

JEFFREY K. BARTON  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

APRIL 5, 2011

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**JEFFREY K. BARTON**

Clerk to the Board



**April 5, 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, April 5, 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 Doug Vogt, First Church 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:

##### **DELETION: ITEM 13.E. OFFER OF JUDGMENT ON BETHEL, PARCEL #108**

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

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

##### **5.A. PRESENTATION OF PROCLAMATION HONORING THE RECIPIENTS OF THE 2011 DAN K. RICHARDSON AWARD, DR. A. RONALD HUDSON AND MR. CARTER W. HOPKINS**

Chairman Solari read and presented the Proclamation to Dr. A. Ronald Hudson and Mr. Carter W. Hopkins for their lifelong commitment to philanthropic endeavors that have directly benefitted County residents.

##### **5.B. PRESENTATION OF PROCLAMATION HONORING LIEUTENANT JO ANN BAKER ON HER RETIREMENT FROM THE INDIAN RIVER COUNTY SHERIFF'S DEPARTMENT**

Commissioner Wheeler read and presented the Proclamation to Jo Ann Baker on her retirement.

Sheriff Deryl Loar commended Ms. Baker for her 30-year career, and pointed out that she was the first Programs Director in the Corrections Division of the Sheriff's Office. He spoke about the numerous duties she had been tasked with outside the Sheriff's office, and stressed that she had coached, trained, and obtained more GED's for the inmate population than any other adult education program in the County.

**5.C. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 10 THROUGH 16, 2011, AS CRIME VICTIMS' RIGHTS WEEK IN INDIAN RIVER COUNTY**

Commissioner Flescher read the Proclamation. Paul Zelno, Indian River County Victims' Rights Coalition, and team members received the Proclamation on behalf of all the County's victims of crime.

**5.D. PRESENTATION OF PROCLAMATION RECOGNIZING NATIONAL TELECOMMUNICATOR'S WEEK**

Commissioner Davis read and presented the Proclamation to Sandy Fox, who received the Proclamation along with numerous County public safety dispatchers.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF FEBRUARY 15, 2011**

**6.B. REGULAR MEETING OF MARCH 1, 2011**

**6.C. REGULAR MEETING OF MARCH 8, 2011**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meetings of February 15, 2011, March 1, 2011, or March 8, 2011. There were none.



ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, the Board unanimously approved the Minutes of the Regular Meetings of February 15, 2011, March 1, 2011, and March 8, 2011, as written.

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

**8. CONSENT AGENDA**

The following items were requested to be pulled for discussion: Chairman Solari requested 8.F., Commissioner O'Bryan requested 8.K., and Commissioner Davis requested 8.O.

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

**8.A. APPROVAL OF WARRANTS AND WIRES – MARCH 11, 2011 TO MARCH 17, 2011**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of March 11, 2011 to March 17, 2011, as requested in the memorandum of March 17, 2011.

**8.B. APPROVAL OF WARRANTS AND WIRES – MARCH 18, 2011 TO MARCH 24, 2011**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of March 18, 2011 to March 24, 2011, as requested in the memorandum of March 24, 2011.

**8.C. REQUEST FOR PROPOSAL – BASIC LIFE, VOLUNTARY LIFE, LONG-TERM DISABILITY AND OTHER VOLUNTARY PRODUCTS**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously authorized staff to issue a Request for Proposal (RFP) for Basic Life, Voluntary Life, Long-Term Disability and Other Voluntary Products, as recommended in the memorandum of March 29, 2011.

**8.D. MISCELLANEOUS BUDGET AMENDMENT 013**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-023**, amending the Fiscal Year 2010-2011 Budget.

**8.E. REJECTION OF BIDS FOR IRC BID NO. 2011031 INDIAN RIVER COUNTY  
TRANSIT FACILITY**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously rejected all bids, since none of the bids within the project budget met the project specifications set forth in the Invitation to Bid (requiring the contractor to have completed a project that received a Florida Green Building Certification), as recommended in the memorandum of March 28, 2011.

