

JEFFREY K. BARTON  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

APRIL 19, 2011

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**JEFFREY K. BARTON**

Clerk to the Board



**April 19, 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 19, 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**

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

**3. PLEDGE OF ALLEGIANCE**

County Attorney Polackwich led the Pledge of Allegiance to the Flag.

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

Chairman Solari acknowledged a page substitution, regarding Budget Amendment 014, for Item 8.C. (page 22.b).

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

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

##### **5.A. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 18 THROUGH APRIL 24, 2011 AS NATIONAL CLEANING FOR A REASON WEEK**

Commissioner O'Bryan read and presented the Proclamation to Tom Heveron, CEO  
Beachland Cleaning.

##### **5.B. PRESENTATION OF PROCLAMATION DESIGNATING MAY 2011 AS CIGARETTE LITTER PREVENTION MONTH IN INDIAN RIVER COUNTY**

Commissioner Davis read and presented the Proclamation to Vicki Wild, Keep Indian  
River Beautiful (KIRB) program.

##### **5.C. PRESENTATION OF PROCLAMATION RECOGNIZING NATIONAL CORRECTIONAL OFFICERS WEEK**

Commissioner Flescher read and presented the Proclamation to Sheriff Deryl Loar,  
Captain Selby Strickland, and Corrections Deputies Jeff Ripple and Mark Douglas.

Sheriff Loar recognized Deputies Ripple and Douglas for their quick response during a  
recent incident with an inmate.

**5.D. PRESENTATION OF PROCLAMATION DESIGNATING THE WEEK OF MAY 2 THROUGH MAY 6, 2011 AS LAW WEEK**

Vice Chairman Wheeler read and presented the Proclamation to Attorney Jason Odom, Attorney, Gould, Cooksey, and Fennell, P.A., who accepted the Proclamation on behalf of the Indian River County Bar Association, and the Florida Bar Young Lawyers Division. He thereafter conveyed that there will be an “Ask a Lawyer Day”, provided by the Young Lawyer’s Division of the Indian River County Bar Association, on May 5, 2011 from 10:00 a.m. to 4:00 p.m. at the Courthouse, to answer legal questions from the community.

**5.E. PRESENTATION BY ROBERTA J. BARKER REGARDING OPERATION MEDICINE CABINET**

Roberta J. Barker presented the Board with an overview of Operation Medicine Cabinet, a pharmaceutical take-back program that helps keep medications out of the landfill and from being flushed down the toilet. The take-back program will receive pharmaceuticals on April 30<sup>th</sup>, 2011 from 10:00 a. m. to 2:00 p.m.

**6. APPROVAL OF MINUTES**

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

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

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Regular Meeting of March 15, 2011, as written.

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

**7.A. RESIGNATION OF THE CITY OF VERO BEACH APPOINTEE TO THE  
METROPOLITAN PLANNING ORGANIZATION CITIZENS ADVISORY  
COMMITTEE**

Noted for the record was the resignation of Charles L. Vogt, who submitted his resignation as the City of Vero Beach Appointee, contingent upon serving on the City of Vero Beach Planning and Zoning Council, to the Metropolitan Planning Organization Citizens Advisory Committee

**7.B. RESIGNATION OF THE TOWN OF ORCHID APPOINTEE TO THE  
METROPOLITAN PLANNING ORGANIZATION BICYCLE ADVISORY  
COMMITTEE**

Noted for the record was the resignation of George Sipp, who submitted his resignation as the Town of Orchid Representative to the Metropolitan Planning Organization Bicycle Advisory Committee

**8. CONSENT AGENDA**

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



**8.A. APPROVAL OF WARRANTS AND WIRES – APRIL 1, 2011 TO APRIL 7, 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 April 1, 2011 to April 7, 2011, as requested in the memorandum of April 7, 2011.

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

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Report of the Indian River County Traffic Education Program from the inception of the \$3 fee (October 1, 2002) through March 31, 2011, as recommended in the memorandum of April 11, 2011..

