

JEFFREY K. BARTON  
Clerk to the Board



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**JEFFREY K. BARTON**

Clerk to the Board



**May 3, 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, May 3, 2011. Present were Chairman Bob Solari, Vice Chairman Gary C. Wheeler, and Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Maureen Gelfo.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Reverend Shelly Satran, Our Savior Lutheran Church, delivered the Invocation.

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

County Administrator Joseph A. Baird 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 13.C. - COUNTY ATTORNEY MATTERS: CONVEYANCE OF RIGHT-OF-WAY  
ALONG 37<sup>TH</sup> STREET BETWEEN 58<sup>TH</sup> AND 66<sup>TH</sup> AVENUES*

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 MAY 1 – 7, 2011 AS PUBLIC SERVICE RECOGNITION WEEK IN INDIAN RIVER COUNTY**

Chairman Solari read and presented the Proclamation to Director of Human Resources James Sexton and a representative group of senior employees who have worked for the County for 26 or more years. Commissioners Solari, Davis, Wheeler, Flescher, and O'Bryan individually acknowledged the dedication and hard work of the employees. County Administrator Joseph Baird added his thanks and spoke of his pride in the employees.

**5.B. PRESENTATION OF PROCLAMATION HONORING DANE WILSON FOR  
ATTAINING THE RANK OF EAGLE SCOUT**

Commissioner Flescher read and presented the Proclamation to Dane Wilson, who was accompanied by his mother, Diane Wilson, and his sister. The Commissioner also personally provided to Dane a plaque congratulating him for achieving the rank of Eagle Scout, and for his Eagle Community Service Project at Round Island Park.

**Eagle Scout Wilson** thanked Scoutmaster Mike Hollers, fellow scouts, and community volunteers who helped him make improvements at Round Island Park, and invited Commissioners to attend his Eagle Scout ceremony in June 2011.

Chairman Solari acknowledged Dane's contributions, and remarked on the positive impact that he and other upstanding young people would have upon the future of America.

**5.C. PRESENTATION OF PROCLAMATION HONORING LOUISE HUBBARD**

Chairman Solari read and presented the Proclamation to Louise Hubbard, Executive Director of the Treasure Coast Homeless Services Council, Inc., who accepted the honor on behalf of the individuals and partnering agencies (many of whom were present), who work on behalf of the Council.

**Dick Stark**, Council Chairman, read a statement about the work of the Council and acknowledged the contributions of Ms. Hubbard, Council members and staff, partner organizations, and donors. He also commended County staff and Commissioners for their role in the Council's success.

Commissioners Solari and Flescher praised Ms. Hubbard for her hard work, dedication, and service.

## **6. APPROVAL OF MINUTES**

### **6.A. REGULAR MEETING OF MARCH 22, 2011**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of March 22, 2011. There were none.

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Regular Meeting of March 22, 2011, as written.

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

### **7.A. MEMBER AT LARGE AND BUSINESS IN ENTERPRISE ZONE VACANCIES ON THE ENTERPRISE ZONE DEVELOPMENT AGENCY**

Noted for the record were vacancies on the Enterprise Zone Development Agency, for the following positions: (1) Member at Large; and (2) Business in the Enterprise Zone.

### **7.B. A LETTER OF APPRECIATION FOR CONTRIBUTION AND PARTICIPATION IN THE 2<sup>ND</sup> ANNUAL TREASURE COAST SHOPPING PARADE AND FOOD DRIVE**

Noted for the record was a letter from the Treasure and Space Coast Radio thanking the County for supporting and participating in the 2<sup>nd</sup> Annual Treasure Coast Shopping Cart Parade and Food Drive.



Commissioner O'Bryan thanked employees and citizens for filling two shopping carts. He also thanked Paul Klubek of the GoLine Bus System; Karen Diegl, President/CEO of the Senior Resource Association; and the wives of each County Commissioner for contributing to the event's success. He divulged that over 9,800 pounds of food was raised by participants Countywide and donated to the Harvest Food and Outreach Center.

