

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF OCTOBER 4, 2011

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JEFFREY K. BARTON

Clerk to the Board



October 4, 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, October 4, 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 Tom Harris, First Presbyterian Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Peter D. O'Bryan led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman Solari requested the following changes to today's Agenda:

DELETE: ITEM 5.A. PRESENTATION OF PROCLAMATION AND RETIREMENT AWARD TO WAYNE SCHASANE ON HIS RETIREMENT FOR THIRTY-SEVEN YEARS OF SERVICE IN THE DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE

DELETE: ITEM 8.I. APPROVAL OF BID AWARD FOR IRC BID NO. 2012008 ANNUAL BID FOR ELEVATOR MAINTENANCE

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. DELETED: PRESENTATION OF PROCLAMATION AND RETIREMENT AWARD TO WAYNE SCHASANE ON HIS RETIREMENT FOR THIRTY-SEVEN YEARS OF SERVICE IN THE DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE

5.B. RECOGNITION OF FLORIDA SHORE AND BEACH PRESERVATION ASSOCIATION PRIVATE CITIZEN AWARD PRESENTED TO RALPH W. SEXTON

County Administrator Joseph Baird recognized Ralph W. Sexton on over fifty years of involvement with beach preservation and commended him on his receipt of the State's Lifetime Achievement Award.

5.C. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF OCTOBER AS LONG-TERM CARE RESIDENTS' RIGHTS MONTH IN INDIAN RIVER COUNTY

Commissioner Davis read and presented the Proclamation to Kevin McKeown, District Ombudsman Manager, Treasure Coast Long-Term Care Ombudsmen Program (LTCOP).

5.D. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF OCTOBER 2011 AS INTERNATIONAL WALK TO SCHOOL MONTH

Vice Chairman Wheeler read and presented the Proclamation to Miranda Swanson, County Health Department. Ms. Swanson recognized Phil Matson, Metropolitan Planning Organization Staff Director, and the "Safe Routes to School" team, Andy Sobczak, Senior Planner; Tina Zayas, Health Department; and Darlene Burton, State Department of Health, for their assistance with the Walk to School program. A flyer (copy on file) regarding Walk to School Day on October 5, 2011 was provided to the Board.

5.E. PRESENTATION OF PROCLAMATION DESIGNATING OCTOBER 2 – OCTOBER 8, 2011 AS INDIAN RIVER COUNTY LITERACY WEEK

Chairman Solari read and presented the Proclamation to Sam Bristol, who was accompanied by his family and his tutor, Merry Parent. Mrs. Parent provided information on Literary Services of Indian River County.

5.F. PRESENTATION OF PROCLAMATION HONORING ROGER VAN DYKE AND THE INDIAN RIVER GOLF FOUNDATION

Chairman Solari read and presented the Proclamation to Roger Van Dyke, who provided an overview of the Indian River Golf Foundation and the 2011 Futures Pro-Am Golf Tournament to be held on October 8, 2011.

5.G. PRESENTATION BY TOBY TURNER, GENERAL MANAGER, FIREFIGHTERS' FAIR, REGARDING THE 2011 FIREFIGHTERS' INDIAN RIVER COUNTY FAIR

Firefighter Toby Turner, General Manager Firefighters Fair; and Board Member of Florida Federation of Fairs, played a videotape highlighting Florida's fairs and livestock programs. He thereafter provided an overview of the County Fair and improvements that have been made to the Fairgrounds. In recognition of the Parks Division's upkeep of the Fairgrounds, he presented a certificate of appreciation to Superintendent of the County's Parks Division, David Fleetwood. Mr. Turner also presented to the Board, a facsimile of an \$18,961 check to the County for Fairgrounds improvements.

Lindsey Adams, Extension Agent, described 4-H programs and activities.

Joe Earman, President, Vero Beach Firefighters Association, discussed ways in which the Fair benefits the entire community.

