

JEFFREY K. BARTON  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

JULY 19, 2011

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**JEFFREY K. BARTON**

Clerk to the Board



**July 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, July 19, 2011. Present were Chairman Bob Solari, Vice Chairman Gary C. Wheeler, and Commissioners Joseph E. Flescher, and Peter D. O'Bryan. Commissioner Wesley S. Davis 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**

Chaplain Kenneth Jones, VNA Hospice of Indian River County, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

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

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

Chairman Solari requested the following changes to the Agenda:

**DELETION: ITEM 8.H. WORK ORDER NO. 1 – KIMLEY-HORN AND ASSOCIATES, INC.**

**SEBASTIAN HARBOR PRESERVE, BOUNDARY SURVEY IRC PROJECT No. 0008-09**

**ADDITION: ITEM 11.B. DISCUSSION ON MINOR LEAGUE BASEBALL**

**ADDITION: ITEM 13.C. REQUEST TO POSTPONE CLOSING DATE FOR OLD FIRE STATION #9 IN**

**SEBASTIAN**

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

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

**5.A. PRESENTATION OF PROCLAMATION DESIGNATING JULY 18, 2011**

**THROUGH JULY 24, 2011 AS TREASURE COAST WATERWAY CLEANUP**

**WEEK IN INDIAN RIVER COUNTY**

Commissioner O'Bryan read and presented the Proclamation to Steve Haigis and Norman Ridgely. Mr. Haigis thanked the Board and announced that volunteers for cleanup can go to [www.waterwaycleanup.com](http://www.waterwaycleanup.com) for further information.

#### **6. APPROVAL OF MINUTES - NONE**

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

**7.A. 2011 ELECTION OF COMMUNITY DEVELOPMENT BLOCK GRANT CITIZENS  
ADVISORY TASK FORCE CHAIRMAN AND VICE CHAIRMAN**

Noted for the record was the re-election of Reverend William Mosley as Chairman, and Joe Idlette as Vice Chairman.

**8. CONSENT AGENDA**

Chairman Solari requested Item 8.I. be pulled from the Consent Agenda for discussion.

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

**8.A. APPROVAL OF WARRANTS AND WIRES – JULY 1, 2011 TO JULY 7, 2011**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Davis absent), approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of July 1, 2011 to July 7, 2011, as requested in the memorandum of July 7, 2011.

**8.B. ERRORS AND INSOLVENCIES REPORT FOR THE 2010 TAX ROLL**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Davis absent), approved the Errors and Insolvencies Report and the Daily Summary for the 2010 Tax Roll, as requested in the letter of July 12, 2011.

**8.C. OUT OF COUNTY TRAVEL TO ATTEND THE FLORIDA SHORE AND BEACH PRESERVATION ASSOCIATION 55<sup>TH</sup> ANNUAL CONFERENCE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Davis absent), approved out of County travel for Commissioners and staff to attend the Florida Shore and Beach Preservation Association 55<sup>th</sup> Annual Conference in Miami, Florida, from September 14, 2011 through September 16, 2011, as requested in the memorandum of July 12, 2011.

**8.D. TAX EQUITY AND FISCAL RESPONSIBILITY ACT (TEFRA) AUTHORIZATION TO ADVERTISE PUBLIC HEARING**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Davis absent), authorized advertising for a Tax Equity Fiscal Responsibility Act (TEFRA) Public Hearing to be held on September 13, 2011, at 9:00 a.m. or



as soon thereafter as the matter may be heard, as recommended in the memorandum of July 11, 2011.

**8.E. JOHN AND DONNA ECK'S REQUEST FOR A PARTIAL RELEASE OF EASEMENT AT 6210 109<sup>TH</sup> STREET (DALES LANDING SUBDIVISION)**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Davis absent), approved **Resolution 2011-049**, releasing a portion of an easement on Lot 3, Dales Landing Subdivision.

Note: This will release a portion of the side yard drainage and utility easement on Lot 3.