## **8. CONSENT AGENDA**

Chairman Solari requested Item 8.H. be pulled for discussion.

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 APRIL 8, 2011 TO APRIL 14, 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 8, 2011 to April 14, 2011, as requested in the memorandum of April 14, 2011.

### **8.B. APPROVAL OF WARRANTS AND WIRES APRIL 15, 2011 TO APRIL 21, 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 15, 2011 to April 21, 2011, as requested in the memorandum of April 21, 2011.

**8.C. LAKESIDE CENTER DEVELOPMENT, LLC'S REQUEST FOR EXTENSION OF SITE PLAN APPROVAL FOR A 13 UNIT MULTI-FAMILY RESIDENTIAL AND COMMERCIAL PLAZA DEVELOPMENT TO BE KNOWN AS THE SHOPPES AND VILLAS OF LAKESIDE CENTER**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Lakeside Center Development LLC's request for a one-year extension of the conditional site plan approval for the Shoppes and Villas at Lakeside Center with all conditions to remain in effect. The new site plan approval expiration date will be March 26, 2012, all as stated and recommended in the memorandum of April 19, 2011.

**8.D. AMENDMENT No. 13 TO THE PROFESSIONAL SERVICES AGREEMENT WITH CARTER ASSOCIATES, INC. IRC PROJECT No. 9810, 66<sup>TH</sup> AVENUE PAVING IMPROVEMENTS (4<sup>TH</sup> STREET TO SR 60)**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute Amendment No. 13 to the Professional Engineering Service Agreement with Carter Associates, Inc., for a not-to-exceed amount of \$28,000.00, as outlined in the Scope of Services (Exhibit "A").

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

**8.E. ATTORNEY FOR IRC CODE ENFORCEMENT BOARD**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the hiring of Attorney David L. Hancock to represent the Code Enforcement Board, and authorized the Chairman to execute the Legal Services Agreement, as recommended in the memorandum of April 19, 2011.

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

**8.F. WILD TURKEY SAND MINE, AMENDMENT TO CASH DEPOSIT AND ESCROW AGREEMENT FOR RESTORATION**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to execute the Phase I Amendment to Cash Deposit and Escrow Agreement for Restoration Regarding Wild Turkey Sand Mine and, in accordance with said Amendment, to return \$16,156.84 to Wild Turkey Estates of Vero, LLC, as recommended in the memorandum of April 27, 2011.

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

**8.G. CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT FOR BRIDGE  
REPLACEMENTS AND WIDENING OF 66<sup>TH</sup> AVENUE FROM SOUTH OF SR60  
TO NORTH OF 57<sup>TH</sup> STREET, AMENDMENT No. 9**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute Amendment No. 9 to the Professional Engineering/Land Surveying Services Agreement with Arcadis US, Inc., for a total fee of \$91,392.50, as recommended in the memorandum of April 26, 2011.

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

**8.H. MISCELLANEOUS BUDGET AMENDMENT 015**

Chairman Solari expressed concerns about Item No. 2 of the Budget Amendment, pertaining to the Senior Resource Association's (SRA) request for an additional \$54,049 to care for all Adult Protective Service (APS) referrals. He acknowledged the value of the program, but remarked that it is a State mandate for which the County is being asked to contribute additional dollars in the middle of the fiscal year. He stated that he would use this as an example of an unfunded mandate in his upcoming discussions with Representative Debbie Mayfield.

Vice Chairman Wheeler felt that the County, not the State, should be making the rules, if it is paying for the services.

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

Commissioner Davis sought and received confirmation from Administrator Baird that this item would be included on the list of State mandates being compiled for future discussions with the Legislative Delegation.

Commissioner Flescher commended staff on Item 4 of the Budget Amendment, the replacement of two playground structures at Gifford Park.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board: (1) unanimously approved **Resolution 2011-032**, amending the Fiscal Year 2010-2011 Budget; and (2) ratified the Budget Amendment effective May 3, 2011.