5.H. PRESENTATION BY CHUCK AND KAREN MECHLING ON THE POINTE WEST/COUNTY COOPERATIVE PROGRAM “SCREEN ON THE GREEN”

Chuck Mechling, Pointe West, showed a slide depicting a “Screen on the Green” event. He told Board members this was the ninth year of the event and recognized Recreation Department Director Michael Zito; Assistant Director Mike Redstone; and Recreation Coordinator Scott Seeley, for assisting with the screenings. Karen Mechling distributed tickets to the Commissioners, although she noted that the event was free.

6. APPROVAL OF MINUTES - NONE

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

7.A. RESIGNATION OF DISTRICT 1 REPRESENTATIVE TO THE PLANNING & ZONING COMMISSION

Noted for the record was the resignation of Donna A. Keys, effective December 31, 2011.

7.B. RESIGNATION OF APPOINTEE, DISTRICT 2 TO THE BOARD OF ZONING ADJUSTMENTS

Noted for the record was the resignation of Wayne R. Coment, District 2 Appointee, effective August 31, 2011.

8. CONSENT AGENDA

Chairman Solari requested Item 8.Q. 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 SEPTEMBER 16, 2011 TO SEPTEMBER 22, 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 September 16, 2011 to September 22, 2011, as requested in the memorandum of September 22, 2011.

8.B. APPROVAL OF WARRANTS AND WIRES SEPTEMBER 9, 2011 TO SEPTEMBER 15, 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 September 9, 2011 to September 15, 2011, as requested in the memorandum of September 15, 2011.

8.C. COUNTY CAPITAL ASSET INVENTORIES

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the list of capital assets for deletion from the County inventory system, as recommended in the memorandum of September 27, 2011.

8.D. RESOLUTION CANCELLING TAXES ON PROPERTY ACQUIRED BY THE CITY OF FELLSMERE FOR USE IN CONJUNCTION WITH ADJACENT WATER TREATMENT PLANT

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-089**, cancelling certain taxes upon publicly owned lands, pursuant to section 196.28, Florida Statutes.

Acquired from Bettye N. Galbraith

8.E. AUTHORIZATION TO ATTEND FLORIDA GOVERNMENT FINANCE OFFICERS ASSOCIATION 2011 SCHOOL OF GOVERNMENTAL FINANCE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously authorized the County Administrator to attend the 2011 Florida Government Finance Officers Association School of Governmental Finance, St. Augustine, Florida, October 31 to November 4, 2011, as recommended in the memorandum of September 26, 2011.

8.F. APPROVAL OF BID EXTENSION FOR IRC BID NO. 7044 ANNUAL BID FOR FIBER OPTIC NETWORK CABLING

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved the extension of Bid No. 7011 for a period not-to-exceed October 1, 2011 through December 31, 2011, with Precision Contracting Services, Inc., under the same terms, conditions and pricing as included in the original award; and (2) authorized the Purchasing Division to issue blanket purchase orders as needed, as recommended in the memorandum of September 26, 2011.

8.G. APPROVAL OF BID AWARD FOR IRC BID NO. 2012006 ANNUAL BID FOR DAY LABOR SERVICES, PUBLIC WORKS DEPARTMENT / ROAD AND BRIDGE DIVISION

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the bid as a dual award to MDT Personnel, LLC, as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2011 through September 30, 2012 with the recommended bidder; and (3) authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, vendor acceptance, and the determination that renewal of this annual bid is in the best

interest of Indian River County, as recommended in the memorandum of September 22, 2011.

8.H. APPROVAL OF BID AWARD FOR IRC BID NO. 2012007 ANNUAL BID FOR SOD, PUBLIC WORKS DEPARTMENT / ROAD AND BRIDGE DIVISION

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved: (1) awarding the bid as a dual award to Ag-Scape Services, Inc., as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2011 through September 30, 2012 with the recommended bidder; and (3) authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of Indian River County, as recommended in the memorandum of September 22, 2011.

