

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

APRIL 17, 2012

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JEFFREY K. BARTON

Clerk to the Board



April 17, 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 27th Street, Vero Beach, Florida, on Tuesday, April 17, 2012. Present were Chairman Gary C. Wheeler, Joseph E. Flescher, and Bob Solari. Vice Chairman Peter D. O'Bryan and Commissioner Wesley S. Davis were absent. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Maureen Gelfo.

1. CALL TO ORDER

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

2. INVOCATION

Stan Boling, Planning Director, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman Wheeler led the Pledge of Allegiance to the Flag.

**4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY
ITEMS-NONE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Solari, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved the Agenda as presented.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 22 THROUGH 28, 2012, AS CRIME VICTIMS RIGHTS WEEK IN INDIAN RIVER COUNTY

Chairman Wheeler read and presented the Proclamation to Lisa Larsen, Louie Trops, and Paul Zelno, of the Indian River County Victim Rights Coalition. Mr. Zelno presented the calendar of events commencing April 21, 2012, for Crime Victims Rights Week.

5.B. PRESENTATION OF PROCLAMATION RECOGNIZING APRIL 2012 AS NATIONAL MINORITY HEALTH MONTH

Commissioner Flescher read and presented the Proclamation to Freddie Woolfork, Progressive Civic League of Gifford; Pastor Benny Rhyant, President Indian River County Pastor Association; Mary McKinney, Body & Soul Wellness Program; and Tina Zayas, Indian River County Health Department. Mr. Woolfork announced that the 10th Annual African American Workshop would take place on April 21, 2012.

5.C. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 28, 2012 AS VIETNAM VETERAN'S DAY AND DEDICATING THE VIETNAM VETERANS MONUMENT AT VETERANS MEMORIAL SANCTUARY ISLAND

(Clerk's Note: This item was heard following Item 5.D. and is placed here for continuity.)

Commissioner Flescher read and presented the Proclamation to Colonel Martin Zickert, U.S.A.F. Colonel Zickert invited everyone to attend the April 28, 2012 dedication of the Vietnam Veterans Monument at Veterans Memorial Sanctuary Island.

5.D. PRESENTATION OF PROCLAMATION NATIONAL CLEANING FOR A REASON WEEK

Commissioner Solarì read and presented the Proclamation to Tom Heveron, President of Beachland Cleaning. Mr. Heveron stated that his company, as a partner of the Cleaning For a Reason Foundation, provides free housecleaning services to women undergoing treatment for cancer.

6. APPROVAL OF MINUTES - NONE

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

7.A. 2012 ELECTION OF ECONOMIC DEVELOPMENT COUNCIL CHAIRMAN AND VICE CHAIRMAN

Noted for the record was the election of Beth Mitchell as Chairman, and Karl Zimmermann as Vice Chairman, of the Economic Development Council for the year 2012.

8. CONSENT AGENDA

8.A. APPROVAL OF WARRANTS AND WIRES – MARCH 30, 2012 TO APRIL 5, 2012

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of March 30, 2012 to April 5, 2012, as requested in the memorandum of April 5, 2012.

8.B. GARY AND KIM WALLACE'S REQUEST FOR RELEASE OF A PORTION OF AN EASEMENT AT 5720 TURNBERRY LANE (LOT 20, BENT PINE SUBDIVISION UNIT 3)

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved **Resolution 2012-033**, releasing a portion of an easement on Lot 20, Unit 3, of Bent Pine Subdivision Unit 3 & Unit 4.

**8.C. REQUEST FOR BOARD APPROVAL OF A RESOLUTION FOR A GRANT
APPLICATION TO THE FLORIDA INLAND NAVIGATION DISTRICT FOR
“PHASE B” PUBLIC ACCESS IMPROVEMENTS ON THE FLINN TRACT OF
THE LAGOON GREENWAY**

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O’Bryan absent), the Board approved **Resolution 2012-034**, Attachment E-6 Resolution for Assistance 2012 Under the Florida Inland Navigation District Waterways Assistance Program.

8.D. WRIGHT EXPRESS FUEL CARD AGREEMENT

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O’Bryan absent), the Board approved and authorized the Chairman to execute the Addendum to the Fuel Card Services Agreement Between Wright Express Financial Services Corporation (“WEXFSC”) and the State of Florida Department of Management Services (the (“STATE”), as recommended in the memorandum of April 9, 2012.

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

**8.E. LEASE EXTENSION, LITTLE MERMAID CAR WASH, 1935 43RD AVENUE,
TIMOTHY E. AND JOSHANA TYNES, 43RD AVENUE/SR60 INTERSECTION
WIDENING AND IMPROVEMENTS**

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved and authorized the Chairman to execute the agreement to extend the lease with Timothy E. and Joshana Tynes, commencing on May 1, 2012 and terminating on April 30, 2013, as recommended in the memorandum of April 9, 2012.