**8.I. RE-AWARD OF BID NO. 2011028 DUE TO RESOLUTION OF BID PROTEST  
DEMOLITION OF THREE (3) CONDEMNED STRUCTURES**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved to: (1) rescind the previous bid to Cross Environmental Services, Inc.; and (2) re-award the bid to Redmarq Homes Ltd Co dba Redmarq Construction Services, in the amount of \$8,500.00, pertaining to the three condemned structures listed below, as recommended in the memorandum of April 25, 2011.

***8435 62<sup>nd</sup> Avenue, Vero Beach, Florida;***

***8715 103<sup>rd</sup> Avenue, Vero Beach, Florida;***

***12995 100<sup>th</sup> Place, Fellsmere, Florida.***

**8.J. APPROVAL OF EMERGENCY MANAGEMENT STATE FUNDED SUB-GRANT EXPENDITURES**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board, in order to continue providing a strong Emergency Management Program in the County, unanimously approved the Emergency Management State Funded Sub-Grant Expenditures, as recommended in the memorandum of April 25, 2011.

**8.K. PARTIAL RELEASE OF RETAINAGE FOR 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: (1) Alternative No. 1, the release of retainage for Task 1; parts 2.09, 2.10, 2.11, 2.12, and 2.13 of Task 2; and (2) Change Order No. 1 of Work Order No. L-1, both with G.K. Environmental, Inc., as recommended in the memorandum of April 18, 2011.

**8.L. OPEB TRUST REPORT FOR THE PERIOD 10/01/10 THROUGH 03/31/11**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the quarterly Other Post Employment Benefits (OPEB) Trust Report for the period October 01, 2010 through March 31, 2011, as recommended in the memorandum of April 25, 2011.

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

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Assessment of Additional Court Costs Quarterly Summary Report, for the quarter ending March 2011, as recommended in the memorandum of April 25, 2011.

**8.N. FLORIDA DEPARTMENT OF REVENUE - REVENUE SHARING APPLICATION FOR 2011-12**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to execute the Florida Department of Revenue – State Revenue Sharing application, as requested in the memorandum of April 25, 2011.

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

**8.O. INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE QUARTERLY  
INVESTMENT REPORT FOR THE QUARTER ENDING 03/31/2011**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Investment Advisory Committee Quarterly Report for January 1, 2011 through March 31, 2011, as recommended in the memorandum of April 25, 2011.

**8.P. WINDSOR PROPERTIES, INC.'S REQUEST FOR FINAL PLAT APPROVAL FOR  
A SUBDIVISION TO BE KNOWN AS WINDSOR BEACHSIDE PLAT 27**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for Windsor Beachside Plat 27, as recommended in the memorandum of April 27, 2011.

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

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARINGS - 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. CONDEMNATION, DEMOLITION AND REMOVAL OF UNSAFE STRUCTURES**

José Guanch, County Building official, recapped the memorandum of April 25, 2011, to provide a description of two unsafe structures located at 3770 69<sup>th</sup> Street and 1346 16<sup>th</sup> Avenue. He affirmed that the properties pose a public safety hazard, and asked the Board to approve their demolition and removal.

Commissioner Davis asked staff to include in future demolition requests, information on the current ownership of the property, so the County can determine the status of its lien.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) declared the subject structures unsafe and a nuisance, and ordered the buildings demolished with related debris removed from the property by a private vendor approved through standard bid procedures, as recommended in the memorandum of April 25, 2011; and (2) approved **Resolution 2011-033**, providing for the demolition of unsafe structures and the recovery of costs.

### **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. COUNTY MOVIE SHOWCASE PROGRAM AGREEMENT WITH CGI  
COMMUNICATIONS, INC.**

Management and Budget Director Jason Brown presented background information on the County Movie Showcase Program, sponsored by CGI Communications, Inc. (CGI), a member of the National Association of Counties (NACo). He explained that at no cost to the County, CGI would produce promotional videos for the County to use on its website and government access television channel. He noted that the program will be funded by advertising revenues, and that the County would have final say as far as the advertisers allowed on the website or TV channel.