8.I. DELETED: APPROVAL OF BID AWARD FOR IRC BID NO. 2012008 ANNUAL BID FOR ELEVATOR MAINTENANCE

8.J. APPROVAL OF RENEWAL FOR A CLASS “B” AND “E” CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR WE CARE OF THE TREASURE COAST INC. TO PROVIDE WHEELCHAIR/STRETCHER SERVICES

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved renewal of the Class “B” and “E” Certificate of Public Convenience and Necessity for We Care of the Treasure Coast, Inc., to be effective for a period of two (2) years from October 15, 2011 through October 15, 2013, as recommended in the memorandum of September 14, 2011.

8.K. FLORIDA DEPARTMENT OF LAW ENFORCEMENT FY 2011/2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the Certificate of Acceptance of Subgrant Award for the Indian River County Substance Awareness Drug Testing Program Grant in the amount of \$22,426; and (2) the agreement between the Board of County Commissioners and the Substance Awareness Council of Indian River County, as recommended in the memorandum of September 26, 2011.

8.L. PROPERTY ACCESS AGREEMENT TO CITY OF FELLSMERE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Indian River County Board of County Commissioners, acting in its capacity as the governing body of the Indian River County Solid Waste Disposal District, approved and authorized the Chairman to execute the Permission to Enter Property form with the City of Fellsmere, as recommended in the memorandum of September 26, 2011.

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

8.M. VICTOR A. MASCITELLI AND MADONNA SMITH'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS WILD WIND SUBDIVISION

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for the Wild Wind Subdivision, as recommended in the memorandum of September 19, 2011.

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

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for Windsor Beachside Plat 27 Phase

II, as recommended in the memorandum of September 13, 2011.

8.O. REQUEST FOR APPROVAL TO ENTER INTO A PUBLIC TRANSPORTATION SUPPLEMENTAL JOINT PARTICIPATION AGREEMENT (SJPA) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR SERVICE TO THE INDIAN RIVER STATE COLLEGE MAIN CAMPUS (FORT PIERCE)

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Resolution **2011-090**, authorizing the execution of a Public Transportation Supplemental Joint Participation Agreement with the Florida Department of Transportation.

8.P. REQUEST FOR APPROVAL TO ENTER INTO A PUBLIC TRANSPORTATION JOINT PARTICIPATION AGREEMENT (JPA) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR TRANSIT FUNDING

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-091**, authorizing the execution of a Public Transportation Joint Participation Agreement with the Florida Department of Transportation.

8.Q. LEASE EXTENSION, 6855 66TH AVENUE, VERO BEACH, FL, 66TH AVENUE
PROJECT #0370, OWNER: INDIAN RIVER COUNTY. TENANT: JOHN A.
JACKSON, JR.

Chairman Solari recalled that in May 2009, the Board adopted a policy stating that a property owner leasing back his/her former property after the County's acquisition of same, should pay fair market value rental rates after the initial two-year leaseback period. He asked why, in light of that policy, staff's recommendation was to extend Mr. Jackson's lease at the rate of \$1.00 per month, the original rate in the purchase agreement when the County acquired the parcel in March 2009.

Public Works Director Christopher Mora explained that the lease had been approved prior to the Board's adopting the fair market value policy, and that in mediation sessions Mr. Jackson understood that his rent would be \$1.00 per month for two years, or until 60 days after the County bids the project. Director Mora noted that the project had not come to fruition in the time frame originally anticipated and was still delayed; thus Mr. Jackson could continue leasing the property. He noted that Mr. Jackson is taking good care of the property.

Chairman Solari did not sanction the County continuing to lease the property for \$1.00 per month; however, he acknowledged that Mr. Jackson's rental amount should be reduced and not based on fair market value.

MOTION WAS MADE by Commissioner Davis to approve staff's recommendation. Motion DIED for lack of a second.

Commissioner Flescher supported having the rental rate coincide more with the fair market value.

Attorney Polackwich provided legal opinion that the Board was free to negotiate with Mr. Jackson to determine an appropriate rental rate.

