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September 9, 2008

**REGULAR MEETING OF THE BOARD OF COUNTY**  
**COMMISSIONERS OF INDIAN RIVER COUNTY**

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, September 9, 2008. Present were Chairman Sandra L. Bowden, Vice Chairman Wesley S. Davis, and Commissioners Joseph E. Flescher, Peter D. O'Bryan and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, Deputy County Attorney William K. DeBraal, and Deputy Clerk Athena Adams.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Father Tri Tang Pham, St. Helen's Catholic Church, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Deputy County Attorney, William K. DeBraal, led the Pledge of Allegiance to the Flag.

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

1. Remove Item 8.FF – Corrections to Resolution 2008-116.
2. Addition: Item 14.C.1. Gifford Pool.

ON MOTION by Vice Chairman Davis, SECONDED by Chairman Bowden, the Board unanimously approved the above changes to the Agenda.

**5. PROCLAMATIONS AND PRESENTATIONS**

**A. PRESENTATION BY GWENDA THOMPSON, PRESIDENT/CEO OF THE WORKFORCE DEVELOPMENT BOARD REGARDING THE ONE-STOP CAREER CENTER AND SYSTEM IN INDIAN RIVER COUNTY**

**Gwenda Thompson**, President/CEO, of the Workforce Development Board, thanked Commissioners for allowing her to share information on the upcoming changes to the local workforce development system. She announced the piloting of a new model in their region, which began with a Workforce Board Strategic Planning Retreat in the fall of 2006 when the Board determined that performance improvements were needed, and declining funds required a new way of doing business. She described in detail the business improvement plan they developed and how data gathered from a survey brought awareness that they needed to use their funds more efficiently. As a result, beginning this month and continuing through December, they will be making significant changes in the County. The Workforce Development Center and One Stop Career Center will merge and will now be know as “Workforce Solutions,” and by July

1, 2009, they will have a new and informative website - [www.yourworkforcesolutions.com](http://www.yourworkforcesolutions.com), which will be the primary gateway for people to access Workforce services.

**Ms. Thompson** also announced that a new Workforce Solutions Center will open on 82<sup>nd</sup> Avenue in October, to serve their primary customers in Indian River County businesses. Job seekers would come to the Center by appointments for the final assessment and screening before being referred to a high-skilled high-wage job or any job requiring increased screening. One of their mobile career centers will be assigned to Indian River County full-time, five (5) days a week to serve job seekers. In October they will close the Career Center on Old Dixie Highway and are opening additional points of access for the community. In January 2009, the Workforce Board, doing business as Workforce Solutions, will assume direct services, because for many year they have contracted with a third party to deliver workforce services for them. Ms. Thompson provided much detail on what could be expected from this entity, and their goals to be met.

No Board action required or taken.

## **6. APPROVAL OF MINUTES**

### **A. REGULAR MEETING OF JULY 15, 2008**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of July 15, 2008. There were none.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the regular meeting of July 15, 2008, as written.

**6.B. BUDGET WORKSHOP OF JULY 16, 2008**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Budget Workshop of July 16, 2008. There were none.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved the Minutes of the Budget Workshop of July 16, 2008, as written.

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

- A. PROOF OF PUBLICATION OF UNCLAIMED MONIES FOR CASH BONDS DEPOSITED WITH THE CLERK OF THE CIRCUIT COURT PRIOR TO JANUARY 1, 2007 (ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD)**
  
- B. FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF FORESTRY, ANNUAL FIRE CONTROL REPORT**
  
- C. RESIGNATION OF BCC APPOINTEE TO THE METROPOLITAN PLANNING ORGANIZATION CITIZENS ADVISORY COMMITTEE**
  
- D. CITIZENS OVERSIGHT COMMITTEE APPOINTMENT INTERLOCAL AGREEMENT FOR COORDINATED PLANNING AND SCHOOL CONCURRENCY**
  
- E. INTERESTED CITIZEN VACANCY ON MARINE ADVISORY NARROWS WATERSHED ACTION COMMITTEE**

**F. CHANGE IN INDIAN RIVER COUNTY SCHOOL BOARD REPRESENTATIVE, METROPOLITAN PLANNING ORGANIZATION TECHNICAL ADVISORY COMMITTEE AND TRANSPORTATION DISADVANTAGED LOCAL COORDINATING BOARD**

**8. CONSENT AGENDA**

Commissioner Bowden asked to pull Item 8.M., for discussion

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

**8.A. APPROVAL OF WARRANTS AND WIRES – AUGUST 8 - 14, 2008**

ON MOTION by Vice Chairman Davis, SECONDED  
by Commissioner Flescher, the Board unanimously  
approved the list of Warrants and Wires issued by the  
Clerk to the Board for the time period of August 8, 2008,  
to August 14, 2008, as requested in the memorandum  
dated August 14, 2008.