**8.C. MISCELLANEOUS BUDGET AMENDMENT 014**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-029**, amending the fiscal year 2010-2011 Budget.

**8.D. WATERSIDE SUBDIVISION, DEVELOPER: SUSSEX VERO, L.L.C.,  
ACCEPTANCE OF TEMPORARY EASEMENT FOR UTILITIES UNTIL  
PROPERTY IS PLATTED DEPICTING A PERPETUAL EASEMENT**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and accepted the temporary easement for utilities with Sussex Vero, L.L.C., until property is platted depicting a perpetual easement, and authorized the Chairman to execute same, as recommended in the memorandum of April 12, 2011.

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

**8.E. CR512 MAINTENANCE MEMORANDUM WITH CITY OF SEBASTIAN AND  
RESOLUTION AUTHORIZING THE CHAIRMAN'S SIGNATURE – LANDSCAPE  
IMPROVEMENTS TO THE INTERSECTIONS OF ROSELAND ROAD, BARBER  
STREET AND FLEMING STREET**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-030**, authorizing execution of a Maintenance Memorandum Agreement for landscape improvements to the intersections of Roseland Road, Barber Street and Fleming Street, with the City of Sebastian and providing for an effective date.

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

**8.F. F.D.O.T. LOCAL AGENCY PROGRAM (LAP) AGREEMENT – FPN No. 422914-1-58-01 AND RESOLUTION AUTHORIZING THE CHAIRMAN’S SIGNATURE – INDIAN RIVER BLVD/SR 656 (17<sup>TH</sup> STREET) INTERSECTION IMPROVEMENTS, IRC PROJECT No. 1024**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-031**, authorizing execution of a Local Agency Program Agreement for the construction of the northbound left turn lane on Indian River Boulevard at 17<sup>th</sup> Street intersection for realignment, with the State of Florida, Department of Transportation, and providing for an effective date.

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

**8.G. FINAL PAY TO MELVIN BUSH CONTRACTORS, INC. FOR CONSTRUCTION OF TWO 6” FORCE MAIN BORES ON 16<sup>TH</sup> STREET UNDER 66<sup>TH</sup> AVENUE, UCP No. 4053, WIP No. 472-169000-10510**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the total amount of construction services of \$15,569.40; and (2) Final Application for Payment No. 2 for a total amount of \$778.47. The payment of \$778.47 to Melvin Bush Contractors, Inc. will release the retainage and discharge, the County’s obligation to the Contractor, as recommended in the memorandum of April 8, 2011.

**8.H. APPROVAL OF CHANGE ORDER NO. 2 TO WORK ORDER NO. L-1 WITH G.  
K. ENVIRONMENTAL, INC. FOR EGRET MARSH REGIONAL STORMWATER  
PARK LANDSCAPING**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 2 (in its entirety) to Work Order No. L-1 with G. K. Environmental, Inc., for Egret Marsh Regional Stormwater Park landscaping, and authorized the Chairman to execute it on behalf of the County, as recommended in the memorandum of April 12, 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 - NONE**

### **12.B. EMERGENCY SERVICES - NONE**

### **12.C. GENERAL SERVICES - NONE**

### **12.D. HUMAN RESOURCES - NONE**

### **12.E. HUMAN SERVICES - NONE**

### **12.F. LEISURE SERVICES - NONE**

### **12.G. OFFICE OF MANAGEMENT AND BUDGET**

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

Management and Budget Director Jason Brown said that due to the current financial environment and real estate market, staff anticipates a reduction in the County's tax roll of five to ten percent for next fiscal year, and in an effort to avoid increasing the General Fund millage rate, the County would need to reduce expenditures by a similar amount. To meet this goal, he recommended the Board reduce the allocation for Children's Services agencies to \$600,000 for fiscal year 2011-2012.

There was a lengthy discussion regarding "setting the bar" for the workshops scheduled in July, Children's Services being the only charitable organization brought forward, why 13% is the recommended reduction for Children's Services, and the non-profit funding policy setting fixed amounts between non-profit funds and quasi non-profits.

