

JEFFREY K. BARTON  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

FEBRUARY 14, 2012

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**JEFFREY K. BARTON**

Clerk to the Board



**February 14, 2012**

**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, February 14, 2012. Present were Vice Chairman Peter D. O’Bryan and Commissioners Wesley S. Davis, Joseph E. Flescher, and Bob Solari. Chairman Gary C. Wheeler joined the meeting at 9:27 a.m. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Leona Adair Allen.

**1. CALL TO ORDER**

Vice Chairman O’Bryan called the meeting to order at 9:00 a.m.

**2. INVOCATION**

Chaplain Ann Taylor Owen, VNA Hospice of Indian River County, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Vice Chairman O’Bryan 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 DESIGNATING FEBRUARY 11 – 17, 2012 AS “2-1-1 AWARENESS WEEK” IN INDIAN RIVER COUNTY**

Commissioner Flescher read and presented the Proclamation to Susan Buza, Executive Director for 211 Palm Beach/Treasure Coast, who was accompanied by Paige Woodward.

**5.B. PRESENTATION OF PROCLAMATION IN SUPPORT OF HUNTERS AGAINST HUNGER IN INDIAN RIVER COUNTY**

Commissioner Davis read and presented the Proclamation to Scott Sanders, Executive Director of Hunters Against Hunger, Inc.

**5.C. FLORIDA POWER AND LIGHT PRESENTATION ON SMART METER INITIATIVE BY AMY BRUNJES, STEVE ANDERSON, AND BLANCA PEREZ**

**Amy Brunjes**, Treasure Coast External Affairs Manager for Florida Power and Light (FP&L) introduced **Steve Anderson**, **Blanca Perez**, and **Marie Burto**, Project Managers for FP&L.

**Blanca Perez** gave a presentation on FP&L’s Energy Smart Florida Initiative (on file). She provided an overview on: (1) the Energy Smart Florida Project, which is FP&L’s commitment to build a smarter, more reliable, and efficient electrical infrastructure for customers; (2) benefits of the program; (3) future applications; and (4) educating customers (presentation on file).

A lengthy discussion ensued as Commissioners sought and received information regarding the smart meter, the installation process, not being able to opt out of the smart meter program, privacy issues regarding the data chip inside the meter, health and safety issues, data and consumption transmissions, installing smart meters on older houses, and the smart meter deployment schedule.

*Clerk's Note: Chairman Wheeler entered the meeting at 9:27 a.m. and Vice Chairman O'Bryan passed the gavel.*

**Renee Renzi**, Waverly Place, opposed the installation of smart meters, and the loss of meter-reader jobs after the installation of the smart meters.

**Ray Fridley**, 24<sup>th</sup> Place SE, voiced opposition to the installation of smart meters. He pointed out certain issues pertaining to radiation contamination, privacy issues with data chip, and the possibility that smart meters cause fires in older homes.

**John Chilberg**, 4825 66<sup>th</sup> Place, opposed the installation of smart meters due to the radio frequency electromagnetic fields possibly being carcinogenic to humans, and privacy issues concerning the data chip in the smart meter.

**Michelle Jacobus**, 1065 River Wind Circle, voiced concerns over the General Electric smart meters being produced in India, not the United States, and data privacy issues. She also compared the emitting signal of a cell phone to the smart meter, saying that a cell phone can be turned off but the smart meter cannot.

**Stephanie Austin**, 6250 Arrowhead Lane, in opposition to the installation of smart meters, raised concerns over their transmission frequencies, and the chip that will soon be imbedded in appliances and work in conjunction with smart meters. She asked the Board to send a strong message to Governor Rick Scott and all Florida agencies charged with protecting the

public, and call for a halt to the smart meter program. She also provided websites for further research: [stopsmartmeters.org](http://stopsmartmeters.org), and [smartmetermatrix.org](http://smartmetermatrix.org).

**Ms. Perez** showed a short video that addressed smart meters, smart grid technology, health risks, and the technology used in other devices.

Commissioner Solari questioned Dr. Peter Valberg's (the speaker in the video) qualifications to speak as an expert on smart meters.