**8.F. REQUEST FOR AUTHORIZATION TO ALLOW THE BOARD CHAIRMAN TO  
EXECUTE AN AGREEMENT FOR PLACEMENT OF ATM MACHINES**

Chairman Solari voiced two concerns pertaining to the placement of ATM machines in County Buildings A and B. He had an issue with this piggy-backing on a contract with an Orlando firm without offering local banks an opportunity to bid, and the \$2.50 fee that would be added to each transaction for the use of the ATM's. He felt it unfair for taxpayers to go to the Tax Collectors' office to pay their taxes or fees and be charged an ATM fee, since they have already paid for the Administration complex through their taxes.

Discussion ensued regarding the use of credit cards and ATM cards, user fee charges, pursuing local competitive bidding, and the possibility of adding an ATM machine at the Courthouse.

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Davis, the Board unanimously directed the County Administrator to work with staff in deciding what ATM's are needed, where they are needed, and to bring the results back to the Board before going out for bids.

**8.G. TRAFFIC CONTROL DEVICE LEDGER**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-024**, approving traffic control devices authorized by the Director of Public Works.

**8.H. FLORIDA INLAND NAVIGATION DISTRICT FY 2011 WATERWAYS ASSISTANCE PROGRAM AUTHORIZING RESOLUTION FOR THE OSLO BOAT RAMP IMPROVEMENTS**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-025**, for assistance under the Florida Inland Navigation District Waterways Assistance Program.

**8.I. APPROVAL WORK ORDER NO. 2 (ENGINEERING) WITH UNIVERSAL ENGINEERING SCIENCES, INC. PROVIDING PROFESSIONAL GEOTECHNICAL SERVICES IN ACCORDANCE WITH THE ANNUAL GEOTECHNICAL SERVICE CONTRACT RFQ No. 2010021, OSLO ROAD PHASE II ROADWAY WIDENING (43<sup>RD</sup> AVENUE TO 27<sup>TH</sup> AVENUE) IRC PROJECT #0533**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 2 to Universal Engineering Sciences, Inc., for projects as outlined in the Scope of Services, and authorized the Chairman to execute same for a not-to-

exceed amount of \$55,446.00, as recommended in the memorandum of March 23, 2011.

WORK ORDER ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.J. CHANGE ORDER NO. 2 – FINAL PAY AND RELEASE OF RETAINAGE 5<sup>TH</sup>**  
**STREET SW BRIDGE REPLACEMENT AND INTERSECTION IMPROVEMENTS**  
**IRC PROJECT NO. 0206 IRC BID NO. 2008075**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 2, and payment of Sheltra and Son Construction Company, Inc. Application for Payment No. 14, for final payment and release of retainage in the amount of \$94,633.00, as recommended in the memorandum of March 17, 2011.

**8.K. AMENDMENT NO. 6 TO THE CIVIL ENGINEERING AND LAND SURVEYING**  
**AGREEMENT FOR INTERSECTION IMPROVEMENTS AT SR60 AND 43<sup>RD</sup>**  
**AVENUE AND WIDENING OF 43<sup>RD</sup> AVENUE FROM 18<sup>TH</sup> STREET TO 26<sup>TH</sup>**  
**STREET**

At Commissioner O'Bryan's request, Public Works Director Chris Mora provided an update on the intersection redesign and required right-of-way necessary to complete the SR60 and 43<sup>rd</sup> Avenue intersection.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved Amendment No. 6 to Arcadis G&M, Inc., in the amount of \$29,080.00, for the Civil Engineering and Land Surveying Agreement, and authorized the Chairman to execute same, as recommended in the memorandum of March 18, 2011.