Commissioner Davis wanted to continue renting to Mr. Jackson at \$1.00 per month, pointing out that the County had acquired the property through eminent domain. He stressed that the lease had been agreed to before the Board established the fair market value policy.

Vice Chairman Wheeler did not see the County being held to the \$1.00 per month rental fee.

MOTION WAS MADE by Vice Chairman Wheeler, SECONDED by Commissioner O'Bryan, to direct staff to offer the monthly rental rate of \$850.00 to John A. Jackson, Jr. for leaseback of the property at 6855 66th Avenue.

Commissioner O'Bryan asked whether the Board wished to have the lease commence from the current lease expiration date of March 31, 2011 or from October 1, 2011.

Chairman Solari stated that staff could negotiate with Mr. Jackson to arrive at a reasonable rental rate.

Vice Chairman Wheeler suggested that staff return to the Board in two weeks with a proposed rental rate for Mr. Jackson's lease extension.

MOTION WAS AMENDED by Vice Chairman Wheeler, SECONDED by Commissioner O'Bryan, to direct staff to return in two weeks with a proposed rental amount for the Lease Renewal Agreement with John A. Jackson, Jr., with

the rent to be paid on an annual basis retroactive from October 1, 2011.

Director Mora, with input from Assistant County Administrator Michael Zito, responded to questions from the Board on how the road project would affect the Jackson property.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner Davis opposed), the AMENDED Motion carried. The Board directed staff to return in two weeks with a proposed rental amount for the Lease Renewal Agreement with John A. Jackson, Jr., with the rent to be paid on an annual basis retroactive from October 1, 2011.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES – NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS

10.A.1. PROPOSED ORDINANCE “THE INDIAN RIVER COUNTY SECONDARY METALS RECYCLERS” (LEGISLATIVE)

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

Assistant County Attorney Brooke Odom reported that Chapter 538, Florida Statutes regulates secondary metals recyclers; however, in light of increased criminal activity relating to the sale of stolen metals, the County Attorney’s office has drafted a proposed ordinance creating

Chapter 316, placing additional regulations on secondary metals recyclers. She explained that with regards to certain regulated metals (*outlined in Subsection 2 of Section 316.04 of the draft Ordinance on pages 146 & 147 of the Agenda Packet*), secondary metals recyclers would be required to: (1) Request reasonable proof of ownership from the vendors of the metal/s; (2) Discontinue cash transactions; and (3) Notify the Sheriff's office within 24 hours of a purchase or attempted purchase transaction. She thereafter presented staff's recommendation for the Board to adopt the proposed Ordinance following the public hearing.

Commissioner O'Bryan requested further clarification on the proposed Ordinance, Section 316.04 Proof of Ownership.

Attorney Polackwich responded that although the State Statute requires a statement from the vendor attesting his/her ownership of the metal, the Ordinance would place the additional requirement of providing reasonable proof of ownership, such as an additional explanation.

The Chairman opened the Public Hearing.

Shannon Cook, 4600 45th Street, President, Indian River Scrap Metals, reported that when purchasing scrap metals, he fingerprints the vendor, videotapes the transaction, and secures various types of identification. He foresaw that the limitations on cash transactions would result in criminals traveling to other counties where they are able to receive cash for their items. He also disagreed with the requirement to obtain additional proof of ownership, because the vendor is already required to sign a statement (under penalty of perjury), attesting to rightful ownership of the scrap.

Vice Chairman Wheeler wondered what benefits would be derived by paying the vendors by check, and disallowing cash transactions.

Sheriff Deryl Loar believed that the proposed Ordinance would be a tool for fighting crime, and the check transaction requirement would be a deterrent to vendors purchasing illegal drugs with the cash they receive from selling their scrap.

Commissioners Davis and Flescher, respectively, explained why they saw no advantage to the discontinuance of cash transactions.

