pay for their own collections.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Vice Chairman Wheeler opposed), the Board directed the County Attorney, in collaboration with Commissioner O'Bryan, to draft a Resolution in opposition to increasing discount rates for early payment of property taxes contained in Senate Bill 270, to be brought back for Board approval, as requested in the memorandum of February 1, 2011.

## **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 10:29 a.m.

ATTEST:

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

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

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

BCC/MG/2011Minutes