**Debra Seeley**, 226 31<sup>st</sup> Avenue SW, in response to **Ms. Jacobus**, pointed out that even though the cell phone is on the off position, it still emits a signal, as do many other appliances.

**Ms. Austin**, comparing smart meters to microwave ovens, noted that microwave ovens are a continuing current and smart meters are pulsed radiation, which is supposedly more dangerous.

Commissioners sought additional information and voiced concerns over neighborhood transmissions, wanting a smart meter opt out provision for County residents, and data privacy issues.

County Attorney Alan S. Polackwich stated that FP&L provides services in our County pursuant to a Franchise Agreement, and that staff would need to review the document to see what rights and/or options are listed.

**Ms. Brunjes** thanked the Board for their feedback; promised to postpone customers who want to be postponed until the full deployment in 2013; clarified that it is not that FP&L will never have an opt out policy, they just do not have one right now; and she asked that the Board be patient and announce publicly that FP&L is currently evaluating what the best long term solution would be regarding an opt out program. She also established credibility for the video speaker, Dr. Valberg.



**Jeff Austin**, 6250 Arrowhead Lane, thought that since FP&L was asking the County to be patient while they are installing the smart meters throughout the County, that maybe they will allow for an opt out option later. He felt FP&L's obligation should be to inform all potential customers that there was a delay list, and if the customer was uncomfortable with the meter, then until FP&L has made a decision, the consumer should have the right to make theirs.

*The Chairman called a break at 10:43 a.m., and reconvened the meeting at 10:56 a.m., with all members present.*

**6. APPROVAL OF MINUTES - NONE**

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

**7.A. APPOINTMENT TO THE PLANNING & ZONING COMMISSION, DISTRICT 1  
REPRESENTATIVE**

Noted for the record was the interim appointment of Donna A. Keys to fill the position of District 1 Representative to the Planning and Zoning Commission.

**8. CONSENT AGENDA**

**8.A. APPROVAL OF WARRANTS AND WIRES – JANUARY 27, 2012 TO FEBRUARY  
2, 2012**

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 January 27, 2012 to February 2, 2012, as requested in the memorandum of February 2, 2012.

**8.B. PURCHASE OF LIFT STATION PROPERTY FROM JANE SCHNEE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved the purchase of the 30' by 45' piece of property for \$281.16; (2) accepted the Bill of Sale of Utility Facilities for the equipment within the 20' utility easement in exchange for the use of the water from the spigot at the lift station at no charge for a period of one year from the date of closing for the purpose of watering new plantings of scrub oaks; and (3) authorized the Chairman to execute the Closing Statement, as requested in the memorandum of February 3, 2012.

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

**8.C. CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT FOR BRIDGE REPLACEMENTS AND WIDENING OF 66<sup>TH</sup> AVENUE FROM SOUTH OF SR60 TO NORTH OF 57<sup>TH</sup> STREET, AMENDMENT NO. 10**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Amendment No. 10 with Arcadis US, Inc., authorizing professional services, for a total fee of \$26,077.50, and authorized the Chairman to execute same, as recommended in the memorandum of February 2, 2012.

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

**8.D. AWARD OF BID NO: 2012033, 6<sup>TH</sup> AVENUE SW CULVERT REPLACEMENT  
NORTH OF 23<sup>RD</sup> STREET SW, IRC PROJECT No. 1136**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved the bid award to Timothy Rose Contracting, Inc. in the amount of \$164,385.95, for road construction; (2) approved the sample agreement; and (3) authorized the Chairman to execute said agreement after receipt and approval of the required Public Construction Bond and certificate of insurance and after the County Attorney has approved the agreement as to form and legal sufficiency, as recommended in the memorandum of February 2, 2012.

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

**8.E. AWARD OF BID NO: 2012028, INDIAN RIVER COUNTY FAIRGROUNDS  
PHASE 2 OVERFLOW AND VEHICULAR STAGING FOR EVENTS OF  
FAIRGROUNDS, IRC PROJECT No. 1047-2**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) approved the bid award to Mancil's Tractor Service, Inc. in the amount of \$161,137.55, (2) approved the sample agreement; and (3) authorized the Chairman to execute said agreement after receipt and approval of the required Public Construction Bond and certificate of insurance and after the County Attorney has approved the agreement as to form and legal sufficiency, all as recommended in the memorandum of February 2, 2012.