**8.F. INDIAN RIVER HABITAT FOR HUMANITY'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS GRACE WOODS WEST**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Davis absent), granted final plat approval for a subdivision to be known as Grace Woods West, as recommended in the memorandum of July 7, 2011.

**8.G. FEDERAL FISCAL YEAR 2011 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) APPROVAL OF DISTRIBUTION OF GRANT FUNDS**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Davis absent), approved the Substance Awareness Council Advisory Board's recommendations and authorized the Chairman to execute the letter approving distribution of the funds to the Multi-Agency Drug Enforcement Unit (M.A.C.E.), the Substance Awareness Council Drug Testing Program, and the Vero Beach Police Department, along with the grant applications and other necessary related documents for submittal to the Florida Department of Law Enforcement, Office of Criminal Justice Grants, prior to the deadline of Friday, July 29, 2011, all as recommended in the memorandum of July 12, 2011.

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

**8.H. WORK ORDER NO. 1 – KIMLEY-HORN AND ASSOCIATES, INC. SEBASTIAN HARBOR PRESERVE, BOUNDARY SURVEY IRC PROJECT NO. 0008-09 – DELETED**

Item deleted.

**8.I. REQUEST FOR USE OF HOLMAN STADIUM**

Assistant County Administrator Michael Zito informed the Board that the Indian River County Bar Association had requested the use of Holman Stadium at the Vero Beach Sports Village, for a charity softball event between local doctors and lawyers. He said that all requirements were in place except the receipt of an insurance certificate. He asked the Board to approve the use of the stadium, conditioned upon the receipt of the approved insurance certificate from Risk Management.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, the Board by a 4-0 vote (Commissioner Davis absent): (1) approved the Indian River County Holman Stadium Use Agreement with the caveat that staff receives the insurance certificate; (2) authorized the County Administrator to execute same; and (3) granted the User Group's request for waiver of the standard security deposit and deletion of the alcohol prohibition required under Section E of Exhibit 1 to the standard Stadium Use Agreement, as recommended in the memorandum of July 7, 2011.

AGREEMENT 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. REQUEST FOR AUTHORIZATION FOR THE UTILITY SERVICES DIRECTOR  
TO SUBMIT AN APPLICATION FOR A COMMUNITY DEVELOPMENT BLOCK  
GRANT IN THE NEIGHBORHOOD REVITALIZATION CATEGORY AND  
REQUEST FOR AUTHORIZATION TO PROCEED WITH CONSULTANT  
SELECTION PROCESS**

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

After providing a brief background, Director of Utility Services Erik Olson requested the Board: (1) hold the final Public Hearing and obtain public input on the Community Development Block Grant (CDBG) Application ; (2) approve the submittal of the application for the sewer installation and drainage improvements in the West Wabasso area; (3) approve the Resolution authorizing the Utility Director to submit the application and make minor modifications; and (4) authorize staff to submit a Request for Proposal (RFP) to select a consultant to administer the grant, if it is awarded.

The Chairman opened the Public Hearing. There being no speakers, the Chairman closed the Public Hearing.

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Flescher, the Board by a 4-0 vote (Commissioner Davis absent): (1) approved the proposed CDBG Application; (2) authorized the Department of Utility Services Director to issue an RFP to hire a consultant to administer the grant if the grant is awarded; and (3) approved **Resolution 2011-050** authorizing the Utility Services Director to submit an Application to the Florida Department of Community Affairs for a Neighborhood Revitalization Small Cities Community Development Block Grant for Federal Fiscal Year 2011, and to authorize the expenditure of the local firms (State Housing Initiatives Partnerships (SHIP)) on CDBG eligible activities as leverage for the 2011 CDBG Neighborhood Revitalization Application.

