

JEFFREY K. BARTON
Clerk to the Board



INDEX TO MINUTES OF REGULAR MEETING

OF BOARD OF COUNTY COMMISSIONERS

OCTOBER 11, 2011

1.	CALL TO ORDER.....	1
2.	INVOCATION	1
3.	PLEDGE OF ALLEGIANCE	1
4.	ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS - NONE	2
5.	PROCLAMATIONS AND PRESENTATIONS	2
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	2
5.B.	PRESENTATION OF PROCLAMATION DESIGNATING OCTOBER 9 – 15, 2011, AS FIRE PREVENTION WEEK	2
5.C.	PRESENTATION BY JIM EGAN, EXECUTIVE DIRECTOR, MARINE RESOURCES COUNCIL – “BE WATER WISE BEFORE YOU FERTILIZE”	2
5.D.	PRESENTATION BY JASON NUNEMAKER, CITY MANAGER, CITY OF FELLSMERE REGARDING TIGER3 GRANT APPLICATION FOR BALANCE OF TRANS-FLORIDA CENTRAL RAIL-TRAIL GREENWAY	3

6.	APPROVAL OF MINUTES	3
6.A.	MEETING OF AUGUST 16, 2011	3
6.B.	MEETING OF SEPTEMBER 6, 2011	3
7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION - NONE.....	4
8.	CONSENT AGENDA	4
8.A.	APPROVAL OF WARRANTS AND WIRES – SEPTEMBER 23, 2011 TO SEPTEMBER 29, 2011	4
8.B.	INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS LESLIE R. SWAN MEMORANDUM OF AGREEMENT AND CERTIFICATE REGARDING MATCHING FUNDS FOR THE FEDERAL ELECTION ACTIVITIES FUNDS	4
8.C.	RESOLUTION CANCELING TAXES ON PROPERTY ACQUIRED FOR 66 TH AVENUE AND 37 TH STREET RIGHT-OF-WAY.....	5
8.D.	FLORIDA DEPARTMENT OF LAW ENFORCEMENT FY 2011/2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM.....	5
8.E.	LINDA SCHUPP BREEN, EDWARD EDMISTEN AND ROBERT EDMISTEN’S REQUEST FOR PARTIAL RELEASE OF AN EASEMENT AT 416 14 TH AVENUE (ROYAL POINCIANA PARK SUBDIVISION, UNIT 2).....	6
8.F.	SCOTT AND DENISE KENNEY’S REQUEST FOR PARTIAL RELEASE OF AN EASEMENT AT 5165 ROSEWOOD LANE (ROSEWOOD COURT SUBDIVISION)	6
8.G.	F.D.O.T. LOCAL AGENCY PROGRAM (LAP) SUPPLEMENTAL AGREEMENT AND RESOLUTION AUTHORIZING THE CHAIRMAN’S SIGNATURE FPN No. 423186-1- 58-01, OLD DIXIE HIGHWAY SIDEWALK FROM 38 TH LANE TO 65 TH STREET, IRC PROJECT No. 0845	6
8.H.	AWARD OF BID # 2011057, BRIDGE REPLACEMENT AND ROADWAY IMPROVEMENTS 82 ND AVENUE AT 4 TH STREET – IRC PROJECT No. 0208	7
8.I.	WORK ORDER No. 1 – MASTELLER, MOLER, REED AND TAYLOR, INC., NORTH COUNTY TRANS FLORIDA RAIL CORRIDOR FROM 104 TH AVENUE TO SEBASTIAN RIVER MIDDLE SCHOOL, IRC PROJECT No. 0923B – FINAL PAY AND RELEASE OF RETAINAGE.....	7
8.J.	INTERFUND BORROWING	8