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

**8.L. REQUEST FOR APPROVAL FOR INDIAN RIVER COUNTY TO PARTICIPATE IN ESRI COMMUNITY MAP PROGRAM AND REQUEST AUTHORIZATION FOR GIS MANAGER TO SIGN AND SUBMIT COMMUNITY MAPS PROGRAM PARTICIPATION AGREEMENT TO ESRI**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved participation by Indian River County in the Environmental Systems Research Institute, Inc. (ESRI) Community Basemap Program; (2) authorized the Geographic Information Systems (GIS) Manager to execute the ESRI ArcGIS Online Community Maps Program Participation Agreement No. 2011DAT1188; and (3) authorized the GIS Manager to submit the executed Agreement to ESRI, as recommended in the memorandum of March 29, 2011.

**8.M. APPROVAL TO AUTHORIZE PAYMENT FOR SHULMAN, ROGERS, GANDAL,  
PORDY, & ECKER, P.A. FOR 800 MHZ REBANDING**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Incumbent Acknowledgement, and authorized that services identified on the invoice have been performed, as recommended in the memorandum of March 30, 2011.

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

**8.N. APPROVAL OF THE POST DISASTER REDEVELOPMENT PLAN SERVICES  
AGREEMENT (PHASE I AND PHASE II) WITH THE TREASURE COAST  
REGIONAL PLANNING COUNCIL**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the contracts for Post-Disaster Redevelopment Plan (PDRP) for Phase I and Phase II with the Treasure Coast Regional Planning Council, as recommended in the memorandum of March 28, 2011.

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

**8.O. SECTOR 3 BEACH RESTORATION PROJECT, CHANGE ORDER #4 – FUEL COST ADJUSTMENT, RANGER CONSTRUCTION INDUSTRIES, INC.**

Commissioner Davis voiced concerns over escalating fuel prices and the resulting Change Orders for cost adjustments. He wanted to know what could be done to keep this from coming back to the Board on a continuing basis, and if it would make sense to continue the permit on Phase III.

Director Mora reported that staff had reviewed the overall cost of Ranger Construction Industries, Inc.'s (Ranger) request for a fuel cost adjustment, and interpreted what the adjustments would mean if there was a 20% increase in fuel. He recommended approval of Change Order No. 4, granting Ranger a fuel cost adjustment of up to \$1.01 per cubic yard of sand for 261,077 cubic yards, for Phase II only, and with a cap on fuel cost adjustments.

County Administrator Joseph Baird voiced concern over escalating fuel costs and felt that giving Ranger more latitude would allow less control of the project for the County. He supported the cap on fuel cost adjustments, and encouraged Ranger to complete the project as soon as possible.

Director Mora calculated that another \$700,000 in engineering and monitoring costs would be required if the project were to be extended to Phase III, into late 2011.

County Coastal Engineer James Gray, Jr. clarified that whether the project is completed early or truncated, four years of monitoring would be required – one year for immediate post construction monitoring and three years for annual monitoring. He informed the Board that staff has a meeting scheduled for April 6<sup>th</sup> with the Department of Environmental Protection (DEP) to seek relief of monitoring requirements, and that the current permit specifies preconstruction monitoring for sections that are not completed.



Commissioner O'Bryan stated that if the County has four miles of beach to complete in Phase II, and only two miles are completed, the County should only pay for two miles of monitoring, and that the invoice should reflect half the cost. He wanted staff to inform Coastal Tech that when the work order is submitted, it should reflect the entire length of Phase II, otherwise it should be proportionate to the amount that will be completed.

**Bob Schafer**, Vice President of Ranger Construction Industries, Inc., said that if the floating index that was suggested in an earlier meeting were to be used for the changes in fuel price, then a cap should not be assigned, otherwise his company would need to come back to the Board again, especially since this phase has only one more month of work.

Management and Budget Director Jason Brown calculated the expense for the project and explained the necessity of assigning a cap.