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

**8.F. APPROVAL OF CHANGE ORDER NO. 3 TO WORK ORDER NO. PCS-1 WITH  
HYDROMENTIA, INC. FOR ENGINEERING AND PERMIT PROCUREMENT  
SERVICES FOR THE PC SOUTH NUTRIENT RECOVERY FACILITY**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 3 with Hydromentia, Inc., in an amount not to exceed \$92,200, for engineering and permit procurement services, as recommended in the memorandum of February 7, 2012.

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

**8.G. AUTHORIZATION TO ATTEND FLORIDA GOVERNMENT FINANCE OFFICERS  
ASSOCIATION ANNUAL CONFERENCE 2012**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved out of County travel for the County Administrator to attend the Florida Government Finance Officer Association (FGFOA) 2012 Annual Conference in Orlando, Florida, from May 6 - 9, 2012, as requested in the memorandum of February 9, 2012.

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

*The Chairman called a break at 10:43 a.m., and reconvened the meeting at 10:56 a.m., with all members present.*

## **10. PUBLIC ITEMS**

### **10.A. PUBLIC HEARING(S)**

#### **10.A.1. PUBLIC HEARING REGARDING ESTABLISHING AN AMNESTY ORDINANCE FOR THE WAIVER OF DELINQUENCY FEES (LEGISLATIVE)**

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

Assistant Director of Utilities Cindy Corrente recapped her memorandum dated February 3, 2012, providing background and analysis to staff's recommendation to amend Indian River County Ordinance 201.08(J)(4), to establish an amnesty program pertaining to delinquency charges on certain utility service availability charges, authorize the Director of Utilities to waive delinquency charges under certain conditions, and update the amount of delinquency charges. She spoke about customer hardships, explained how the waiver would be in the best interest of the County, and recommended the Board adopt the amendment to the ordinance.

Commissioner Davis expressed support for waiving the delinquency charges; and Commissioner Flescher questioned late fees.

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

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2012-001**, amending Section 201.08(J)(4) of the Code of Indian River County; establishing an amnesty program relating to delinquency charges on certain utility service availability charges; authorizing the Utilities Director to waive delinquency charges under specified conditions; updating the amount of delinquency charges; making findings and providing for severability and an effective date.

**10.B. PUBLIC DISCUSSION ITEMS - NONE**

**10.C. PUBLIC NOTICE ITEMS**

**10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR FEBURARY 21, 2012:**

**CONSIDER ADOPTION OF AN ORDINANCE AMENDING SECTION 1010.05 OF THE CODE OF INDIAN RIVER COUNTY TO PROVIDE FOR A REFUND OF CERTAIN TRAFFIC IMPACT FEES AND ACCRUED INTEREST HELD IN THE ORIGINAL TRAFFIC IMPACT FEE DISTRICT II TRUST ACCOUNT (LEGISLATIVE)**

**10.C.2. NOTICE OF SCHEDULED PUBLIC HEARING FOR MARCH 13, 2012:**

**CONSIDERATION OF AN ORDINANCE EXTENDING THE TEMPORARY SUSPENSION OF THREE IMPACT FEES (LEGISLATIVE)**

Attorney Polackwich read the notices into the record.

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

## **12. DEPARTMENTAL MATTERS**

### **12.A. COMMUNITY DEVELOPMENT**

#### **12.A.1. CONDEMNATION, DEMOLITION AND REMOVAL OF UNSAFE STRUCTURES**

José Guanch, Building Official, recapped his memorandum of February 3, 2012, providing background, conditions, and analysis on five structures proposed for demolition: 6645 46<sup>th</sup> Drive, 6655 46<sup>th</sup> Drive, 319 8<sup>th</sup> Avenue S.W., 303 8<sup>th</sup> Avenue S.W., and 359 8<sup>th</sup> Avenue S.W., all in Vero Beach. He reported that the structures had been inspected by staff, and were considered unsafe and detrimental to the health, safety, and welfare of the general public. He recommended that all structures be demolished.