8.K.	HOLIDAY SCHEDULE FOR INDIAN RIVER COUNTY LIBRARY SYSTEM, INDIAN RIVER COUNTY PUBLIC SHOOTING RANGE, AND NORTH COUNTY AQUATIC CENTER	8
9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE	9
10.	PUBLIC ITEMS	9
10.A.	PUBLIC HEARING(S) - NONE	9
10.B.	PUBLIC DISCUSSION ITEMS - NONE	9
10.C.	PUBLIC NOTICE ITEMS	10
10.C.1.	NOTICE OF SCHEDULED PUBLIC HEARING DATED OCTOBER 18, 2011: NOTICE OF FINAL PUBLIC HEARING SCHEDULED RELATING TO REDISTRICTING OF INDIAN RIVER COUNTY COMMISSIONER DISTRICTS SCHEDULED FOR OCTOBER 18, 2011 IN THE COUNTY COMMISSION CHAMBERS (LEGISLATIVE)	10
11.	COUNTY ADMINISTRATOR MATTERS - NONE.....	10
12.	DEPARTMENTAL MATTERS	10
12.A.	COMMUNITY DEVELOPMENT - NONE.....	10
12.B.	EMERGENCY SERVICES - NONE.....	10
12.C.	GENERAL SERVICES - NONE	10
12.D.	HUMAN RESOURCES - NONE	10
12.E.	HUMAN SERVICES - NONE	10
12.F.	LEISURE SERVICES - NONE	10
12.G.	OFFICE OF MANAGEMENT AND BUDGET - NONE	10
12.H.	RECREATION - NONE.....	11
12.I.	PUBLIC WORKS - NONE	11
12.J.	UTILITIES SERVICES - NONE.....	11
13.	COUNTY ATTORNEY MATTERS - NONE.....	11
14.	COMMISSIONER ITEMS.....	11

14.A.	COMMISSIONER BOB SOLARI, CHAIRMAN	11
14.A.1.	PUBLIC DISCUSSION.....	11
14.B.	COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN - NONE.....	13
14.C.	COMMISSIONER WESLEY S. DAVIS - NONE.....	13
14.D.	COMMISSIONER JOSEPH E. FLESCHER - NONE	13
14.E.	COMMISSIONER PETER D. O'BRYAN - NONE	13
15.	SPECIAL DISTRICTS AND BOARDS	13
15.A.	EMERGENCY SERVICES DISTRICT - NONE.....	13
15.B.	SOLID WASTE DISPOSAL DISTRICT - NONE	13
15.C.	ENVIRONMENTAL CONTROL BOARD - NONE.....	13
16.	ADJOURNMENT.....	13

JEFFREY K. BARTON

Clerk to the Board



October 11, 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 11, 2011. Present were Chairman Bob Solari, Vice Chairman Gary C. Wheeler, Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Leona Adair Allen.

1. CALL TO ORDER

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

2. INVOCATION

Stan Boling, Planning Director, 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
- NONE

5. PROCLAMATIONS AND PRESENTATIONS

**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**

Chairman Solari read and presented the Proclamation and Retirement Award to Wayne Schasane.

**5.B. PRESENTATION OF PROCLAMATION DESIGNATING OCTOBER 9 – 15, 2011,
AS FIRE PREVENTION WEEK**

Commissioner O'Bryan read and presented the Proclamation to Emergency Management Coordinator Dale Justice.

**5.C. PRESENTATION BY JIM EGAN, EXECUTIVE DIRECTOR, MARINE
RESOURCES COUNCIL – “BE WATER WISE BEFORE YOU FERTILIZE”**

Executive Director of Marine Resources Council Jim Egan used a PowerPoint presentation (on file) to educate and voice concerns over the use of fertilizer and its negative effects on soil, water bodies, and the lagoon. He suggested the County pass a model fertilizer ordinance that would restrict phosphorus in lawn fertilizers, increase the use of slow release nitrogen, and restrict fertilizing during wet weather periods.

**5.D. PRESENTATION BY JASON NUNEMAKER, CITY MANAGER, CITY OF
FELLSMERE REGARDING TIGER3 GRANT APPLICATION FOR BALANCE OF
TRANS-FLORIDA CENTRAL RAIL-TRAIL GREENWAY**

Fellsmere City Manger Jason Nunemaker provided the Board with an update on some recent developments in Fellsmere. He thereafter requested the County consider:

(1) participating in a joint partnership, (2) providing in-kind services, and (3) matching funds with the City of Fellsmere, for a grant through the Transportation Investment Generating Economic Recovery Federal Grant Program, known as Tiger3, for construction and improvements to the Trans-Florida Central Rail-Trail Greenway.

ON MOTION by Commissioner Davis, SECONDED by Chairman Solari, the Board unanimously directed staff to bring this item back to the October 18, 2011 Board of County Commission meeting with recommendations analyzing the project and availability of funds.

6. APPROVAL OF MINUTES

6.A. MEETING OF AUGUST 16, 2011

6.B. MEETING OF SEPTEMBER 6, 2011

The Chairman asked if there were any corrections or additions to the Minutes of the Meetings of August 16, 2011, or September 6, 2011. There were none.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Wheeler, the Board unanimously approved the Minutes of August 16, 2011, and September 6, 2011, as written.