Commissioner O'Bryan stressed that the Board's goal is to be fair, and at the same time see the project completed.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Solari, by a 4-1 vote (Commissioner Davis opposed), the Board approved Change Order No. 4, granting Ranger Construction Industries, Inc. a fuel cost adjustment of up to \$1.01 per cubic yard for 261,077 cubic yards (Phase II only) for a maximum increase of \$263,687.77, as recommended in the memorandum of March 31, 2011.

CHANGE ORDER ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

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

**10. PUBLIC ITEMS**

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

**10.B. PUBLIC DISCUSSION ITEMS - NONE**

**10.C. PUBLIC NOTICE ITEMS - NONE**

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT**

**12.A.1. DEFERRED FROM MARCH 22, 2011 MEETING: DR. LESLIE TAR'S  
REQUEST THAT THE BOARD OF COUNTY COMMISSIONERS RESCIND A  
\$15,000 FINE IMPOSED BY THE CODE ENFORCEMENT BOARD FOR A  
DUNE VEGETATION REMOVAL VIOLATION AT 2252 MAGAN'S OCEAN  
WALK (LOT 18, ATLANTIS SUBDIVISION)**

Environmental Planning and Code Enforcement Chief Roland DeBlois, using a PowerPoint presentation, recapped his memorandum dated March 14, 2011, providing chronology, analysis, and points raised by Dr. Leslie Tar regarding the fine that was imposed by the Code Enforcement Board for a dune vegetation removal violation. He urged the Board to deny Dr. Tar's request to rescind the Code Enforcement Board's \$15,000 fine assessment.

County Attorney Polackwich divulged that after researching the Court Docket, he did not find a pending appeal against the County, only the City of Vero Beach. He believed Dr. Tar may have incorrectly filed an appeal involving the City, not the County.

Chairman Solari said that all correspondence from Dr. Tar was addressed to “Indian River County”, so even though he may have misfiled, he undoubtedly was aware of the situation.

Discussion ensued regarding the extent of the vegetation removal, and Dr. Tar’s lack of pursuing the culprit and not having filed a police report.

MOTION WAS MADE by Commissioner O’Bryan,  
SECONDED by Commissioner Flescher, to approve  
staff’s recommendation.

Vice Chairman Wheeler felt it distasteful that Dr. Tar requested certain individuals to use their political clout to negate this issue.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved staff’s recommendation to deny Dr. Tar’s request to rescind the Code Enforcement Board’s \$15,000 fine assessment, as recommended in the memorandum of March 14, 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**

**12.G.1. CHILDREN'S SERVICES FUNDING ALLOCATION FOR FISCAL YEAR  
2011-2012**

Commissioner O'Bryan disclosed that the Administrator of Children's Services Funding Brad Bernauer, and Chairperson to the Children's Services Committee, Miranda Swanson, were not notified that this item would be on today's Agenda; therefore, he requested this item be tabled to a time certain of April 19, 2011, to allow them time to prepare a response.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, the Board unanimously approved to TABLE this item to a time certain of April 19, 2011, Board Meeting.

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS**

**12.I.1. STAFF UPDATE – SECTOR 3 BEACH RENOURISHMENT PROJECT**

Public Works Director Chris Mora provided a status update (on file) regarding the individual phases and the construction schedule for the Sector 3 Beach Renourishment Project. He thereafter explained the process that staff would be required to undertake if an extension were to be granted.

**12.I.2. WORK ORDER NO. 11 (TASKS 5-9) COASTAL TECHNOLOGY CORPORATION INC., SECTOR 3 BEACH RESTORATION PROJECT, PHASE I AND PHASE 2 POST CONSTRUCTION MONITORING SERVICES**

County Engineer Gray reviewed his memorandum dated March 25, 2011, providing history and conditions relating to Work Order No. 11 from Coastal Technology Corporation, Inc., for the Sector 3 Beach Restoration Project. He acknowledged that the total cost of the work order was \$823,641, and included nine tasks. He said Tasks 1 through 4 were approved on October 12, 2010 for \$316,243, and urged the Board to approve Tasks 5 through 9 for services relating to the immediate post construction monitoring of Phase II, and the first year post construction monitoring of Phase I, totaling \$ 507,398. He also noted that the services within the work order are eligible for a 50% cost share when State funds become available, and that the County could construct the project with its own funds and seek reimbursement within three years.