Commissioner O'Bryan explained the process that the Children's Services Committee uses to determine the proper recommendations for funding.

**Kip Jacoby**, Grant Review Sub-Committee Chairman, provided history, clarified the reviewing process of the Grant Review Sub-Committee, and invited the Commissioners to join and observe the review process scheduled for June 3<sup>rd</sup> and 4<sup>th</sup>. He thereafter spoke about specific programs and their funding/investments.

Chairman Solari commended Mr. Jacoby for his involvement and valuable work with the Children's Services programs; however, he also expressed concern over other essential services that are required to maintain their budgets with reductions and burdens.

**Erin Graal** spoke about the important role of the Children's Services Committee, the administrative expense of the organization, revenue streams, staffing cuts, and the benefits of early childcare programs.

**Renee Renzi**, Waverly Place, sought and received information regarding funding for the Hibiscus Children's Village.

**Brad Bernauer**, Executive Director of Children's Services Funding, stressed the need for quality programs and making children a priority concern.

Commissioner O'Bryan stressed that he believed cuts have reached a point where further cuts could become counter-productive. He felt that after three years of cutting the County budget, and reducing staff, it may be time to consider using reserve funds.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Flescher, to use \$100,000 from the unassigned General Fund Reserves, for an appropriation total of \$700,000 to Children's Service agencies for fiscal year 2011-2012.

Discussion ensued regarding reduced funding; assessing the values of real estate before making a decision; setting policy and fiscal responsibility; taking money out of parents' pockets to give to the government to help other children; and cutting dollars now to save money in the future.

Administrator Baird disclosed that all Constitutionals, agencies, and departments were recently sent notification to cut their budgets by 5%. He thereafter aired concerns over the problems that would be created over the next few years if monies are pulled from the General Fund.

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

ON MOTION by Commissioner Flescher, SECONDED by Chairman Solari, the Board unanimously approved that Children's Service agencies be given reductions of 0%, 5%, and 10% in their budget for fiscal year 2011-2012.

*The Chairman called a break at 10:33 a.m., and reconvened the Meeting at 10:44 a.m., with all members present.*

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS**

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

County Coastal Engineer James Gray, Jr., using a PowerPoint presentation (on file), provided the weekly project construction, schedule, and extension update.

**12.J. UTILITIES SERVICES**

**12.J.1. WATER TANK MAINTENANCE PROGRAM RFP# 2007057 TANK ADDITION**

ON MOTION by Vice Chairman Wheeler , SECONDED by Commissioner Davis, the Board unanimously approved the addition to the contract with Utility Service Company, Perry, GA, for the maintenance of a new 3.0 MG storage tank at the Hobart water plant, for \$17,201.00, as recommended in the memorandum of March 28, 2011.

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

**12.J.2. PRESENTATION REGARDING THE CITY OF VERO BEACH UTILITIES AND INDIAN RIVER SHORES**

Director of Utility Services Erik Olson, using a PowerPoint presentation (on file), recapped his memorandum dated April 13, 2011. He presented the Board with background and analysis regarding the request to present a proposal to the Town of Indian River Shores (Town) for water and sewer service, and the request to consider the possibility of acquiring the City of Vero Beach (City) utility system. After providing comparisons of the City and Town utilities customer base, he spoke about the County's utility capacity; the County's current and projected



water/wastewater demand; the cost to connect the Town customers to the County utility system; the proposed franchise with the Town; and County's proposal of Countywide consolidation of utilities.

Director Olson recommended the Board: (1) direct staff to present to Indian River Shores, that the County serve them for the next 30 years as their franchise provider for water and sewer, with reuse being negotiated with the City in such a way to work out the details to provide the total volume that they require, and (2) provide a direction in such a way that we present to the City, a proposal to purchase their infrastructure for \$24 million±.

Director Olson acknowledged that City residents would pay County rates under the proposal, and the Board debated whether a unified rate structure would be best for the County.