Commissioner Davis encouraged staff to record the liens as soon as legally possible.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously: (1) declared the referenced structures unsafe and a nuisance; (2) ordered the buildings demolished, with related debris removed from the property by a private vendor approved through standard bid procedures; and (3) approved **Resolution 2012-009**, providing for the demolition of unsafe structures and the recovery of costs.

### **12.B. EMERGENCY SERVICES - NONE**

### **12.C. GENERAL SERVICES - NONE**

### **12.D. HUMAN RESOURCES - NONE**

**12.E. HUMAN SERVICES - NONE**

**12.F. LEISURE SERVICES - NONE**

**12.G. OFFICE OF MANAGEMENT AND BUDGET**

**12.G.1. LAND ACQUISITION G.O. BONDS, SERIES 2001, CONSIDERATION OF  
EARLY PAYOFF**

Management and Budget Director Jason Brown recalled that in 1992, the Board approved the referendum that authorized the issuance of \$26 million in General Obligation (G.O.) Bonds for the acquisition of environmentally sensitive properties throughout the County. He said this was broken into two bond issues for administrative purposes – the first was in 1995 for \$15 million; the second was issued in 2001 for the remaining \$11 million, allowed by a voter referendum, with a final maturity of July 2016, and at a true interest cost of 3.98%. He disclosed that the \$4,430,000 of the original \$11 million remain outstanding, and callable on July 1, 2012, with a 1% redemption fee. He said that of the \$4,430,000 still outstanding, \$810,000 will reach maturity on July 1, 2012, which has already been budgeted for this year, and after making this payment, the balance will total \$3,620,000. Director Brown thereafter explained staff's analysis pertaining to the payoff of the remaining bonds during this fiscal year and proposed a concept whereby the \$3,620,000 outstanding balance (carrying an interest rate of about 4.2% per year) could be paid off early from the General Fund Reserves, and save the County approximately \$247,259. He requested the Board authorize staff to move forward with the process of calling the remaining Land Acquisition G.O. Bonds, in the amount of \$3,620,000, on July 1, 2012, and authorize a budget amendment to allocate funding from the General Fund Cash Forward.

Commissioner Solari commended staff for a job well done, and revealed why this process would be a significant savings for the County and the taxpayers.



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

**Bob Johnson**, Coral Wind Subdivision, wanted assurance that with the payoff of the bonds, there would be no gas tax increase.

Administrator Baird did not anticipate an increase in gas tax.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously authorized staff to begin the process of calling the remaining Land Acquisition General Obligation (G.O.) Bonds, Series 2001 in the amount of \$3,620,000 on July 1, 2012, and authorized a budget amendment to allocate funding for this transaction from General Fund Cash Forward, as recommended in the memorandum of January 31, 2012.

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS - NONE**

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

**13. COUNTY ATTORNEY MATTERS**

**13.A. DEMOLITION LIENS**

Deputy County Attorney William K. DeBaal reported that the County had recently demolished dilapidated structures on the following parcels of property and the lien amounts:

(1) Thanh Mai and Thuyen T. Le, 1346 16<sup>th</sup> Avenue, \$3,328.86; (2) Lufleta Battle and Will Battle, 4230 29<sup>th</sup> Avenue, \$3,708.27; (3) Cecial Clark, 4855 34<sup>th</sup> Avenue, \$3,003.68; (4) Joe Russ, 8435 62<sup>nd</sup> Avenue, \$3,068.76; and (5) Lula Fortson (deceased and c/o Lillian Stephens), 12995 100<sup>th</sup> Place \$3,489.82. He conveyed that all the fees had been added to the liens, and requested that the Board approve the lien amounts. He also revealed that Mr. Mai wanted to work out a payment schedule so he would be able to make monthly payments toward the lien.

**Thanh Mai**, 1375 27<sup>th</sup> Avenue, did not object to the amount of the lien, but wanted a payment schedule set up so he could make monthly payments towards the lien.