Scott Johnson, Webmaster, explained that the County would have a link on its website to the videos, so the ads would not be directly on the County's website or server. He showed an example of videos from two Pennsylvania Counties (Montgomery and Dauphin) and invited questions from the Board.

Commissioner O'Bryan spoke in support of the program, noting that the County would receive an additional 5 minutes per month of video time for promoting local events.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Solari, the Board unanimously approved staff's recommendation.

Regarding the blocking or selection of particular advertisers, Attorney Polackwich cautioned the Board to be aware of First Amendment rights.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved the County Movie Showcase Program, and authorized the Chairman to execute an agreement with CGI Communications, Inc., as recommended in the memorandum of April 27, 2011.

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

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS**

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

Coastal Engineer James Gray, through a PowerPoint presentation (copy on file), provided a status update on the Sector 3 Beach Renourishment Project, describing the areas of completion and the portions of beach not yet completed. He informed the Board that as of April 30<sup>th</sup>, 2011, this year's activity has been halted because of sea turtle nesting season.

Commissioner O'Bryan mentioned that the Board had informed Ranger Construction of a possible breach of covenant because the contract had expired prior to the project's completion. He asked whether it would be necessary for the Board to take any other steps at this time.

Attorney Polackwich responded that this matter would need to be addressed in the near future; however, no action was needed at this time. He said the Board would need to decide whether or not to amend Ranger's contract with an extended completion date, and if so, under what terms.

**12.I.2. WORK ORDER NO. 11 (TASKS 5 – 9) COASTAL/TECHNOLOGY CORPORATION, INC., SECTOR 3 BEACH RESTORATION PROJECT, PHASE 1 AND PHASE 2 POST-CONSTRUCTION MONITORING SERVICES**

Coastal Engineer Gray outlined the information contained in his PowerPoint presentation (copy on file). He recalled that the Board had directed staff to review Work Order No. 11 to Coastal Technology Corporation, Inc. to see if cost reductions could be made, since the project would not be completed this season. He reported that after consulting with the Florida Department of Environmental Protection, staff had directed Coastal to eliminate post-construction monitoring services on the incomplete sections of Phase 2, thus reducing the cost of the original Work order by \$69,021. He thereafter presented staff's recommendation for Board approval of Tasks 5 – 9 of Work Order 11 to Coastal Technology Corporation, Inc., for a total cost of \$438,377.

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

**Bob Johnson**, Coral Wind Subdivision, asked if the County could request an exception to the sea turtle nesting season requirements on the unfinished segments of the beach that have no turtles.

Public Works Director Christopher Mora advised that the permitting agencies prohibit work on the beaches after May 1<sup>st</sup>.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board: (1) approved Tasks 5 – 9 of Work Order No. 11 in the amount of \$438,377 to the contract with Coastal Technology Corporation, Inc.; and (2) authorized the Chairman to execute Work Order No. 11, as recommended in the memorandum of April 25, 2011.

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

**12.I.3. WORK ORDER #18, APPLIED TECHNOLOGY AND MANAGEMENT INC.,  
SECTORS 1 & 2 BEACH RESTORATION, POST-CONSTRUCTION  
MONITORING (SUMMER 2011)**

Coastal Engineer Gray, through a PowerPoint presentation (copy on file), provided background description and conditions pertaining to staff's request for an extension to the master agreement with Applied Technology and Management, Inc. (ATM), the County's Coastal Engineering Consultant for the Beach Restoration Project Sectors 1 and 2. He thereafter conveyed staff's recommendation for Board approval of Work Order No. 18, in the amount of \$190,008, to Applied Technology and Management, Inc., for provision of services related to post-construction biological monitoring of the Sector 1 and 2 Projects.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute Work Order No. 18 to the contract with Applied Technology and Management, Inc., as recommended in the memorandum of April 25, 2011.

