

JEFFREY K. BARTON
Clerk to the Board



INDEX TO MINUTES OF REGULAR MEETING

OF BOARD OF COUNTY COMMISSIONERS

JUNE 14, 2011

1.	CALL TO ORDER.....	1
2.	INVOCATION	1
3.	PLEDGE OF ALLEGIANCE	1
4.	ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS	2
	DELETION: ITEM 12.J.1. APPROVAL OF YONG’S MARKET UTILITY EASEMENT PURCHASE AGREEMENT	2
5.	PROCLAMATIONS AND PRESENTATIONS	2
5.A.	PRESENTATION BY REBECCA RICKEY ON “THIS PLACE MATTERS COMMUNITY CHALLENGE”	2
6.	APPROVAL OF MINUTES - NONE	3
7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION.....	3
7.A.	RESIGNATION OF THE OWNER/OPERATOR TOURIST ACCOMMODATIONS REPRESENTATIVE TO THE TOURIST DEVELOPMENT COUNCIL	3

8.	CONSENT AGENDA	3
8.A.	APPROVAL OF WARRANTS AND WIRES – MAY 27, 2011 TO JUNE 2, 2011	3
8.B.	EMPLOYMENT CONTRACTS – OFFICE OF INDIAN RIVER COUNTY ATTORNEY	4
8.C.	GRANTING OF UTILITY EASEMENTS TO THE CITY OF VERO BEACH FOR THE BOYS AND GIRLS CLUB	5
8.D.	BID # 2011040 INDIAN RIVER COUNTY DISASTER DEBRIS REMOVAL CONTRACT	5
8.E.	PUBLIC UTILITY EASEMENT FROM SASSON AND REGINA KASSAB	6
9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE	6
10.	PUBLIC ITEMS	6
10.A.	PUBLIC HEARING(S)	6
10.A.1.	COUNTY INITIATED REQUEST TO AMEND COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT POLICY 1.16 TO ALLOW UP TO 25% RECREATIONAL VEHICLE USE IN THE MOBILE HOME RENTAL PARK LAND USE CATEGORY FOR PARKS LESS THAN 20 ACRES IN SIZE (LEGISLATIVE)	6
10.B.	PUBLIC DISCUSSION ITEMS	8
10.B.1.	REQUEST TO SPEAK FROM FRANK ZORC REGARDING SAND REPLACEMENT PROJECTS	8
10.C.	PUBLIC NOTICE ITEMS	9
10.C.1.	NOTICE OF SCHEDULED PUBLIC HEARING JUNE 21, 2011: ST. AUGUSTINE OF CANTERBURY EPISCOPAL CHURCH’S REQUEST FOR SPECIAL EXCEPTION USE APPROVAL FOR A CHURCH FACILITY EXPANSION (QUASI-JUDICIAL).....	9
11.	COUNTY ADMINISTRATOR MATTERS - NONE.....	9
12.	DEPARTMENTAL MATTERS	9
12.A.	COMMUNITY DEVELOPMENT - NONE.....	9
12.B.	EMERGENCY SERVICES - NONE.....	9
12.C.	GENERAL SERVICES - NONE	9
12.D.	HUMAN RESOURCES - NONE	9
12.E.	HUMAN SERVICES - NONE	9
12.F.	LEISURE SERVICES - NONE	9

12.G.	OFFICE OF MANAGEMENT AND BUDGET - NONE	9
12.H.	RECREATION - NONE.....	9
12.I.	PUBLIC WORKS - NONE.....	10
12.J.	UTILITIES SERVICES.....	10
12.J.1.	APPROVAL OF YONG’S MARKET UTILITY EASEMENT PURCHASE AGREEMENT - DELETED	10
12.J.2.	AMENDMENT NO. 1 TO WORK ORDER NO. 9 – DESIGN, PERMITTING AND CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES FOR MASTER PLAN 12” WATER MAIN EXTENSION ON 53 RD STREET AND OLD DIXIE HWY., AND RESOLVE UTILITY CONFLICTS WITH PROPOSED 53 RD STREET AND OLD DIXIE HWY. PAVING AND DRAINAGE IMPROVEMENTS	10
13.	COUNTY ATTORNEY MATTERS.....	11
13.A.	DISCUSSION OF RESOLUTION 2009-004 RELATING TO EX PARTE COMMUNICATIONS IN QUASI-JUDICIAL PROCEEDINGS	11
13.B.	PAIN MANAGEMENT CLINIC ORDINANCE – NEW STATE LEGISLATION.....	12
14.	COMMISSIONER ITEMS.....	14
14.A.	COMMISSIONER BOB SOLARI, CHAIRMAN - NONE.....	14
14.B.	COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN - NONE	14
14.C.	COMMISSIONER WESLEY S. DAVIS - NONE.....	14
14.D.	COMMISSIONER JOSEPH E. FLESCHER - NONE	14
14.E.	COMMISSIONER PETER D. O’BRYAN - NONE	14
15.	SPECIAL DISTRICTS AND BOARDS	14
15.A.	EMERGENCY SERVICES DISTRICT - NONE.....	14
15.B.	SOLID WASTE DISPOSAL DISTRICT	14
15.B.1.	APPROVAL OF MINUTES MEETING OF MAY 3, 2011	15
15.B.2.	REQUEST TO PARTICIPATE IN THE “GREEN MARKET” AT INDIAN RIVER MALL	15
15.C.	ENVIRONMENTAL CONTROL BOARD - NONE.....	15
16.	ADJOURNMENT.....	15