Commissioner Davis wanted staff to offer the same program to all five property owners.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Solari, to: (1) approve the lien amounts; (2) authorize the Chairman to execute the liens for recordation in the public records, as recommended in the memorandum of January 26, 2012; and (3) direct staff to set up a payment schedule for all five property owners.

Discussion ensued among the Commissioners and staff regarding the liens, process, amortization schedule, and how the properties would get back on the tax-rolls and into the private individual's hands.

Commissioner Solari asked staff to ensure that the five applicants understand that the interest is continuing to run.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

**13.B. CLAIM OF VISTA PLANTATION ASSOCIATION, INC.**

Attorney Polackwich recapped his memorandum providing background on the 66<sup>th</sup> Avenue expansion project and the transaction made by the County in 2009 for a drainage easement and a .0906 acre parcel of access road. He conveyed that Vista Plantation Association, Inc. (Association), was claiming one-half of the amount paid to Vista Properties of Vero Beach, Inc. (Vista Properties) by the County in 2009, for a drainage easement, and the entire amount paid for the .0906 parcel. The Association was also demanding reimbursement of its legal and engineering fees. After Attorney Polackwich met with the Title Insurance Company's Attorney, Calvin Brown, they concluded that the Association has a legitimate claim, and found that Vista Properties was not the owner of the .0906 acre parcel purchased by the County in 2009; the Property Appraiser's records were incorrect. As to the drainage easement, Vista Properties owns the golf course and both parties own the lakes where the drainage easement runs. Attorney Polackwich met with John Kurtz, owner of the Association, and he denied any knowledge of wrongdoing on his part in 2009; however, he offered to donate a small parcel at the corner of SR 60 and 66<sup>th</sup> Avenue, which the County needs for the expansion project, and offered to absorb additional expenses. He recommended the Board accept the various positions and settlements, and move forward with the 66<sup>th</sup> Avenue project.

Commissioner Davis suggested staff use a checklist to ensure this type of situation does not happen in the future.

Attorney Polackwich assured the Board this would not happen again.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the settlement with Vista Plantation Association, Inc. in the amount of \$195,750.77, approved the settlement with Attorneys' Title in the amount of \$17,244.00, and approved the settlement with Vista Properties in the amount of the value of the donated land and absorbed severance damages (average estimate \$30,080), and upon approval by the Board, the County Attorney will prepare settlement documents with each party, which will be brought back to the Board for approval on a future consent agenda, as recommended in the memorandum of February 7, 2012.

### **13.C. COUNTY ATTORNEY'S ANNUAL EMPLOYMENT AGREEMENT**

Attorney Polackwich reviewed his annual Employment Agreement (pages 115 – 118 of the Agenda Packet) and explained his request for three additional vacation days in exchange for waiving his right to unused sick or vacation days, should he or the Board terminate the contract. He also pointed out two minor housekeeping issues that were made in corroboration with the Human Resources Director.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to approve the County Attorney's Employment Agreement as presented.

The Board offered words of appreciation to Attorney Polackwich.

**Jeff Brumbaugh**, Attorney at Law, echoed positive comments regarding Attorney Polackwich and his staff's professionalism.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved the Employment Agreement with County Attorney Alan S. Polackwich, Sr., and authorized the Chairman to execute same, as recommended in the memorandum of February 2, 2011.

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

#### **14. COMMISSIONER ITEMS**

##### **14.A. COMMISSIONER GARY C. WHEELER, CHAIRMAN**

##### **14.A.1. DISCUSSION REGARDING MR. SPRUCE - SYLVAN LAKES DRAINAGE AND ANIMAL CONTROL**

Chairman Wheeler summarized the events that had transpired between Dennis Spruce and the Sylvan Lakes Property Owners' Association (POA) (Sylvan Lakes), pertaining to drainage and animal control issues. He read numerous e-mail correspondence (pages 119 – 124 of the Agenda Packet) and requested that the Board reconsider directing staff to proceed with formal code enforcement action since he was absent at the January 24, 2012 Board of County Commissioner meeting when Mr. Spruce gave his presentation (item 10.B.1.), and he also had concerns that the Board's action at that meeting was not based on a full understanding of all the facts. He wanted this issue heard at today's meeting so all concerned parties could be in attendance and participate in the discussion.