Attorney Polackwich explained that the proposed Ordinance had been modeled on similar Ordinances in six Counties, the majority of which had included the cash transaction requirement, and most of which requested additional proof of ownership.

Theresa Vives, Cash In Recycling Center, said she would lose customers if cash payments were discontinued. Regarding the exchange of information, she suggested setting up one central database, such as Scrap Dragon in Orange County, where data on recycled metals sales could be uploaded to the Sheriff's Department.

Keith Taig, Mr. Scrap Inc., 4455 45th Street, advised that he has been providing handwritten lists of certain sales transactions to law enforcement personnel. He agreed with Mr. Cook that disallowing cash transactions would not be a deterrent to criminal activity. He suggested that the scrap metal dealers work with the Sheriff's Department to set up an electronics notification system for regulated metals sales.

Mike Carroll, Indian River Scrap Metals, contended that the "no cash transactions" requirement would drive the criminals elsewhere and valuable tracking information would be lost.

Sheriff's Office General Counsel James Harpring, 455 41st Avenue, asserted that the limitations on cash transactions would be an effective deterrent to unlawful sales of scrap metals. He spoke to the importance of the electronic notification requirement, but conceded that the

condition of obtaining additional proof of ownership could be waived, as long as the sellers sign the affidavit mentioned by Mr. Cook.

Commissioner O'Bryan questioned the value of limiting cash transactions as a deterrent to unlawful sales. However, he supported the electronic notification system, suggesting that the metals recyclers and Sheriff's Department explore the implementation of the system and see what it would cost the dealers.

The Chairman called a recess at 11:35 a.m. and reconvened the meeting at 11:45 a.m., with all members present.

C. N. Kirrie, 12855 79th Avenue, Roseland, opined that the proposed Ordinance was too strong compared to relatively few illegal metals sales. He also believed it was redundant because the Federal Government already regulates metals, and suggested the Board table this matter until January 2012.

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

Commissioner Davis believed that, until a database is established for the exchange of information between the scrap dealers and law enforcement, the Ordinance would be ineffective.

Vice Chairman Wheeler believed that disallowing cash transactions would not achieve a significant reduction in crime, and did not see a need for further proof of ownership, in view of the signed affidavit being provided by the vendors to the dealers.

MOTION WAS MADE BY Vice Chairman Wheeler to adopt the Ordinance minus: (1) Section 316.03, Limitations on Cash Transactions; and (2) Section 316.04 Proof of Ownership. Motion DIED for lack of a Second.

Chairman Solari concurred with his fellow Commissioners that it was unnecessary to include in the Ordinance the requirements for no cash transactions and additional proof of ownership.

A brief discussion ensued during which the Board consensus was to table this item until further information is presented on the reporting system.

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Davis, the Board unanimously TABLED this item until an electronic reporting system is established to facilitate an exchange of information between the scrap metal dealers and the Sheriff's Department regarding regulated metals.

10.B. PUBLIC DISCUSSION ITEMS - NONE

10.C. PUBLIC NOTICE ITEMS

10.C.1.A. NOTICE OF SCHEDULED PUBLIC HEARINGS OCTOBER 18, 2011:

ORCHID QUAY, LLC; TC PROPERTY VENTURE, LLC; AND WILLIAM HUNTER REQUEST: TO AMEND THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP TO REDESIGNATE ± 28.56 ACRES, LOCATED APPROXIMATELY ±900 FEET SOUTH OF C.R. 510 AND EAST OF 46TH AVENUE AND U.S. #1, FROM M-1, MEDIUM-DENSITY RESIDENTIAL-1 (UP TO 8 UNITS/ACRE), TO C/I, COMMERCIAL/ INDUSTRIAL; AND SIMULTANEOUSLY CHANGE THE LAND USE DESIGNATION OF ±9.21 ACRES, LOCATED SOUTH OF C.R. 510, AND EAST OF 46TH AVENUE, FROM C/I, COMMERCIAL/INDUSTRIAL, TO M-1, MEDIUM DENSITY RESIDENTIAL - 1 (UP TO 8 UNITS/ACRE); AND CHANGE THE LAND USE DESIGNATION OF