Commissioner O'Bryan suggested waiting to approve Tasks 5 through 9 of Work Order No. 11 until staff meets with the Department of Environmental Protection (DEP), on April 6, 2011, to discuss the monitoring requirements on the unfinished portions of Phase II.

A brief discussion ensued regarding the timeframe for monitoring, cost share funding, and whether two weeks would be enough time to make adjustments to the work order after meeting with the DEP.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, the Board unanimously TABLED this item to a time certain of April 19, 2011, Board Meeting.

*The Chairman called a break at 10:32 a.m., and reconvened the Meeting at 10:45 a.m., with all members present.*

**12.J. UTILITIES SERVICES**

**12.J.1. APPROVAL OF WORK ORDER WITH GEOSYNTEC FOR GROUND WATER**

**ASSESSMENT AND MONITORING PROPOSAL FOR OLD SAVANNAH LIFT**

**STATION**

Director of Utility Services Erik Olson reviewed his memorandum dated March 10, 2011. He provided background and analysis pertaining to the January 2011 diesel fuel spill from an emergency generator at the Old Savannah Lift station. He requested the Board approve the work order with Geosyntec Consultants for the proposed scope of services.

A brief discussion ensued regarding the inspection program and the amount of fuel spilled.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized the Work Order with Geosyntec Consultants for groundwater assessment and monitoring plan, in the amount of \$20,047.00, as recommended in the memorandum of March 10, 2011.

**13. COUNTY ATTORNEY MATTERS**

**13.A. SETTLEMENT OFFER ON CLAIM ON BID BOND (NORTH WATER TREATMENT PLANT)**

County Attorney Alan S. Polackwich, Sr. reviewed his memorandum dated March 29, 2011, providing background and analysis concerning the settlement offer of claim on a bid bond issued by the Guarantee Company of North America (GCNA), for the North Water Treatment Plant, that H&D Construction Company (H&D) posted when they submitted their bid. He noted specific issues relating to the claim filed on H&D's bid bond, GCNA's offer to settle the claim,

the argument involving which pump the bid offer included (Sulzer or Hydroflo), and the consideration of using Vocelle and Berg to represent the County in a lawsuit if settlement is not reached. Attorney Polackwich conveyed that GCNA's settlement offer of \$35,000 only represents about 35% of the potential recovery; therefore, recommending the Board reject the bid offer, make a counter offer of 50% of the bid bond amount, and if the counter offer is rejected, execute the Contingent Fee Agreement with Vocelle and Berg on a contingent basis.

Questions and discussion ensued regarding the risk/reward factor, and staff's direction should H&D file bankruptcy.

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

Vice Chairman Wheeler believed that the \$35,000 settlement offer was being put at risk to get an additional \$25,000.

The Chairman CALLED THE QUESTION and the Motion carried, by a vote of 4-1 (Vice Chairman Wheeler opposed). The Board approved staff's recommendation to reject the bid offer, make a counter offer of 50% of the bid bond amount (\$50,513), and should the counter offer not be accepted, the Chairman will execute the Contingent Fee Agreement with Vocelle and Berg, all as recommended in the memorandum dated March 29, 2011.

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

**13.B. PROPOSED RESOLUTION SETTING FORTH THE BOARD'S POSITION ON  
CERTAIN ISSUES RELATING TO THE CITY OF VERO BEACH ELECTRIC  
SYSTEM**

Attorney Polackwich recalled that at the March 15, 2011, Board of County Commission Meeting, he was directed to prepare a resolution setting forth the Board's position on issues relating to the City of Vero Beach electric system. He said the proposed resolution, on pages 214-217 in the Agenda Packet, was prepared prior to the letter of intent being received from Florida Power and Light (FPL); therefore, if the resolution is approved, verbiage would need to be adjusted to reflect that a conceptual offer has been received.