Attorney Polackwich acknowledged that there were some code violations, and believed the responsible parties to be the lot owners, as opposed to the Association, since there are provisions in their Declaration of Covenants and Restrictions which prohibit owners from doing anything to interfere with the flow, and that puts the maintenance responsibility on the owners.

He surmised that with the passage of time, the law would recognize some defenses based on laches/estoppel.

The Commissioners discussed the drainage issue and how it could be resolved; who owns responsibility for the error that happened more than twenty years ago; the County's responsibility; and the issue being worked out among the neighbors.

Attorney Polackwich explained the law and how it applies to this situation.

*The Chairman called a break at 11:59 a.m., and reconvened the meeting at 12:04 p.m., with all members present.*

Vice Chairman O'Bryan and Public Works Director Chris Mora recalled the results from the January 24, 2012 Board of County Commission meeting pertaining to the code enforcement action, the plat language, and having contacted Bill Morgan (a representative of Sylvan Lakes) for status.

**Jerry Fair**, 3933 58<sup>th</sup> Circle, voiced his frustrations with the ongoing situation, and explained how he had built a 23-foot berm around his property to contain the water, but was unsure if it would be an acceptable solution. He also stated that he was the third owner of the house and did not feel it was right to be told that he is liable for something that happened before he purchased the property. He hoped that if Mr. Spruce would also build a 23-foot berm on his property, that the swale would create a viable solution. He provided pictures (on file) of his standing water after he built the berm.

Discussion ensued among the Commissioners and staff regarding possible solutions and options to the drainage issue.

Director Mora believed the existing situation to be a run off issue. He noted that if the drainage ditch along the property line were to be excavated and cleared (going north), the

drainage from both properties would be better, and could be conveyed north towards the 41<sup>st</sup> Street ditch. He also mentioned that staff had examined options and proposals, but not property lines.

**Mr. Fair** announced that the Property Owners' Association did not want to pursue Director Mora's option.

**Jacqui Shearer**, 5860 39<sup>th</sup> Lane, voiced concerns over a citation she received. She said when she purchased her property, neither the bank nor the title company revealed that her property was creating a drainage issue, and that the County had signed off on the property 20 years ago. She did not believe it was proper to make her pay for the citation since the developer did not install the drainage ditch as proposed.

Director Mora explained that staff had taken topographic surveys of all the properties that have a common boundary with Mr. Spruce, and superimposed the original perimeter ditch that was on Sylvan Lakes' plans. He believes that if a shallow swale were to be dug at the rear of the properties, there would be enough fall to convey the water off the properties and send it north to their retention pond. He indicated that this was shown on the plans that were given to Mr. Morgan for the Sylvan Lakes Homeowners' Association to review, as well as three possible solutions: (1) dig a shallow swale, (2) have a common swale that straddles the property lines, or (3) install a pipe within the ten-foot drainage easement.

Further discussion ensued among the Commissioners and staff regarding proposed solutions, some of the ditch being located on private property, the run-off pooling on Mr. Spruce's property, and staff providing a copy of the topographic survey to Ms. Shearer.

**Ilse Knab**, 3941 58<sup>th</sup> Circle, believed that if or when the swale is built, the water would run into the lake past her property. She is located adjacent to the common ground and utility easement, and when she moved in she was told that she was required to grade, install a sprinkler system, and sod it, which she did. She voiced concern because irrigation pipes would need to be

cut in order to get the water into the lake, and during the rainy season, the water from the lake does not run off fast enough, and causes the lake to back up and flood her property. She felt that if a ditch were to be dug, the area would surely flood. She wanted something done with the drainage behind her house also.

**Bob Komarinetz**, 3907 58<sup>th</sup> Circle, representing the Sylvan Lakes Homeowners' Association Board of Directors, suggested staff come up with a plan to guide them through creating a swale from the south to the north (to the retention pond), and provide assistance with the cost of the project. He said he would try to get his Board of Directors more involved in a solution.

Attorney Polackwich suggested all involved parties get together with mediators to reach a solution/agreement, so this matter would not need to go through the court system.