±20.11 ACRES, LOCATED APPROXIMATELY ±1300 FEET SOUTH OF 65TH STREET AND WEST OF THE FEC RAILROAD, FROM C/I, COMMERCIAL AND INDUSTRIAL, TO L-2, LOW DENSITY RESIDENTIAL-2 (UP TO 6 UNITS/ACRE) (LEGISLATIVE)

10.C.1.B. COUNTY INITIATED REQUEST: TO AMEND TEXT OF SEVERAL ELEMENTS OF THE COUNTY'S COMPREHENSIVE PLAN (LEGISLATIVE)

County Attorney Alan S. Polackwich, Sr. read the notices into the record.

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. REPORT ON INDIAN RIVER COUNTY TREE REMOVAL VIOLATION PENALTIES

Roland DeBlois, Chief of Environmental Planning and Code Enforcement, recalled that on August 16, 2011, the Board considered a matter involving a code enforcement fine for the removal of three cabbage palm trees, and staff had been directed to return with a report on the County's tree removal penalties. Through a PowerPoint Presentation (copy on file), he reviewed the history of the County's tree removal and land clearing ordinance, and compared the County's fines, mitigation requirements, and after-the-fact (ATF) permit regulations with those of the City of Vero Beach, and St. Lucie and Brevard Counties. He reported that the penalty for the illegal removal of protected trees, including cabbage palms (not protected prior to 2004), is \$1,000 per palm tree. He thereafter presented staff's recommendation for the Board to direct staff to initiate

Land Development Regulation amendments to reduce the fine for removing cabbage palm trees from \$1,000 to \$250; and to allow ATF permits for non-single family residential parcels.

Board members sought and received additional information from Chief DeBlois on the tree removal and land clearing regulations, and on the permitting requirements for single family homeowners who want to remove a tree.

Chairman Solari believed that imposing penalties on single family homeowners for tree removal was an infringement of personal property rights.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously directed staff to revisit the tree protection and land clearing ordinance with the idea of exempting single-family homes.

ON MOTION BY Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, the Board unanimously directed staff: (1) to initiate a Land Development Regulation (LDR) amendment to change the fine for illegal removal of protected cabbage palms from \$1,000 to \$250 per palm; and (2) directed staff to initiate an LDR amendment to allow after-the-fact permits for non-single-family residential parcels, as recommended in the memorandum of September 23, 2011.

12.A.2. CONSIDERATION OF JONES PIER PROPERTY LEASE

Director Keating provided background regarding the Jones Pier Property at 7770 Jungle Trail, acquired by the County in 2008, and occupied by Mr. and Mrs. Jones until March 2011, with the County taking possession of the house in June 2011. He revealed that one alternative to provide security for the site would be to have the residence occupied by a law enforcement officer, who would provide security and other services in exchange for rent-free occupancy of the house. He relayed that this arrangement satisfies the requirement of the County's cost share partner in the property, Florida Communities Trust (FCT), to limit any lease of FCT funded property to tenants providing services benefitting the property. He thereafter outlined the terms of a proposed rental agreement that would allow Sergeant Brad Fojtik of the Sheriff's Office to occupy the residence for no rent, in return for providing free maintenance and security services on the property.

ON MOTION BY Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) directed staff not to proceed with bidding the lease of the Jones Pier property; and (2) accepted the Fojtik proposal; and (3) directed staff to bring back a formal agreement for Board approval; as recommended in the memorandum of September 28, 2011.