**Dr. Stephen Faherty, Sr.**, 2120 Captain's Walk, stated that he had reviewed the proposed resolution and felt the only required change would be to Section 2.C. Sale of System, referencing the offer made by FPL on April 4, 2011. He thereafter provided updated status regarding the offer, and strongly urged the Board to approve the resolution.

The Board and Dr. Faherty engaged in discussion relating to how this resolution would help the Public Service Commission understand the County's position, and modifying Section 2.C. of the Resolution to reflect FPL's offer.

Attorney Polackwich noted that on page 2 of the proposed resolution (page 215 of the Agenda Packet), the fourth paragraph would need to be modified to reflect that on April 4, 2011, FPL submitted a letter of intent to the City expressing its interest in purchasing the City electric system.



ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2011-026**, *as amended to add: (1) page 2, fourth paragraph - "WHEREAS, on April 4, 2011, FPL submitted a letter of intent to the City expressing its interest in purchasing the City electric system." and (2) page 3 - Item 2.C. Sale of System "On April 4, 2011, FPL submitted a letter of intent expressing its interest in purchasing the City electric system for a cash payment of up to \$100 million."*, setting forth the Board's position on certain issues relating to City of Vero Beach electric system.

**Glenn Heran**, 6985 57<sup>th</sup> Street, clarified the 8% recover rate disparity of the City of Vero Beach.

**J. Rock Tonkel**, Grand Harbor, thanked the Board for their involvement, support, and the progress that has been made. He briefly recapped the presentation he had made to the Joint Finance and Utilities Commission. He encouraged the Board to continue negotiations in regionalization and combining the water and sewer utilities.

**Charlie Wilson**, 1057 6<sup>th</sup> Avenue, felt it important to send this message to the Public Service Commission, and to do so as soon as possible.

**John Burns**, 1811 East Sandpointe Place, Vero Beach, and President of the South Beach Property Owners' Association, pointed out that he and his Association consisting of 2,600 electric utility customers supported the Resolution.

**13.C. APPROVAL OF MEDIATED SETTLEMENT AGREEMENT FOR PARCEL 112,  
LOCATED AT 4785 66<sup>TH</sup> AVENUE OWNED BY PHYLLIS BROWN**

Deputy County Attorney William DeBaal recapped his memorandum dated March 15, 2011, providing chronology; the purpose of the project; the mediation agreement and settlement; and recommended the Board approve the Mediated Settlement Agreement for the two-acre parcel, owned by Phyllis Brown, in the amount of \$456,831 (inclusive of all costs and attorney fees). He called attention to two erroneously stated figures on page 219 of the Agenda Packet -- the appraised value of the partial take at \$459,200, not \$520,000; and the County's first offer of \$206,000, not \$203,770. He also mentioned that upon entry of the stipulated order, the County would convey the statutory deed to Mrs. Brown for the 1.8 acre Dawsey parcel, which adjoins her property.

Commissioner O'Bryan questioned the breakdown of the appraisal; voiced concern over increasing numbers and the true value of the land; and the possibility of proceeding to a jury trial.

Attorney DeBaal said that if this matter were to proceed to a jury trial, it would only include the partial take for the needed roadway, not the settlement cost.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a vote of 4-1 (Commissioner O'Bryan opposed), the Board approved the Mediated Settlement Agreement for Parcel 112, located at 4785 66<sup>th</sup> Avenue, owned by Phyllis Brown, as recommended in the memorandum of March 15, 2011.