**8.B. APPROVAL OF WARRANTS AND WIRES – AUGUST 15 - 21, 2008**

ON MOTION by Vice Chairman Davis, SECONDED  
by Commissioner Flescher, the Board unanimously  
approved the list of Warrants and Wires issued by the

Clerk to the Board for the time period of August 15, 2008, to August 21, 2008, as requested in the memorandum dated August 21, 2008.

**8.C. APPROVAL OF WARRANTS AND WIRES – AUGUST 22 - 28, 2008**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants and Wires issued by the Clerk to the Board for the time period of August 22, 2008, to August 28, 2008, as requested in the memorandum dated August 28, 2008.

**8.D. APPOINTMENT TO THE ENTERPRISE ZONE DEVELOPMENT AGENCY**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the appointment of Mr. Jeff Thompson as the Business in Enterprise Zone Appointee to the Enterprise Zone Development Agency, as recommended in the memorandum dated July 22, 2008.

**8.E. GIFFORD PROGRESSIVE CIVIC LEAGUE'S REQUEST FOR ESTABLISHMENT OF A MUNICIPAL SERVICES BENEFIT DISTRICT FOR THE GIFFORD COMMUNITY CENTER**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved and directed staff to take the necessary steps to form a benefit unit to supply funding for the Gifford Community Center, as recommended in the memorandum dated August 18, 2008.

**8.F. EXTENSION OF CONTRACT FOR PURCHASE OF REAL PROPERTY AT 5835 85<sup>TH</sup> STREET (A/K/A COUNTY ROAD 510) – DAVID GODWIN**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Addendum to the Contract extending the closing date until December 31, 2008, as recommended in the memorandum of August 27, 2008.

**8.G. AUTHORIZATION TO ATTEND 2008 ANNUAL FSBPA CONFERENCE**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized out-of-county travel for Commissioners and staff to attend the Florida Shore & Beach Preservation Association Annual Conference, September 11 and 12,



2008, at Captiva Island, Florida, as recommended in the memorandum of September 2, 2008.

**8.H. APPROVAL OF BID AWARD FOR IRC BID NO. 2008054, ANNUAL BID FOR UTILITY LOCATING EQUIPMENT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved and awarded the Bid to the second lowest bidder, Green Equipment Company, as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the Invitation to Bid, as recommended in the memorandum of August 25, 2008.

Pursuant to staff's recommendation, Power-Tel Utility Products, the apparent low bidder, does not meet specifications requiring a 10-watt unit (Power-Tel can only provide a 3-watt unit).

**8.I. SUPPLEMENTAL NO. 2 TO WORK ORDER NO. 1 WITH CARTER ASSOCIATES, INC., PROFESSIONAL CIVIL ENGINEERING SERVICES AGREEMENT, INDIAN RIVER COUNTY PARKS MAINTENANCE COMPLEX, IRC PROJECT NO. 0701**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Supplemental No. 2 in the amount of \$15,740.00, as outlined in the Scope of Services, and authorized the Chairman to execute same, as

recommended in the memorandum dated August 21, 2008.

**8.J. WORK ORDER NO. 3 (ENGINEERING/SURVEYING), MORGAN EKLUND, INC., OLD DIXIE HIGHWAY (NORTH), US 1 TO 69<sup>TH</sup> STREET, LAP SIDEWALK IMPROVEMENTS PROJECT, RIGHT-OF-WAY MAPPING (+/- 4 MILES)**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 3, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum dated August 19, 2008.

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

**8.K. WORK ORDER NO. 7 (ENGINEERING/SURVEYING), MASTELLER, MOLER, REED AND TAYLOR, INC., CR 512 PHASE III ROADWAY IMPROVEMENTS, FINAL RIGHT-OF-WAY MAPPING PROJECT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 7, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as requested in the memorandum of August 15, 2008.

**8.L. CONSIDERATION OF INDIAN RIVER COUNTY 2008 SHIP PROGRAM AND HHR PROGRAM ANNUAL REPORTS**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the SHIP Annual Report and the HHR Annual Report, and authorized the Chairman to sign the Reports' Certification pages, as recommended in the memorandum dated August 22, 2008.

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

**8.M. CONSIDERATION OF STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM FUNDS SET-ASIDE FOR HABITAT FOR HUMANITY CLIENTS FOR FY 2008-2009**

Chairman Bowden required further clarification and additional information on this request.

Community Development Director Bob Keating explained the receipt, use and allocation of the SHIP funds since 1992 when the program began. Of importance was the target to be met: 30% of the money has to go to very low income households, and 30% to low income. He explained the use of HOME funds, the new source of funding, which came about when the County entered into a consortium with St. Lucie and Martin Counties.