**Dennis Spruce**, 5955 41<sup>st</sup> Street, provided a brief background, and asked if it would be permissible for him to install a 23-foot berm on his property line so the water would drain.

Commissioner Davis did not feel his suggestion would resolve the problem during the rainy season because there would still be no place for the water to drain.

Attorney Polackwich did not foresee a legal problem should Mr. Spruce decide to install a 23-foot dirt berm on his property to resolve the situation.

Director Mora was not sure if the berm would resolve the problem because staff would need to evaluate the design, elevation, and how Mr. Spruce would block the water.

All involved parties agreed to meet and work together, along with staff, to find a solution.

Vice Chairman O'Bryan suggested each party pay one-third of the expense.



Administrator Baird suggested calling one more meeting with everyone to try to solve the problem.

**14.B. COMMISSIONER PETER D. O'BRYAN, VICE CHAIRMAN - NONE**

**14.C. COMMISSIONER WESLEY S. DAVIS - NONE**

**14.D. COMMISSIONER JOSEPH E. FLESCHER**

**14.D.1. RESOLUTION REGARDING THE INTENDED CLOSING OF THE INDIAN RIVER CORRECTIONAL INSTITUTION**

Commissioner Flescher explained why he proposed sending a Resolution to Tallahassee opposing the closure of the Indian River Correctional Institution (IRCI), which is the only youth facility in Florida that currently houses 380 to 400 male inmates, ages 14 through 18 years of age. He said the anticipated closure, scheduled for May 1, 2012, is a result of budget cuts made by the Governor; however, the House and Senate have not brought their budgets forward, which is a point of debate. He raised concerns over the inmates being transferred to facilities dominated by adult offenders, and the 150+ employees that would become unemployed if the facility closed. He felt the loss of the correctional facility would be a tremendous loss to Indian River County, and requested that fellow Commissioners adopt the proposed Resolution so it could be forwarded to Governor Rick Scott, as well as our representatives in Tallahassee.

The following individuals urged the Board to approve the proposed Resolution opposing the intended closure of the Indian River Correctional Institution:

**Stephen Rich**, 1775 76<sup>th</sup> Terrace SW, Sergeant at IRCI. He read two letters from fellow employees that could not be in attendance.

**Amanda Abers**, Officer at IRCI. She also read two letters from fellow security officers.

**Christopher O'Connor**, 1775 76<sup>th</sup> Terrace, Correctional Officer Sergeant at IRCI

**Melina Bair**, 863 Greenleaf Circle, employee at IRCI

**Cheryl Tobar**, Brevard County, employee at IRCI

**Lorraine Signorelli**, 1775 76<sup>th</sup> Terrace SW, wife of Correction Officer at IRCI

**Richard Kitson**, employee at IRCI

**Mitchell Stein**, employee at IRCI

**Adrian Howanitz**, Classification Officer at IRCI

**Kevin Tesmacher**, Sergeant at IRCI

**Renee Renzi**, Waverly Place

Each Commissioner voiced support for the Resolution; however, they wanted it to carry more weight and read stronger.

Vice Chairman O'Bryan explained that even if the Board passed the proposed Resolution and it is sent to Tallahassee, it does not automatically reverse the decision. He questioned whether Commissioner Flescher had contacted the Juvenile Justice Committee, because he believed the committee would adopt a similar Resolution, staff could reference it, and that would give our Resolution more strength and weight.

Commissioner Flescher informed Vice Chairman O'Bryan that he contacted the Juvenile Justice Committee.

Chairman Wheeler also wanted the Resolution to read stronger. He wanted it to include the County's 11.4% unemployment rate, focus on the facility's betterment programs, and to stress the importance of keeping the facility open "because it works."

Commissioner Flescher agreed, and asked Attorney Polackwich to include said comments in the Resolution for a more significant impact.

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, the Board unanimously approved **Resolution 2012-010**, opposing the closure of the Indian River Correctional Institution.

**14.E. COMMISSIONER BOB SOLARI - 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 1:42 p.m.

ATTEST:

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

\_\_\_\_\_  
Gary C. Wheeler, Chairman

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

BCC/LA/2012 Minutes