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

**13.D. OFFER OF JUDGMENT ON ABAZIS PARCELS 102/401**

Attorney DeBraal provided background regarding Parcels 102 and 401, which are needed for the 66<sup>th</sup> Avenue improvement project. He spoke about staff's unsuccessful attempts at reaching an agreement during the last mediation, and how staff wants to make an Offer of Judgment to Mrs. Abazis. He asked the Board to approve the Offer of Judgment to Mrs. Abazis to settle the matter and limit the costs.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized an Offer of Judgment to Ann Abazis in the amount of \$750,000.00, as recommended in the memorandum of March 29, 2011.

**13.E. OFFER OF JUDGMENT ON BETHEL, PARCEL #108 - DELETED**

Item deleted.

**14. COMMISSIONER ITEMS**

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

**14.A.1. TRANSPARENCY**

Chairman Solari conveyed that a group called "Sunshine Review", who grades Government on transparency, had rated the Commission with a grade of B-. Believing that the current Board is very open and transparent, he questioned the accuracy of the rating.

Administrator Baird explained the process of the grading system, the results of other Counties in the State, and what is required to receive an improved grade.

#### **14.A.2. WATER & SEWER FRANCHISE – COUNTY CUSTOMER NOTIFICATION**

Chairman Solari advised the Board that Dr. Stephen Faherty and Mr. Glenn Heran felt it was the proper time to inform the City of Vero Beach (City) that the County would like to have all County customers transferred to the County sewer, wastewater, and reuse water system by the end of the current Franchise Agreement. He agreed, and urged the Board to consider the same.

**Dr. Stephen Faherty, Sr.**, 2120 Captain's Walk, urged the Board to advise the City of the customer transfer, which would provide the City with the five-year required notice of intent.

**John Burns**, 1811 East Sandpointe Place, Vero Beach, and President of the South Beach Property Owners' Association, reported that the Association fully supports the proposal to merge to the County's Water, Sewer, and Irrigation (WSI) system for the City, the Town of Indian River Shores and South Beach region.

Chairman Solari urged the Board to review the proposed resolution (page 236 and 237 of the Agenda Packet), so that it, or something similar, can be sent to the City prior to the meeting of April 29, 2011.

Commissioner O'Bryan verbalized the options as: (1) renew the current franchise agreement; (2) combine with the City and have a regional water utility system; or (3) proceed with serving the County residents with water and wastewater. He supported option 2 and also sending the City a letter referencing the resolutions and informing them of the intent to not renew the franchise agreement.

Commissioner Davis supported option 2, a regionalized system.

**Renee Renzi**, Waverly Place, voiced concern over the smell of the sewage treatment plant, and wanted to know if this would lead to dismantling the plant facility.

Chairman Solari acknowledged that it would take approximately two to three years for dismantling the facility, and expressed that it was the County's desire to move as quickly as possible, to stop utilizing the plant, which would end the smell, and to have the existing County facilities process the waste.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Chairman Solari, to: (1) send a letter to the City of Vero Beach (City) notifying them of the County's intent to not renew the existing Franchise Agreement, as referenced by Resolutions 87-13 and 87-14, and (2) include a paragraph stating that the ultimate goal is to have a regionalized water/wastewater system for all residents in Indian River County.

In response to Commissioner Davis's concerns regarding the franchise agreement, Attorney Polackwich clarified that although the agreement does not require a notice if there is no intention of renewal; if the intent is clearly to not renew, then a notice would be appropriate. He confirmed that this item does not require a public notice or public hearing, and that moving forward would not violate any Sunshine Law provision.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously directed staff to: (1) send a letter to the City of Vero Beach (City) notifying them of the County's intent to not renew the existing Franchise Agreement, as referenced by Resolutions 87-13 and 87-14, and (2) add a paragraph stating that the ultimate goal is to have a regionalized water/wastewater system for all residents in Indian River County.

**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 - 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 11:55 a.m.

ATTEST:

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

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

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

BCC/LA/2011 Minutes