Commissioner O'Bryan felt the best approach would be to offer the Town the three options that Director Olson presented (page 3 of his presentation), with Option 1 being the worst case scenario. He suggested staff go back to the Town after two years and reevaluate the intent of a better rate.

Director Olson reminded the Board that even if a decision is made by the Town during the Joint Meeting with the City and Town, on April 29<sup>th</sup>, the "turning on of the valve" would not take place until the year 2016, and the completion of the existing franchise.

The Board engaged in discussion regarding County receiving the AAA utility rating; inviting an auditor to attend the joint meeting with the City on April 29<sup>th</sup>, 2011; the Town paying the same County rates as the City under the proposed franchise; concerns over the \$109,000+ net revenues without surcharge, under Option 1; the significance of reuse water for the Town; and the new franchise agreement.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to propose to the Town of Indian River Shores that the County provide their water and wastewater services, with caveats, at the County rates, and with zero percent (0%) surcharge.

Commissioner Davis pointed out the significance of the Town being able to vote in or out of office, over the next 30 years, those individuals that can adjust their rates.

Vice Chairman Wheeler confirmed with staff that the aforesaid Motion would not have a negative impact on the current customer base.

**Bob Johnson** Coral Wind Subdivision, suggested that staff make this presentation to the citizens of the County. He sought and received information pertaining to the expansion creating a cost to County customers, and the Town's required date to respond to the City on whether they will renew their franchise agreement.

Director Brown and Administrator Baird explained that the financial analysis is based on the utility as a free standing issue, and that the proposed franchise agreement would likely apply a rate equalization charge of 6% that everyone would pay.

Commissioner O'Bryan said he would support the Motion if he knew what the exact costs and revenues would be.

The Chairman CALLED THE QUESTION and the Motion carried. The Board, by a vote of 4-1 (Commissioner O'Bryan opposed), approved to propose to the Town of Indian River Shores that the County provide their water and wastewater services, with caveats, at the County rates, and with zero percent (0%) surcharge.

### **13. COUNTY ATTORNEY MATTERS**

#### **13.A. VISTA GOLF, LLC – SETTLEMENT OF CODE ENFORCEMENT LIENS**

Attorney Polackwich provided background and analysis pertaining to the Vista Golf, LLC (Vista) settlement of Code Enforcement Liens, and recommended the Board approve the proposed settlement agreement whereby Vista would pay \$5,700 for the lien, \$7,900 for eleven mowings (including \$250 for administrative costs for each mowing), and keep the property in compliance. He noted that County would release the March 28<sup>th</sup> repeat violation order if the property is maintained for a period of nine months.

MOTION was made by Vice Chairman Wheeler,  
SECONDED by Commissioner O'Bryan, to approve  
staff's recommendation.

Attorney Polackwich addressed Board concerns over the code enforcement liens and the secured mortgage on the property should the violation order be released. He mentioned that by Vista entering into an agreement, under which they agreed to keep the property in compliance, the County now has two paths of remedies: one being code enforcement, and the other being enforcement of the contract. He also explained that if code enforcement liens are required in the future, they will be second to the existing mortgage.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved the proposed Settlement Agreement with Vista Golf, LLC, and authorized the Chairman to execute same, as recommended in the memorandum of April 12, 2011.

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

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

Attorney Polackwich reviewed his memorandum dated April 12, 2011, regarding the settlement offer of claim on the bid bond issued by the Guarantee Company of North America (GCNA), for the North Water Treatment Plant that H&D Construction Company posted when submitting their bid. He acknowledged that a counter offer of 50% of the bid bond, as requested by the Board on April 5, 2011, was made and a further counter offer for a settlement amount of \$42,500 was offered. He felt the increased offer was the best result of the settlement process, and recommended the Board accept the offer.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the counter offer in the amount of \$42,500.00, as recommended in the memorandum of April 12, 2011.

**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 - 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 12:17 p.m.

ATTEST:

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

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

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

BCC/LA/2011 Minutes