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

**12.J. UTILITIES SERVICES – NONE**

**13. COUNTY ATTORNEY MATTERS**

**13.A. RESOLUTION RELATING TO FLAVORED TOBACCO PRODUCTS**

County Attorney Alan S. Polackwich, Sr. relayed the request of the Substance Awareness Council (SAC) for the Board to adopt a Resolution encouraging retailers in the County not to sell flavored tobacco products targeting young people. He reported that he has amended the proposed Resolution provided by the SAC, and asked the Board to consider adoption of the draft Resolution.

Chairman Solari felt that the Resolution, which was geared towards education, rather than regulation, would increase public awareness of the dangers of flavored tobacco products to youth.

Commissioner Davis viewed the proposed Resolution as overregulation, since the sale of tobacco products to minors is already illegal.

A brief discussion ensued as Chairman Solari responded to Commissioner Davis's assertion that this matter should have come to the Board under County Attorney matters, rather than as a Commissioner's Item.

Vice Chairman Wheeler agreed with Commissioner Davis that the Resolution is government overreaching, reiterating that it is already illegal to sell cigarettes to minors. He also pointed out that he had learned from the Sheriff's Department, tobacco retailers, and School Resource Officers that regular tobacco use is more prevalent among young people.

Vice Chairman Wheeler and Commissioner Davis reiterated their arguments of opposition to the proposed Resolution relating to flavored tobacco products.

**Mary Burkins**, Substance Awareness Council, and Tobacco Free Partnership, said the intention of the Resolution was to educate tobacco retailers and urge them not to market the flavored products to young people. She said that the rate of smokeless tobacco use has increased, particularly in middle school students, and requested that the Board allow *Students Working Against Tobacco* to give a presentation to the Board.

The Board CONSENSUS was to allow *Students Working Against Tobacco* to provide a presentation at a future Board meeting.

Commissioner O'Bryan did not feel the Board could require retailers to stop marketing tobacco products, since it was legal to market them to the appropriate age group. He suggested that the Board revise the Resolution to have the Sheriff and Municipal Police Departments step up enforcement of the laws regulating illegal sales of tobacco/tobacco products to minors.

Chairman Solari suggested that the County Attorney re-draft the Resolution to focus on education and enforcement.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously directed the County Attorney to re-draft the Resolution to focus on education and enforcement with respect to illegal sales of tobacco to minors and the marketing of flavored tobacco products to youth in Indian River County.

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

Attorney Polackwich recalled that on February 1, 2011, the Board approved a Property Exchange Agreement in which the City of Vero Beach (the City) and the County would swap two properties at the Dodgertown Complex (A/K/A the Vero Beach Sports Village) with the City receiving the “Parking Property” and the County receiving the “Cloverleaf Property”. He disclosed that the ownership of a small parcel of land that would have provided an access easement from Aviation Boulevard to the Cloverleaf Property, was in question, and might not be included in the property exchange. He outlined alternate ways the County could access its property if the subject easement becomes unavailable. Referring to his memorandum of April 14, 2011, he outlined several changes to the closing documents, and asked whether the Board wished to approve the final closing of the property exchange transaction.

Responding to Commissioner O’Bryan’s question, Attorney Polackwich provided further alternatives regarding the County’s access to the Cloverleaf Property, should the access easement be unavailable to the County.

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously: (1) approved the final closing of the property exchange transaction with the City of Vero Beach; and (2) authorized the Chairman to execute all closing documents, as recommended in the memorandum of April 14, 2011; and (3) Approved **Resolution 2011-034**, giving prior consent to the development of the Cloverleaf Property for purposes other than the “permitted use” as set forth in the Collateral Development Agreement.