JEFFREY K. BARTON

Clerk to the Board



June 14, 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 27th Street, Vero Beach, Florida, on Tuesday, June 14, 2011. Present were Chairman Bob Solari, Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan. Vice Chairman Gary C. Wheeler was absent. 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

Community Development Planning Director Stan Boling delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

County Administrator Baird 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 12.J.1. APPROVAL OF YONG'S MARKET UTILITY EASEMENT PURCHASE AGREEMENT

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Vice Chairman Wheeler absent) approved the Agenda as amended.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION BY REBECCA RICKEY ON "THIS PLACE MATTERS COMMUNITY CHALLENGE"

Rebecca Rickey, Executive Director of the Heritage Center, provided the Board with contest details for the historic preservation of the Heritage Center/Indian River Citrus Museum. She reported these buildings to be finalists in the "This Place Matters Community Challenge," where the top three contestants with the most votes will be awarded cash prizes of \$25,000, \$10,000 or \$5,000. She encouraged the Board and public to vote for the Vero Heritage, Inc. in the 2011 community challenge at www.veroheritage.org.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board by a 4-0 vote (Vice Chairman Wheeler absent) directed staff to send an e-mail to County employees, which will provide a link to the Vero Heritage website, to vote in the contest for the Vero Heritage, Inc.'s inclusion into the National Trust for Historic Preservation.

Administrator Baird said he did not foresee problems with the Board's direction, but would research it further.

6. APPROVAL OF MINUTES - NONE

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

**7.A. RESIGNATION OF THE OWNER/OPERATOR TOURIST ACCOMMODATIONS
REPRESENTATIVE TO THE TOURIST DEVELOPMENT COUNCIL**

Noted for the record was the resignation of Sheryl Koenes, Owner/Operator Tourist Accommodations Representative to the Tourist Development Council, effective June 10, 2011.

8. CONSENT AGENDA

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Vice Chairman Wheeler absent) approved the Consent Agenda, as presented.

8.A. APPROVAL OF WARRANTS AND WIRES – MAY 27, 2011 TO JUNE 2, 2011

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Vice Chairman Wheeler absent) approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of May 27, 2011 to June 2, 2011, as requested in the memorandum of June 2, 2011.

8.B. EMPLOYMENT CONTRACTS – OFFICE OF INDIAN RIVER COUNTY
ATTORNEY

(Clerk's Note: This item was addressed following the Solid Waste Disposal District Meeting and is placed here for continuity.)

Chairman Solari introduced Brooke W. Odom as the new Assistant County Attorney.

Assistant County Attorney Odom introduced herself and provided a brief background on her education.

County Attorney Alan S. Polackwich, Sr. explained the rigorous process involved in selecting Ms. Odom for the position. He also outlined the following changes made to their contracts:

- The Assistant County Attorney's contract was changed to read 30 days in lieu of 60 days under SECTION 9. TERMINATION, "This agreement may be terminated with or without cause by either party upon 30 days written notice delivered to the other party. At County Attorney's option, County may pay 30 days salary in lieu of notice." (page 14 of the Agenda Packet).
- The County Attorney's contract was changed to read under SECTION 8. TERMINATION, "Any accrued annual leave and sick leave will be paid in ~~full~~, accordance with the County Administrative Policy Manual, less regular deductions, in the event a contract is terminated or not renewed." (page 18 of the Agenda Packet).

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Vice Chairman Wheeler absent) approved the revised employment contracts for Assistant County Attorney

Brooke W. Odom, and County Attorney Alan S. Polackwich, Sr., as requested in the memorandum of June 6, 2011.

8.C. GRANTING OF UTILITY EASEMENTS TO THE CITY OF VERO BEACH FOR THE BOYS AND GIRLS CLUB

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Vice Chairman Wheeler absent) approved and authorized the Chairman to execute the Utility and Access Easement to the City of Vero Beach for service to the Boys and Girls Club property, as recommended in the memorandum of June 2, 2011.