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

**8.F. AMENDMENT NO. 15 TO THE PROFESSIONAL SERVICES AGREEMENT WITH
CARTER ASSOCIATES, INC. IRC PROJECT NO. 9810B, 66TH AVENUE
PAVING IMPROVEMENTS (4TH STREET TO SR 60)**

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved and authorized the Chairman to execute Amendment No. 15 for a lump sum amount of \$7,490.00 for Carter Associates, Inc., as outlined in the Scope of Services (Exhibit "A") and (Exhibit "B"), dated March 30, 2012, as recommended in the memorandum of April 2, 2012.

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

8.G. WORK ORDER No. 1 TO THE CONTINUING CONTRACT AGREEMENT FOR PROFESSIONAL SERVICES WITH BRIDGE DESIGN ASSOCIATES, INC. FOR 66TH AVENUE BRIDGE OVER THE IRFWCD MAIN RELIEF CANAL, IRC PROJECT No. 9810-B

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved and authorized the Chairman to execute Work Order No. 1 to the Continuing Contract Agreement for Professional Services with Bridge Design Associates, Inc., for a lump sum fee of \$1,980.00, authorizing IRC Project No. 9810-B as outlined in the Scope of Services, and as recommended in the memorandum of April 2, 2012.

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

8.H. TRANSIT FACILITY CHANGE ORDER #2

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved and authorized the Chairman to execute Change Order No. 2 to the Transit Facility contract with Barth Construction, Inc., in the amount of \$52,704.00 which will increase the contract amount to \$1,687,694.00 with a time extension of 13 days, as recommended in the memorandum of April 11, 2012.

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

8.I. FINAL PAY TO MELVIN BUSH CONSTRUCTION COMPANY FOR 74TH AVE AND 82ND AVE BRIDGE AT 4TH STREET FORCE MAIN AND REUSE FORCE MAIN INTERCHANGE AND CONFLICT RESOLUTION, UCP 4070, WIP No. 471-23536-044699-11503

ON MOTION by Commissioner Flescher, SECONDED by Chairman Wheeler, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved the total amount for labor and materials of \$105,379.48 and Pay Request No. 2 Final for \$55,475.25, to Melvin Bush Construction Company, as recommended in the memorandum of April 9, 2012.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS - NONE

10.B. PUBLIC DISCUSSION ITEMS - NONE

10.C. PUBLIC NOTICE ITEMS - NONE

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

12.I.1 WORK ORDER NO. 13 COASTAL TECHNOLOGY CORPORATION INC., SECTOR 3 BEACH RESTORATION PROJECT, PHASE 1, PHASE 2, AND PHASE 2B POST CONSTRUCTION MONITORING SERVICES

Coastal Engineer James Gray reported that the proposed work order with Coastal Technology Corporation, Inc. (“Coastal Tech”) is for annual post-construction monitoring for all phases of the Sector 3 Beach Restoration project. He noted that staff has worked with Coastal Tech to reduce costs by approximately \$48,000 or 9.5% compared to similar work conducted last year. He noted that the Continuing Services Agreement with Coastal Tech has expired and will need to be extended in order to ratify the work order, and presented staff’s recommendation for

the Board to approve Work Order No. 13, in the total amount of \$459,206, with an extension of said contract.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board: (1) approved and authorized the Chairman to execute Work Order No. 13, totaling \$459,206, to the contract with Coastal Technology Corporation, Inc. (Coastal Tech); and (2) approved an extension to the continuing services contract between Indian River County and Coastal Technology through completion of Work Order No. 13, as recommended in the memorandum of April 10, 2012.

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

12.J. UTILITIES SERVICES – NONE

13. COUNTY ATTORNEY MATTERS

13.A. HB 5301 – MEDICAID BACKLOG

County Attorney Alan S. Polackwich, Sr. provided background on House Bill (HB 5301), through which the State is seeking payment for Medicaid back billings of \$325 million which were disputed and unpaid by Florida counties. He revealed that the Florida Agency for Health Care Administration (“AHCA”) has apportioned Indian River County’s share of the bills at \$1.233 million, an amount disputed by County staff. He outlined three avenues the Board can take: (1) Enter into the Florida Association of Counties’ (FAC) lawsuit challenging the constitutionality of HB 5301; (2) Arrive at a mediated payment amount through discussion with AHCA; and (3) Defer a decision until August 1, 2012, when the AHCA certifies the exact amount each county owes. Attorney Polackwich added that after AHCA’s final certification, the

Board must decide whether to accept and pay 85% of the final amount, or dispute the figure, pay 100% of the final amount, and file a petition with the Florida Department of Administrative Hearings (“DOAH”) by September 1, 2012. He noted that the State will obtain payment by withholding state revenue sharing funds destined for the County.

Commissioner Solari said that he was inclined to join the lawsuit, but the Board needs to obtain further information on the charges disputed by the County and rebilled by the State.

Attorney Polackwich elaborated on what information would be necessary before County staff can come up with an accurate figure for what may be owed the State.

Commissioner Flescher agreed with Commissioner Solari that joining the FAC lawsuit seems like a good idea. He inquired whether the Office of Management and Budget is working on identifying the valid bills and what the erroneous charges are.