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES - NONE

12.D. HUMAN RESOURCES - NONE

12.E. HUMAN SERVICES - NONE

12.F. LEISURE SERVICES - NONE

12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

12.H. RECREATION - NONE

12.I. PUBLIC WORKS - NONE

12.J. UTILITIES SERVICES

**12.J.1. RECOMMENDATION TO AWARD CONTINUING SERVICES CONTRACT TO
ENGINEERING CONSULTANTS FOR PUBLIC WORKS, SOLID WASTE
DISPOSAL AND UTILITIES PROJECTS**

Director of Utility Services Erik Olson provided background and analysis regarding staff's recommendation to award contracts to the engineering firms outlined in the below Motions. He explained that the contract awards would be for three years, and the firms would provide continuing services associated with Public Works, Solid Waste Disposal District (SWDD), and Utilities projects. He thereafter presented staff's recommendation for the Board to authorize staff to negotiate the contracts, which would be presented at a future Board meeting for approval.

Bob Johnson, Coral Wind Subdivision, inquired whether the authorization to negotiate the SWDD contracts should be granted by the Board in its capacity as the Board of the Solid Waste Disposal District.

After discussion, with input from Attorney Polackwich and staff, the Board decided to vote as the Board of County Commissioners on the contractors for the Public Works and Utilities

projects, and to vote as the governing body of the Indian River County Solid Waste Disposal District on the contractors for the SWDD projects.

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Wheeler, the Board unanimously: (1) authorized staff to proceed with negotiations for a three (3) year contract for continuing services for Public Works and Utilities projects; and (2) allowed for a three (3) year contract renewal with the firms listed below. Once executed, the contracts will be submitted to the Board of County Commission for approval and execution, all as stated and recommended in the memorandum of September 26, 2011.

Public Works	Utilities-Major	Utilities-Minor
Kimley Horn & Associates – Vero Beach	Camp Dresser & McKee (CDM) – Vero Beach	Schulke, Bittle and Stoddard – Vero Beach
Bridge Design – Royal Palm Beach	Atkins Group (Atkins North America) - Orlando	Masteller & Moler – Vero Beach
Carter Associates – Vero Beach	Brown & Caldwell - Maitland	MBV Engineering – Vero Beach
	Carollo Engineers – Winter Park	Ecotech Consultants – Vero Beach
		W.F. McCain & Associates – Vero Beach
		Knight, McGuire & Associates – Vero Beach

At 12:41 p.m., the Chairman announced that the Board would convene as the Board of Commissioners of the Solid Waste Disposal District.

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Wheeler, the Board, acting in its capacity as the governing body of the Indian River County Solid Waste Disposal District, unanimously: (1) authorized staff to proceed with negotiations for a three (3) year contract for continuing services for Solid Waste Disposal District projects; and (2) allowed for a three (3) year contract renewal with the firms listed below. Once executed, the contracts will be submitted to the Board of County Commission for approval and execution, as stated and recommended in the memorandum of September 26, 2011.

Solid Waste
Geosyntec - Jacksonville
SCS Engineers - Tampa
Neel Schaefer – Vero Beach & Maitland

The Chairman closed the Solid Waste Disposal District portion of the meeting at 12:41 p.m., and reconvened the Board of County Commission meeting.

13. COUNTY ATTORNEY MATTERS

13.A. FELLSMERE FIRE HYDRANT CHARGES, AND RELATED ISSUES

Attorney Polackwich outlined his September 28, 2011 memorandum to update the Board on several issues pertaining to annual fire hydrant maintenance charges. He provided background and analysis on a legal dispute between the City of Fellsmere and the County going back to

2009, and recommended that the Board remit the full payment of \$65,081.06 for Fellsmere's fire protection charges, but request from the Fellsmere City Council, abatement of \$20,504.97 worth of penalties and fees.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved payment of the Fellsmere invoice, requesting abatement of the penalties and interest.

Attorney Polackwich continued his presentation, providing background history on the County's policy of paying for fire hydrant maintenance charges relating to the City of Vero Beach. He confirmed staff's recommendation that the Board remit payment of \$283,962.50 for the City's last invoice for outstanding fire hydrant fees.

Discussion ensued regarding the best way to handle future fire hydrant maintenance fees.