**13.C. ADDITION - RELEASE OF EASEMENT TO KENNETH AND PATRICIA HILL**

Deputy County Attorney William DeBral provided background pertaining to the County's June 2006 Developer Agreement with Vero Villages, LLC, wherein each party would pave a portion of 37<sup>th</sup> Street, with Vero Villages acquiring the necessary right-of-way and utility easements. He reported that certain property owners along the north side of 37<sup>th</sup> Street between 58<sup>th</sup> and 66<sup>th</sup> Avenues, including Kenneth and Patricia Hill, had erroneously conveyed an incorrect amount of property for the right-of-way and utility easements, and the County had unintentionally accepted them. He said that in order to clear title for the Hills' scheduled closing on May 5, 2011, the County needs to convey back to them their entire parcel, excluding the 10-foot right-of-way strip; and enact a Release of Easement, except for the 15-foot utility easement at the southern tip of the property. He thereafter confirmed staff's recommendation for the Board to approve the Corrective Deed and Release of Easement to the Hills, as well as the Resolution detailing the need for the corrective deed. He added that he had discovered another property where an incorrect conveyance was made to the County and would require correction.

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

Attorney Polackwich related that Attorney DeBral's prompt handling of this matter on very short notice had allowed the Hills to proceed with their closing.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved: (1) **Resolution 2011-035**, correcting right-of-way conveyances along 37<sup>th</sup> Street between 58<sup>th</sup> and 66<sup>th</sup> Avenues; and (2) authorized the Chairman to execute the corrective deed for Kenneth and Patricia Hill, as recommended in the memorandum of May 2, 2011.

**14. COMMISSIONER ITEMS**

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

**14.A.1. TRANSPARENCY**

Chairman Solari relayed that the *Sunshine Review* had recently given the County a grade of B- on the transparency of its website, and that the rating had increased to an A+ in less than one month. He congratulated staff for doing a great job on the website.

**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. CHINESE DRYWALL ORDINANCE**

Commissioner O'Bryan recalled that the County had temporarily waived base water and wastewater charges (Utility Base Charges) for residents whose homes became unlivable following the 2004 hurricanes. He proposed granting similar tax relief to citizens whose homes are currently unlivable due to Chinese drywall, through adoption of an Ordinance waiving the Utility Base Charges for six (6) months.

MOTION WAS MADE by Commissioner O'Bryan,  
SECONDED by Vice Chairman Wheeler, to adopt an  
Ordinance waiving the Base Utility Charge for a period of

six months, for homeowners who are unable to live in their homes due to Chinese drywall.

Administrator Baird agreed with temporarily waiving the fees, which he said would be paid by the County with revenues from the General Fund.

Attorney Polackwich recalled that after the 2004 hurricanes, a waiver had been enacted through County policy, not by Ordinance, and recommended the Board follow this process with the temporary waiver.

Commissioner O'Bryan agreed to Attorney Polackwich's suggestion.

MOTION WAS AMENDED by Commissioner O'Bryan, SECONDED by Commissioner Davis, to: (1) approve a policy waiving the Base Utility Charge for a period of six (6) months, for homeowners who are unable to live in their homes due to Chinese drywall; and (2) pay the subject fees out of the County's General Fund.

There being no further discourse, the Board took the following action:

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved: (1) a policy waiving the Base Utility Charge for a period of six (6) months, for homeowners who are unable to live in their homes due to Chinese drywall; and (2) to pay the subject fees out of the County's General Fund.

## **15. SPECIAL DISTRICTS AND BOARDS**

### **15.A. EMERGENCY SERVICES DISTRICT - NONE**

### **15.B. SOLID WASTE DISPOSAL DISTRICT**

The Chairman announced that immediately upon adjournment of the Regular Meeting, the Board would reconvene as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are being prepared separately.

#### **15.B.1. APPROVAL OF MINUTES MEETING OF FEBRUARY 15, 2011**

#### **15.B.2. APPROVAL OF MINUTES MEETING OF MARCH 8, 2011**

#### **15.B.3. REJECTION OF BIDS FOR BID NO. 2011026 AND AMENDMENT NO. 2 TO WORK ORDER NO. 9 TO CAMP DRESSER AND MCKEE FOR ENGINEERING SERVICES RELATED TO THE NEW OSLO CUSTOMER CONVENIENCE CENTER**

### **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 10:50 a.m.

ATTEST:

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

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

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

BCC/MG/2011Minutes