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM FRED MENSING REGARDING COUNTY**

**COMMISSIONERS HAVING OR NOT HAVING FULL TIME STAFF ASSISTANT,  
AND PERMIT & LICENSE ON 60' R/W PRIOR TO WORK BEING  
PERFORMED BY C. N. KIRRIE**

**Fred Mensing**, 7580 129<sup>th</sup> Street, decided not to discuss Commissioners having or not having a full time staff assistant, his first item, since the matter had been resolved.

**Mr. Mensing** proceeded to discuss his second topic. He detailed the history of events that led up to today's issues and concerns regarding a County-owned 60-foot right-of-way strip, and the work performed by C. N. Kirrie without first obtaining permits. He thereafter provided his rationale why staff should inform Mr. Kirrie to not do any improvements on the property,

except to mow, without first obtaining the required permits, and until the situation is resolved by the Courts.

Public Works Director Chris Mora presented photos depicting the right-of-way Mr. Mensing referenced, and the area where herbicide was sprayed to kill exotics and pepper trees. He clarified that citizens are allowed to maintain County-owned right-of-ways without obtaining a permit.

Discussion ensued between the Commissioners and staff regarding the removal of the dead vegetation; the County's difficulty in cleaning up the right-of-way property due to debris interspersed with exotics; and the liens against Mr. Mensing for property cleanup.

Director Mora felt the best solution to the situation would be to have the property owner clean up the property.

**Mr. Mensing** mentioned that this property is not contiguous to Mr. Kirrie's property, and that there are two active lawsuits against the County regarding the possession of the road, which he intends to pursue. He has no problem with the mowing of the right-of-way, but he does have concerns over someone removing material things from the property, especially since the matter is being contested.

County Attorney Alan Polackwich, Sr. confirmed that the County owns and maintains the property by reason of a 2008 Resolution. He also pointed out that Mr. Mensing had filed two lawsuits since 2010, and both were dismissed by the Courts.

Commissioner Flescher believed the County has the obligation to maintain the right-of-way, despite the pending litigation. He did not feel staff could/should prevent Mr. Kirrie from mowing and improving the right-of-way; and he suggested law enforcement oversee the maintenance and removal of debris from the right-of-way property.

Discussion further ensued regarding ingress and egress to the property, code enforcement violations, and the maintenance and responsibility of County right-of-ways.

Commissioner O'Bryan felt the Board should fulfill Mr. Mensing's request. He proposed sending a letter to Mr. Kirrie informing him not to do any mechanical work, herbiciding, digging, trenching, etc. on the right-of-way property; however, he can mow and pick up trash. He also pointed out that if Mr. Kirrie wants to do anything additional, he would need to obtain a County permit.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, to send a letter to Mr. Kirrie informing him that he is only authorized to do simple mowing and pick up trash, and any additional activity in the right-of-way would require a County permit.

Commissioner Flescher wished to see the right-of-way cleaned up, but not at the burden of Mr. Mensing.

Chairman Solari said he did not support the motion because he did not believe further discussion would resolve the dispute, nor the lawsuits that had been going on for many years.

Vice Chairman Wheeler WITHDREW his SECOND.  
MOTION DIED for lack of a SECOND.

Mr. Mensing reiterated his request and also voiced concern over a gate and fence that was removed from the property. In addition, he suggested making the road a one-way street to eliminate existing problems.

MOTION WAS MADE by Commissioner Flescher to direct staff to clean up and maintain the County right-of-way by removing the existing safety concerns over debris. MOTION DIED for lack of a SECOND.

No other motions were made.

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

**11. COUNTY ADMINISTRATOR MATTERS**

**11.A. REQUEST FOR CLARIFICATION 2010-2011 FLORIDA RETIREMENT SYSTEM SAVINGS**

County Administrator Joseph Baird sought clarification and direction on how the Board wanted him to handle the savings from the Florida Retirement System (FRS), from July 1<sup>st</sup> through September 30<sup>th</sup> of this fiscal year.

Discussion ensued with the Commissioners voicing their views, opinions, and preferences regarding the Sheriff's Budget.