**7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS
NOT REQUIRING BOARD ACTION - NONE**

8. CONSENT AGENDA

**8.A. APPROVAL OF WARRANTS AND WIRES – SEPTEMBER 23, 2011 TO
SEPTEMBER 29, 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 23, 2011, to September 29, 2011, as requested in the memorandum of September 29, 2011.

**8.B. INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS LESLIE R. SWAN
MEMORANDUM OF AGREEMENT AND CERTIFICATE REGARDING
MATCHING FUNDS FOR THE FEDERAL ELECTION ACTIVITIES FUNDS**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute the Certificate regarding matching funds for the Federal Election Activities Grant for FY 2011-2012, to the Supervisor of Elections, in an amount equal to at least 15% of the amount to be received from the State, which for Indian River County is \$2,430.99, as requested in the letter dated October 5, 2011.

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

**8.C. RESOLUTION CANCELING TAXES ON PROPERTY ACQUIRED FOR 66TH
AVENUE AND 37TH STREET RIGHT-OF-WAY**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-092** cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

(Hale Family 1999 Limited Partnership right-of-way for 66th Avenue and 37th Street)

**8.D. 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 the Certificate of Acceptance of Subgrant Award for the Multi-Agency Criminal Enforcement Unit Grant in the amount of \$57,934.00, as recommended in the memorandum of October 4, 2011.

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

**8.E. LINDA SCHUPP BREEN, EDWARD EDMISTEN AND ROBERT EDMISTEN'S
REQUEST FOR PARTIAL RELEASE OF AN EASEMENT AT 416 14TH AVENUE
(ROYAL POINCIANA PARK SUBDIVISION, UNIT 2)**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-093**, releasing a portion of an easement on Lots 1 and 2, Block 20, Royal Poinciana Park Subdivision, Unit 2.

**8.F. SCOTT AND DENISE KENNEY'S REQUEST FOR PARTIAL RELEASE OF AN
EASEMENT AT 5165 ROSEWOOD LANE (ROSEWOOD COURT SUBDIVISION)**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-094**, releasing a portion of an easement of Lot 28, Rosewood Court Subdivision.

**8.G. F.D.O.T. LOCAL AGENCY PROGRAM (LAP) SUPPLEMENTAL AGREEMENT
AND RESOLUTION AUTHORIZING THE CHAIRMAN'S SIGNATURE FPN No.
423186-1-58-01, OLD DIXIE HIGHWAY SIDEWALK FROM 38TH LANE TO
65TH STREET, IRC PROJECT No. 0845**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2011-095**, authorizing execution of a Supplemental Agreement for the sidewalk construction on Old Dixie Highway from 38th Lane to 65th Street, with the State of Florida, Department of Transportation.

8.H. AWARD OF BID # 2011057, BRIDGE REPLACEMENT AND ROADWAY IMPROVEMENTS 82ND AVENUE AT 4TH STREET – IRC PROJECT NO. 0208

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the bid award to Lucas Marine Acquisition Co., Inc., for bridge replacement and roadway improvements on 82nd Avenue at 4th Street, in the amount of \$1,068,106.00, as recommended in the memorandum of September 27, 2011.

8.I. WORK ORDER NO. 1 – MASTELLER, MOLER, REED AND TAYLOR, INC., NORTH COUNTY TRANS FLORIDA RAIL CORRIDOR FROM 104TH AVENUE TO SEBASTIAN RIVER MIDDLE SCHOOL, IRC PROJECT NO. 0923B – FINAL PAY AND RELEASE OF RETAINAGE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved payment of Masteller, Moler, Reed and Taylor, Inc., Invoice 3404-9795, dated September 27, 2011, in the amount of \$4,158.16, for final payment and release of retainage, as recommended in the memorandum of September 30, 2011.

8.J. INTERFUND BORROWING

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved interfund borrowing as necessary to cover any cash deficits of individual funds that may occur, as recommended in the memorandum of October 4, 2011.

8.K. HOLIDAY SCHEDULE FOR INDIAN RIVER COUNTY LIBRARY SYSTEM, INDIAN RIVER COUNTY PUBLIC SHOOTING RANGE, AND NORTH COUNTY AQUATIC CENTER

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the following holiday schedules for Veterans' Day, Thanksgiving, Christmas and New Year's holidays for the Libraries, Shooting Range and Aquatic Center (pool), as stated below, posted on the County web site, and posted at the respective County facilities, as recommended in the memorandum of October 3, 2011.