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

8.D. BID # 2011040 INDIAN RIVER COUNTY DISASTER DEBRIS REMOVAL CONTRACT

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Vice Chairman Wheeler absent): (1) approved the Primary Contract Agreement with TAG Grinding Services, Inc.; (2) approved the Secondary Contract Agreement with Unified Recovery Group LLC; and (3) authorized the Chairman to execute both contracts, as recommended in the memorandum of June 8, 2011.

8.E. PUBLIC UTILITY EASEMENT FROM SASSON AND REGINA KASSAB

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Vice Chairman Wheeler absent): (1) approved the addition of natural gas as an allowable utility use in the County's existing easement; and (2) authorized the Chairman to execute the Public Utility Easement and the Consent and Joinder, as recommended in the memorandum of June 6, 2011.

EASEMENT 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)

**10.A.1. COUNTY INITIATED REQUEST TO AMEND COMPREHENSIVE PLAN
FUTURE LAND USE ELEMENT POLICY 1.16 TO ALLOW UP TO 25%
RECREATIONAL VEHICLE USE IN THE MOBILE HOME RENTAL PARK
LAND USE CATEGORY FOR PARKS LESS THAN 20 ACRES IN SIZE
(LEGISLATIVE)**

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

Community Development Director Bob Keating, using a PowerPoint Presentation (on file), recapped the memorandum dated May 31, 2011. He requested the Board approve a proposed amendment to the text of Policy 1.16 of the Comprehensive Plan's Future Land Use Element. This would allow a limited amount of recreational vehicle use (up to 25%) in Mobile Home Rental Parks (MHRP) that are designated as MHRP on the Future Land Use Map, and are also less than 20 acres in size. He provided background, explained the amendment process, and recommended the Board approve the request by approving the Ordinance.

Commissioner Flescher sought and received information pertaining to the process that a MHRP owner would use if they were to sub-divide their property.

The Chairman opened the Public Hearing.

Gwendolyn Ripp, Heron Cay, supported the amendment and commended the Board for recognizing the people affected by the change.

Brian Ellis, President of Tanglewood Village Co-op, Inc., supported the amendment and thanked the Board for their efforts and support.

There being no other speakers, the Chairman closed the Public Hearing.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Solari, the Board by a 3-1 vote (Commissioner Flescher opposed and Vice Chairman Wheeler absent) adopted **Ordinance 2011-005**, amending the Comprehensive Plan's Future Land Use Element Policy 1.16 to allow up to 25% recreational vehicle use in the mobile home rental park land use category for parks less than 20 acres in size; and providing codification, severability, and effective date.

Commissioner Flescher did not support the Motion based on the expressions of his constituents.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM FRANK ZORC REGARDING SAND REPLACEMENT PROJECTS

Frank Zorc, 1100 Ponce De Leon Circle, aired concerns over the costly and temporary aid of replacing sand on the beach, and requested that the Board consider a referendum on beach sand replacement projects. He believed a minority political control has prevented a County wide vote on this issue, and asked as a second choice, that the Board provide legal direction to submit a valid petition to provide a referendum vote.

Attorney Polackwich outlined the situation regarding the referendum and the County. He said he was not aware of a specific statute for holding a referendum in connection with beach renourishment.

At the request of Mr. Zorc, each Commissioner expressed his stance and personal view for not supporting a referendum.

NO BOARD ACTION REQUIRED OR TAKEN

10.C. PUBLIC NOTICE ITEMS

10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING JUNE 21, 2011: ST. AUGUSTINE OF CANTERBURY EPISCOPAL CHURCH'S REQUEST FOR SPECIAL EXCEPTION USE APPROVAL FOR A CHURCH FACILITY EXPANSION (QUASI-JUDICIAL)

Attorney Polackwich read the notice into the record.

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 - NONE

12.H. RECREATION - NONE

12.I. PUBLIC WORKS - NONE

12.J. UTILITIES SERVICES

12.J.1. APPROVAL OF YONG'S MARKET UTILITY EASEMENT PURCHASE AGREEMENT - DELETED

12.J.2. AMENDMENT NO. 1 TO WORK ORDER NO. 9 – DESIGN, PERMITTING AND CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES FOR MASTER PLAN 12” WATER MAIN EXTENSION ON 53RD STREET AND OLD DIXIE HWY., AND RESOLVE UTILITY CONFLICTS WITH PROPOSED 53RD STREET AND OLD DIXIE HWY. PAVING AND DRAINAGE IMPROVEMENTS

Capital Projects Manager Michael Hotchkiss provided an update on the project, justified the Amendment, and requested Board approval of Amendment No. 1 to Work Order No. 9 with Schulke, Bittle & Stoddard, L.L.C.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O’Bryan, the Board by a 4-0 vote (Vice Chairman Wheeler absent) approved and authorized the Chairman to execute Amendment No. 1 to Work Order No. 9 with Schulke, Bittle and Stoddard, L.L.C. with a total new contract amount of \$67,470.00 for engineering design, permitting and contract administration services, which includes a total new contract amount for contract administration services of \$24,000 associated with the 53rd Street 12” Master Plan Water Main Project and road improvement utility conflict relocations, as recommended in the memorandum of June 2, 2011.