Administrator Baird commented that after staff meets with the AHCA, the County will have a better idea on the basis for the State’s charges.

Director of Management and Budget Jason Brown stated that many of the charges are for bills originally denied by the County. However, it will be necessary to meet with AHCA before the County can know what is truly owed, and can determine whether to use the State’s information or some other criteria to establish the burden of proof.

Discussion ensued regarding the lack of response by the Governor and Legislative Delegation to the letters sent by the Board (*see March 13, 2012 meeting*) asking Governor Scott to veto HB 5301, and requesting an explanation from Representatives Deborah Mayfield and Tom Goodson, and Senators Mike Haridopolos and Joe Negron, of their support for HB 5301 and companion Senate Bill 1988 [SB 1988].

Administrator Baird noted that Director Brown had also sent a letter to the legislators when they were considering the passage of HB 5301.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Flescher, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board approved to send a second letter to Representatives Deborah Mayfield and Tom Goodson, and Senators Mike Haridopolos and Joe Negron requesting that they respond to the Board's initial inquiry as to the basis of their support for HB 5301.

Renee Renzi, Waverly Place, encouraged the Board to fight HB 5301 as vigorously as possible.

Attorney Polackwich addressed the questions of **Bob Johnson**, Coral Wind Subdivision, who requested further information about the Indian River Hospital District's responsibility for the Medicaid costs.

The Chairman called a recess at 9:56 a.m. and reconvened the meeting 10:01 a.m., with Commissioners Davis and O'Bryan absent.

13.B. WATER/SEWER REFERENDUM OR SURVEY

Attorney Polackwich recalled the Board's February 7, 2012 vote to hold a referendum to see if South Barrier Island residents would prefer to receive water and sewer from the City or the County after the Water and Sewer Franchise Agreement with the City of Vero Beach ("the City") expires in March 2017. He explained his rationale for asking the Board to rescind said vote, and presented staff's recommendation for the Board to approve in concept, a mail survey of all the property owners (not just the South Barrier Island residents), who would be impacted by this decision. He noted that the City has been notified of the County's intent of non-renewal, and

that a survey will be unnecessary if the City volunteers to transfer the subject areas to County service. Attorney Polackwich also recommended that the Board defer an electric service survey to see whether the unincorporated County residents want the City or FPL to provide their electric service in 2017, when the County's electric franchise with the City expires.

Commissioners Solari and Flescher, respectively, voiced support for the mail survey, provided the completed surveys are mailed back to an independent entity, such as a Certified Public Accounting firm.

A brief discussion ensued in response to Chairman Wheeler's suggestion that the City include the survey in one of its utility bills.

Attorney Polackwich explained that the City's billing software is not capable of targeting only specific areas.

Dr. Stephen Faherty, Indian River County, voiced support for the water and wastewater surveys. He also spoke of the importance of giving residents of the unincorporated County and South Barrier Island the chance to vote on their electric service provider, and hoped that the Board would consider this issue in the Fall.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Solari, by a 3-0 vote (Commissioners Davis and O'Bryan absent), the Board: (1) rescinded its February 7, 2012 vote to hold a referendum on the water/sewer issue among South Barrier Island residents in conjunction with the November 2012 General Election; (2) authorized staff to move forward on a mail survey of the water/sewer issue to be conducted according to staff's report (on pages 134-136 of the agenda packet), with the understanding that staff will bring the final plan and

details back for approval before the survey is conducted; and (3) deferred any decision on an electric survey for the present time, as recommended in the memorandum of April 11, 2012.

(Clerk's Note: the comments of the following speaker, who addressed the Board after Item 15.B.2. of the Solid Waste Disposal District meeting, are placed here for continuity)

George Lamborn, President South Beach Property Owners Association (SBPOA), spoke in support of the water and wastewater service on behalf of the SBPOA. He advised that after the group concludes researching the history of the early water system, the data would be shared with the Board.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER GARY C. WHEELER, CHAIRMAN - NONE

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

14.C. COMMISSIONER WESLEY S. DAVIS - NONE

14.D. COMMISSIONER JOSEPH E. FLESCHER - NONE

14.E. COMMISSIONER BOB SOLARI - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT

The Board reconvened as the Board of Commissioners of the Emergency Services District. Those Minutes are available separately.

15.A.1. STRETCHER MAINTENANCE CONTRACT

15.B. SOLID WASTE DISPOSAL DISTRICT

The Emergency Services District Board reconvened as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are available separately.

**15.B.1. WORK ORDER No. 3 TO CDM SMITH, INC. FOR C&D LANDFILL
PERMIT RENEWAL AND MPIS TECHNICAL REPORT**

**15.B.2. AMENDMENT No. 1 TO WORK ORDER No. 2 TO GEOSYNTEC TO UTILIZE
KESSLER CONSULTING TO FINALIZE A RECYCLING CONTRACT WITH
RECOMMUNITY**

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 10:23 a.m.

ATTEST:

Jeffrey K. Barton
Clerk of Circuit Court and Comptroller

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/MG/2012 Minutes