The Main Library will be closed on Veteran's Day, November 11; Thanksgiving, November 24 and 25; Christmas, December 24 through December 26; and New Year's, January 1 and 2, 2012 (open December 31, 2011).

The North County, Gifford, and Brackett Libraries will be closed on Veteran's Day, November 11; Thanksgiving, November 24 and 25; Christmas, December 24 through December 26; and New Year's, December 31 through January 2, 2012.

The Law Library will be closed on Veteran's Day, November 11; Thanksgiving, November 24 and 25; Christmas, December 24 through December 26; and New Year's, December 31 through January 2, 2012.

The Shooting Range will be open on Veteran's Day, November 11; closed on November 24 and 25; Christmas, December 25 and 26; and New Year's, January 1, 2012 (open December 31 and January 2, 2012).

The Aquatic Center (pool) will be open on Veteran's Day, November 11; closed on November 24 and 25; Christmas, December 23 through December 26; and open December 31 through January 2, 2012.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARING(S) - NONE

10.B. PUBLIC DISCUSSION ITEMS - NONE

10.C. PUBLIC NOTICE ITEMS

**10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING DATED OCTOBER 18, 2011:
NOTICE OF FINAL PUBLIC HEARING SCHEDULED RELATING TO
REDISTRICTING OF INDIAN RIVER COUNTY COMMISSIONER DISTRICTS
SCHEDULED FOR OCTOBER 18, 2011 IN THE COUNTY COMMISSION
CHAMBERS (LEGISLATIVE)**

County 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 - NONE

13. COUNTY ATTORNEY MATTERS - NONE

14. COMMISSIONER ITEMS

14.A. COMMISSIONER BOB SOLARI, CHAIRMAN

14.A.1. PUBLIC DISCUSSION

Chairman Solari conveyed that he had recently become aware of a series of e-mails between Indian River County activist Dr. Stephen Faherty and Barry Moline, an out-of-town lobbyist for the Florida Municipal Electric Association (FMEA), which led him to believe the FMEA lobbyist was attempting to stifle public discussion on the important issue regarding the sale of the City of Vero Beach electric utility. He read a few lines from the e-mail correspondence between Dr. Faherty and Mr. Moline (in the Agenda Packet), and concluded that there was a threat by the FMEA lobbyist to sue Dr. Faherty.

County Attorney Polackwich believed citizens should have the right to speak freely and openly on such issues without fear of litigation. He revealed that if an organization tries to sue, they would need to overcome a high hurdle of proving actual malice; and he did not believe the comments in the e-mails had risen to the level of defamation for which FMEA could file suit.

Chairman Solari commented on Dr. Faherty's integrity, and did not appreciate a Tallahassee lobbyist coming to Indian River County and threatening one of its citizens.

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously found that the Lobbyist was stifling public discussion regarding the City of Vero Beach electric utility issue.

Bea Gardner questioned why the County Attorney was giving an opinion on the e-mails since they were from a private citizen. She did not feel it was proper for a taxpayer to come to the Board to receive an opinion from the County Attorney, and did not believe the County Attorney should be spending his time or the taxpayers' money on this issue.

Chairman Solari clarified that all the citizens of Indian River County were being represented, and wanted this to be made public so the stifling would stop.

Commissioner O'Bryan stressed that 60% of the electric utility customers are County residents, which is a broad significance to the Board. He also revealed that the County is a customer of city electric, which means every taxpayer in the County pays for the County's electric bill. He felt there was significant public interest in the proposed sale of the City electric utility; which justifies the Board and staff's involvement.

Commissioners Davis, Wheeler, and Flescher reiterated Commissioner O'Bryan's comments, and believed this was a County issue of utmost public concern.

County Attorney Polackwich disclosed that as a County Attorney, he does not get involved in private citizen disputes, and solely takes direction from the Board of County Commissioners. He said if Dr. Faherty had called him and asked for an opinion, he would not have provided it. He also noted that when the Chairman put this item on the Agenda, his staff invested about two hours on the issue to ensure he was prepared to discuss it.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved that a letter be sent to Barry Moline stating that the Board found his actions to be repugnant.

14.B. COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN - NONE

14.C. COMMISSIONER WESLEY S. DAVIS - NONE

14.D. COMMISSIONER JOSEPH E. FLESCHER - NONE

14.E. COMMISSIONER PETER D. O'BRYAN - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT - NONE

15.B. SOLID WASTE DISPOSAL DISTRICT - NONE

15.C. ENVIRONMENTAL CONTROL BOARD - NONE

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 10:00 a.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/LA/2011 Minutes