Vice Chairman Wheeler wanted to see an accounting showing the numbers and where the money was spent.

Administrator Baird felt any left over money should be used to purchase the Sheriff's vehicles as long as they are considered the highest priority. He thought it would be best to bring this back to the Board in October for review.

Under discussion the Board expressed their support of the Sheriff's Budget, his flexibility to manage it, and the Sheriff keeping the FRS retirement savings for his capital.



Sheriff Loar informed the Board that about fifteen vehicles were ordered at the end of the second quarter, and that his office was in the process of paying for them through the dollars that were saved through the flexibility he was given from the Board in November.

Administrator Baird reiterated the Board's direction that the Constitutionals will return their Florida Retirement System (FRS) savings to the County, but the Sheriff will keep his FRS savings for capital, and after October an evaluation would be made to decide which vehicles would be paid for with the Optional One-Cent Sales tax.

### **11.B. DISCUSSION ON MINOR LEAGUE BASEBALL - ADDITION**

Administrator Baird informed the Board that after a group discussion with Minor League Baseball (MiLB) President Pat O'Connor, MiLB Vice President Craig Callan, County Attorney Alan Polackwich, Management and Budget Director Jason Brown, and Assistant County Administrator Michael Zito, there were concerns regarding pending issues (a property land swap with the City of Vero Beach, building youth baseball cloverleaf fields, and the possibility of Marlin Immell from Tower Sports LLC leasing the Vero Beach Sports Village). He conveyed that Mr. Immell did not want the cloverleaf fields; therefore, the project with Bill Bryant and Associates had been postponed. He said that MiLB had given the County two weeks to get the Agreement executed with the proposed tenant, and if the proposed tenant does not produce the money, they would still want the facility and the cloverleaf fields.

Attorney Polackwich reiterated and further clarified Administrator Baird's update. He said staff's primary consideration was to not spend \$2.5 million on the cloverleaf fields unless they are going to be used. He said that even though the land swap documents have been signed, he chose not to record them due to the uncertainty of the cloverleaf fields and Mr. Immell's proposal. If the proposed tenant (Mr. Immell) does not provide the funds, then staff will move forward with MiLB discussions. Attorney Polackwich conveyed that a Cash Escrow Agreement had been prepared and signed, but the money has not been funded. If it does get funded, the money will remain in escrow for 30 days while staff tries to finalize an Agreement. He asked the

Board to authorize the Administrator or Chairman to execute the Agreement on behalf of the Board.

In response to Commissioner O'Bryan's concerns, Attorney Polackwich informed the Board that Mr. O'Connor had agreed to send an e-mail confirming their agreement to wait two weeks before moving forward.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, the Board by a 4-0 vote (Commissioner Davis absent) authorized the Chairman and/or County Administrator to execute a Cash Escrow Agreement, with Mr. Immell, if/when the funds are deposited into the County's account.

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

## **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**

**12.H.1. AUTHORIZATION TO ISSUE REQUEST FOR QUALIFICATIONS FOR THE  
SOUTH COUNTY REGIONAL PARK MULTI-PURPOSE ATHLETIC FIELD  
EXPANSION PROJECT**

Assistant County Administrator Michael Zito, using a PowerPoint presentation (on file), provided description and analysis regarding the proposed \$1.5 million to design/build three multi-purpose athletic fields to accommodate youth football, soccer, and lacrosse groups, as well as a walking trail at South County Regional Park. He pointed out that staff would later examine the need for lighting, fencing, bleachers, parking, restroom, and concessions. He recommended the Board authorize staff to issue a Request for Qualifications (RFQ) to begin the project, and additionally stated that the funding source would be from impact fees in the Parks and Recreation impact fee account, not from taxpayers.

Discussion ensued regarding the projected total cost of the project, the anticipated maintenance of the fields, and public facility enhancements.

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

Attorney Polackwich emphasized that since the funding for the project needs to come from impact fees, there is a legal requirement for the Board to determine that this project is necessary to accommodate new growth in the County.