The Commissioners commented on the strong progress of the project and the reuse line from Waterway Village to Lateral J Canal, and also over to US 1.

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

13. COUNTY ATTORNEY MATTERS

13.A. DISCUSSION OF RESOLUTION 2009-004 RELATING TO EX PARTE COMMUNICATIONS IN QUASI-JUDICIAL PROCEEDINGS

Attorney Polackwich provided background relating to the 1991 Florida Third District Court of Appeal decision, the 1995 Florida Legislature adoption of FS 286.0115, and the approval of Resolution 2009-004, all dealing with ex parte communications concerning quasi-judicial matters. He said there was nothing wrong with the written form requirement stated in the Resolution, but wondered if the Resolution should be revisited to eliminate the written form requirement, in which case disclosure would be made verbally at the start of the quasi-judicial proceedings; or whether he should bring the Board a revised Resolution that would remove the written form requirement and add some form of verbal disclosure.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner O'Bryan, to: (1) revisit the written form requirement of Resolution 2009-004, and (2) direct the County Attorney to prepare a revised Resolution that would eliminate the written form requirement and add a verbal disclosure requirement.

Commissioner O'Bryan referred back to the A-1 Walee hearing, and commented on how the written form requirement would have been extremely cumbersome and costly.

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Vice Chairman Wheeler absent) the Motion carried.

13.B. PAIN MANAGEMENT CLINIC ORDINANCE – NEW STATE LEGISLATION

Attorney Polackwich recapped his memorandum dated June 8, 2011, providing background and analysis on pain management clinics; the adoption of HB 7095 which requires pharmacies to register in a database unless they are specially certified for pain management; and the May 17, 2011 adoption of Ordinance No. 2011-004 relating to pain management clinics and the prescribing and dispensing of controlled substances. He said he was in the process of revising a proposed ordinance that would be consistent with State Legislation, but he requires a Board decision on whether pain clinics should be required to obtain a County permit to operate in this County, or whether they should be exempted. He described the purpose of the County permit, listed the alternatives, conveyed his personal views, and suggested (assuming physicians will use their skills in a legitimate and lawful manner) adopting a simplified and abbreviated permit application process for clinics owned and operated by certified pain specialists.

Detective Bill Starr, MACE Unit, Sheriff's Department, believed that all physicians should register. He supported the abbreviated permit application process.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner O'Bryan, to maintain the current (non-abbreviated) permitting process. (Later in this meeting this agenda item was tabled to a time certain and no further action was taken on this motion.)

The Board discussed the abbreviated and non-abbreviated (extended) permit application processes.

Dr. Harold Cordner, Florida Pain Management Associates, supported Attorney Polackwich's recommendation on continuing registration for all physicians and pain clinics, and made it clear that while the County has some regulation, the enforcement is handled by the Drug Enforcement Administration (DEA), and the inspections are operated mandatorily by the State. He felt the abbreviated permit process would serve the purpose of ensuring that everyone knows what clinics are operating, their locations, and who is operating them.

Discussion and debate ensued regarding the tracking and enforcement process, the physician registration, and the current application versus the proposed adjustments to the existing ordinance.

Commissioner O'Bryan and Commissioner Flescher felt the current process was working well and wanted to leave it in place; however, both were open to re-visiting it after one year.

Chairman Solari clarified the motion.

Commissioner O'Bryan recommended tabling this item, until Vice Chairman Wheeler could return to the Board and cast his vote.

MOTION WAS MADE by Commissioner O'Bryan,
SECONDED by Chairman Solari, to TABLE this item
until the July 12th, 2011 Board of County Commission
Meeting.

Chairman Solari requested the County Attorney provide both versions of the permit application process in the Backup Agenda Packet, inform the interested parties, and solicit their comments.

Attorney Polackwich said he would provide a Public Hearing Notice and proposed ordinance that would include a provision option for either an abbreviated or non-abbreviated application.

Commissioner Davis recommended moving forward with the Public Hearing and encouraged more involvement from the medical and law enforcement community to ensure that nothing is overlooked during the creation of the proposed Ordinance.

The Chairman CALLED THE QUESTION and by a 4-0 vote (Vice Chairman Wheeler absent), the Motion carried to TABLE this item until the July 12th, 2011 Board of County Commission Meeting.

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

The Chairman announced that immediately upon adjournment of the Regular Board of County Commission 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 MAY 3, 2011

15.B.2. REQUEST TO PARTICIPATE IN THE "GREEN MARKET" AT INDIAN RIVER MALL

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 10:34 a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Bob Solari, Chairman

Minutes Approved: _____

BCC/LA/2011 Minutes