Commissioner Davis, noting that the County's costs for maintaining the fire hydrants are less than the hydrant charges from the municipalities, wondered whether the Utilities Department could assume the upkeep of the fire hydrants.

Chairman Solari directed Attorney Polackwich to explore alternatives to the current method of paying for fire hydrant maintenance, and to bring back a recommendation to the Board.

ON MOTION BY Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously: (1) approved payment of the Vero Beach invoice; and (2) directed staff to analyze alternatives to the current method of paying for fire hydrant upkeep in the County.

13.B. PERMISSION TO ADVERTISE FOR PUBLIC HEARING: AN ORDINANCE
AMENDING COUNTY CODE OF INDIAN RIVER COUNTY, CHAPTER 306,
ESTABLISHING YEAR ROUND SLOW SPEED ZONES IN THE CHANNEL
LEADING FROM THE OSLO BOAT RAMP

Deputy County Attorney Bill DeBraal relayed that the St. Johns River Water Management District (SJRWMD) has filed their notice of intent to issue the permit for proposed improvements to the Oslo Boat Ramp, but due to legal challenges by the Pelican Island Audubon Society and Dr. Richard Baker, the project has been put on hold pending federal approval. He conveyed that in response to the US Fish and Wildlife Services' (USFWS) concerns about the project's impact on the West Indian Manatee, staff would like to expand the "Slow Speed" designation for boats in the channel from six months to year round. Attorney DeBraal thereafter presented staff's recommendation to advertise for a Public Hearing on the proposed Ordinance establishing year round slow speeds in the channel, noting that this code amendment would have to be approved by the Florida Fish and Wildlife Conservation Commission (FWC).

Attorney DeBraal confirmed for Commissioner Davis that the "Slow Speed" designation would be amended only after the County receives approval to move forward with the project.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously directed staff: (1) to advertise for a Public Hearing for this ordinance amendment establishing year-round slow speed zones in the channel leading from the Oslo Boat Ramp; and (2) to coordinate with the Florida Fish and Wildlife Commission (FFWCC) and the US Fish and Wildlife Service (USFWS) in drafting the ordinance, as recommended in the memorandum of September 27, 2011.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER BOB SOLARI, CHAIRMAN - NONE

14.B. COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN

14.B.1. REQUEST FOR DISCUSSION

Vice Chairman Wheeler spoke to the potential benefits of surfacing some of the County's unpaved roads with asphalt millings. He requested that staff report back to the Board on the advantages or disadvantages of instituting this type of program.

ON MOTION BY Vice Chairman Wheeler, SECONDED by Commissioner Davis, the Board unanimously directed staff to report back to the Board on the feasibility of instituting a program for surfacing certain unpaved County roads with asphalt millings.

14.C. COMMISSIONER WESLEY S. DAVIS

14.C.1. MATCH FOR ECONOMIC DOLLARS RAISED BY THE PRIVATE SECTOR

Commissioner Davis wanted to see if the County could participate with the Chamber of Commerce and several private sector partners, in the development of an "Opportunity Fund" for businesses interested in expanding or relocating in the County. He suggested that Commissioner O'Bryan, the Commissioner Liaison to the Economic Development Council (EDC), introduce the matter at the next EDC meeting.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized Commissioner O'Bryan to initiate discussion

about the “Opportunity Fund” at the next Economic Development Council meeting.

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 of the Board of County Commission Meeting, 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 JULY 19, 2011

15.A.2. APPROVAL OF FY 2011-12 EMS COUNTY AWARDS GRANT: PURCHASE OF CAPITAL/OPERATING EQUIPMENT USING NON-MATCHING EMS GRANT FUNDS AND GRANT RESOLUTION

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. REQUEST TO CANCEL 2011 SOLID WASTE DISPOSAL DISTRICT PETITION HEARING

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 1:02 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

(Clerk's Note: These minutes were signed by the current Chairman at the time of the Board's approval.)

Minutes Approved: _____
BCC/MG/2011Minutes