**Bob Johnson**, Coral Wind Subdivision, questioned whether there would be sufficient space for the proposed Boys and Girls Club gymnasium after the fields are built. Administrator Baird and Assistant Administrator Zito assured him there would be.

**Steven Deardeuff**, 21<sup>st</sup> Court, Vero Beach, stressed how impact fees relate to the level of service. He listed his reasons why he did not feel staff was increasing capacity, and cautioned the Board not to misuse impact fees.

**Renee Renzi**, Waverly Place, wanted to know if the pressure has eased for adding a skateboard park. Assistant Administrator Zito indicated there had not been recent interest.

**Charles Wilson**, 1057 6<sup>th</sup> Avenue, Vero Beach, emphasized that the use of impact fees are very specific as to how they relate to the level of service, and how they should be used. He voiced concern over proposed expenditures, the appropriation of impact fees, and thereafter urged the Board to be careful with impact fee restrictions.

Administrator Baird clarified the funding for the project.

Attorney Polackwich said he felt comfortable with staff's recommendation and the Board's decision that improvements are necessary to accommodate new growth.

**Penny Chandler**, President of the Indian River Chamber of Commerce, spoke in support of staff's recommendation for the multi-purpose fields since there is an increased demand for youth sports.

**Brian Connelly**, 3010 Nassau Drive, Vero Beach, supported the multi-purpose athletic field expansion project.

**Mike Swan**, 1280 Indian Mound Trail, Vero Beach, supported the project; felt Lacrosse, football, and soccer teams would use the fields; and believed there is evidence that building these amenities would add to the quality of life and attract economic growth.

Attorney Polackwich clarified that the promotion of economic growth is not an impact fee issue, this needs to be constructed to accommodate the new growth in the County.

**Todd Heckman**, 2096 Windward Way, Vero Beach, supported the construction project.

Chairman Solari recapped the Motion, noting that the Motion includes the finding that the multi-purpose fields are necessary to provide the recreation opportunities caused by community growth.

Commission O'Bryan reported that the 2010 Census numbers in District 4 (where the fields would be located) have exceeded the average growth in the County, which provides new infrastructure to accommodate the growth.

The Chairman CALLED THE QUESTION and the Motion carried. The Board by a 4-0 vote (Commissioner Davis absent), authorized the issuance of a Request for Qualifications (RFQ) to design/build three (3) multi-purpose athletic fields and walking trail at South County Regional Park, as recommended in the memorandum of July 8, 2011.

*The Chairman called a break at 10:59 a.m., and reconvened the meeting at 11:10 a.m., with all members present.*

**12.I. PUBLIC WORKS – NONE**

**12.J. UTILITIES SERVICES - NONE**

**13. COUNTY ATTORNEY MATTERS**

**13.A. OUTSIDE LEGAL EXPENSES IN FVP MIAMI LAKES LLC v. INDIAN RIVER COUNTY**

County Attorney Polackwich provided an update on the legal fees and expenses incurred by the local firm of Murphy and Walker, to defend the County in the impact fee refund case. He relayed to the Commissioners that staff had received the first bill for services, for the time period of May 9, 2011 through June 28, 2011, in the total amount of \$3,591.00.

No action required or taken.

**13.B. HIRING OF SPECIAL UTILITY COUNSEL (INCLUDING APPRAISAL SERVICES) RELATING TO POSSIBLE ACQUISITION OF CITY OF VERO BEACH WATER/SEWER SYSTEM**

Attorney Polackwich provided a brief history on the possible acquisition and regionalization of the City of Vero Beach's water and sewer system. He informed the Board that the City Council had authorized the hiring of a combined law firm and evaluation team (Thomas Cloud of the law firm of Gray Robinson, and Gerry Hartman of GAI Consultants) to explore possible regionalization. Attorney Polackwich felt that if the County does not have expertise, staff would not be able to challenge the expected high evaluation; therefore, he suggested hiring the law firm of Nabors, Giblin, and Nickerson, P.A., who will hire the appraisal/valuation firm of Raftelis Financial Consultants. He said the Nabors law firm capped their total combined fees at \$50,000 without further Board approval. He requested Board approval to hire said combination

firms to assist in moving forward with the possible regionalization of water and sewer, and to analyze the evaluation results from the City's consultant.

Commissioners Wheeler and Solari commented on objectivity and evaluation.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 4-0 vote (Commissioner Davis absent) approved the proposed engagement letter which will be delivered to Board members as soon as it is received from the Nabors Law Firm, as recommended in the memorandum of July 12, 2011.

**Bob Johnson**, Coral Wind Subdivision, questioned how the appraisal/evaluation firms would be paid.

Chairman Solari informed Mr. Johnson that the funds would come from the Utility Enterprise Fund.

**13.C. REQUEST TO POSTPONE CLOSING DATE FOR OLD FIRE STATION #9 IN SEBASTIAN - ADDITION**

Deputy County Attorney William DeBraal provided background on the former Fire Rescue Station No. 9 surplus property and the auction that was held on June 20, 2011. He conveyed that the winning bidder was Richard Peacock, with a bid of \$160,000. He said the County is ready to close; however; during the closing proceedings it was discovered that Mr. Peacock was in a reorganization bankruptcy, and needs to obtain permission from the Bankruptcy Court in order to proceed with the closing. He indicated that after staff spoke to the Bankruptcy Attorney, they saw no reason why the Court would not approve of the sale. He also

revealed that Mr. Peacock was satisfied with every condition set forth by the Board, but requested an extension of September 15, 2011.

MOTION WAS MADE by Commissioner Flescher,  
SECONDED by Vice Chairman Wheeler, to approve  
staff's recommendation.

Attorney Polackwich pointed out that this bankruptcy procedure is not a liquidation, but rather a reorganization where a plan for payment is established.

The Chairman CALLED THE QUESTION and the Motion carried. The Board by a 4-0 vote (Commissioner Davis absent) approved the requested extension and set a new closing date with Mr. Peacock for Old Fire Station No. 9 in Sebastian, for September 15, 2011, as recommended in memorandum of July 15, 2011.

## **14. COMMISSIONER ITEMS**

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

#### **14.A.1. SUNSHINE**

Chairman Solari read a sentence from a memorandum he received from the acting City Attorney of the City of Vero Beach (on file) regarding individual discussions between a County Commissioner and a City Councilmember pertaining to water/sewer issues. Chairman Solari said he was informed by the County Attorney through a memorandum (on file) that the discussion between a City Councilmember and a County Commissioner regarding water/sewer issues would not violate the Sunshine Law.



Attorney Polackwich announced that he had received a memorandum yesterday, from the acting City Attorney, recommending the City Council take a cautious approach, avoid the appearance of any impropriety and the potential for a Sunshine Law violation. The City Attorney also mentioned in his memorandum that there is not a prohibition against discussions between one Councilmember and a Commissioner. Attorney Polackwich reiterated that if a Councilmember wishes to speak with a County Commissioner about water/sewer issues, it is not a violation of the Sunshine Law.

**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**

The Chairman announced that immediately upon adjournment, the Board would reconvene as the Board of Commissioners of the Emergency Services District. Those Minutes are being prepared separately.

**15.A.1. APPROVAL OF MINUTES MEETING OF MAY 17, 2011**

**15.A.2. APPROVAL OF SELECTION COMMITTEE'S RANKINGS FOR  
DESIGN/BUILD SERVICES**

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

The Chairman announced that immediately upon adjournment of the Emergency Services District 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. FINAL PAY FOR WORK ORDER NO. 9, AMENDMENT 2 TO GEOSYNTEC  
FOR BORROW POND CUP COMPLIANCE MONITORING**

**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 11:28 a.m.

ATTEST:

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

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

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

BCC/LA/2011 Minutes