Chairman Bowden although supportive of Habitat, but was concerned about bumping funds from others, and just wanted to be fair.

Director Keating further explained the receipt, allocation, and the anticipated pay back of funds.

**Julianne Price** informed the Board that the main issue is that people in the lower income category would have to wait longer if the Board approved this allocation.

Director Keating responded to further questions from Board members regarding the drop in funds, whether foreclosures had caused a decrease in revenues, and whether this action would deny anyone their fair share.

Board members and staff further debated how funds are allocated and the effect on individuals. Director Keating added that when funds are allocated there is a potential to exclude some.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Commissioner Flescher to leave the  
funds in the SHIP Program to help the people who  
need assistance, and to not bring it into the Habitat  
funds at this time.

Under discussion, Commissioner Flescher asked if the HOME funds were guaranteed at this point, and if there were any change in surety to the Applicants. He also asked if the decision being made in St. Lucie alters the timeliness of the funds to be able to apply.

Director Keating confirmed that there were some timeliness issues, but the consortium has already been approved, and the money has been allocated. He said it is just a question of when all the necessary documents will be signed and St. Lucie County gets the authorization to incur expenses.

Commissioner O'Bryan highlighted the need to understand that this is for fiscal year 2008-2009 and they are still a month away; and there are additional SHIP funds available now, to anyone applying for these funds in 2008-2009, even if it takes a month or two to get HOME funds.

The Chairman CALLED THE QUESTION and by a 4-1 vote (Commissioner O'Bryan opposed), the Board approved leaving the \$694,926.00 in the SHIP Program and to not bring it into the Habitat funds at this time.

**8.N. GEOTECHNICAL SERVICES WORK ORDER #6, DUNKELBERGER ENGINEERING & TESTING, INC., FOR THE ENCLAVE SUBDIVISION – PROJECT # 0816**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 6 to Dunkelberger Engineering & Testing Inc., authorizing the professional services as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order for a not-to-exceed fee of \$1,505.00, as recommended in the memorandum dated August 13, 2008.

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

**8.O. FINAL PAYMENT AND RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC., WORK ORDER # 2**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for final payment (\$65.00) and the release of retainage (\$24,874.16) to Applied Technology & Management, Inc., as recommended in the memorandum dated August 26, 2008.

**8.P. FINAL PAYMENT AND RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC., WORK ORDER # 3**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for final payment (\$65.00) and the release of retainage (\$4,103.10) to Applied Technology & Management, Inc., as recommended in the memorandum dated August 26, 2008.

**8.Q. FINAL PAYMENT AND RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC., WORK ORDER #5**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for final payment (\$65.00) and the release of retainage (\$7,186.18) to Applied

Technology & Management, Inc., as recommended in the memorandum dated August 26, 2008.

**8.R. FINAL PAYMENT AND PARTIAL RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC., WORK ORDER # 6**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for **partial** release of retainage (\$14,738.84) to Applied Technology & Management, Inc., as recommended in the memorandum dated August 26, 2008.

**8.S. FINAL PAYMENT AND RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC., WORK ORDER # 7**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for final payment (\$65.00) and the release of retainage (\$2,948.79) to Applied Technology & Management, Inc., as recommended in the memorandum dated August 26, 2008.

**8.T. FINAL PAYMENT AND PARTIAL RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC., WORK ORDER # 8**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for **partial** release of retainage (\$11,206.63) to Applied Technology & Management, Inc., as recommended in the memorandum dated August 26, 2008.

**8.U. FINAL PAYMENT AND RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC., WORK ORDER # 9**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for final payment (\$1,062.07) and the release of retainage (\$15,803.27) to Applied Technology & Management, Inc., as recommended in the memorandum dated August 26, 2008.

**8.V. AMBERSAND BEACH NOURISHMENT – SECTIONS 1 AND 2, FDEP GRANT AGREEMENT No. 071R3 – AMENDMENT No. 1**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously granted approval, and authorized execution of Amendment No. 1 to Florida Department of Environmental Protection (FDEP) Agreement No.



07IR3, as recommended in the memorandum dated August 13, 2008.

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

**8.W. PROVIDING CONSTRUCTION MATERIALS TESTING SERVICES FOR 53<sup>RD</sup> STREET ROADWAY IMPROVEMENTS, IRC PROJECT # 0107**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 7, authorizing the professional services as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order for a fee not-to-exceed \$36,572.50, as recommended in the memorandum dated September 2, 2008.

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

**8.X. WORK ORDER NO. 5 (ENGINEERING), CREECH ENGINEERS, INC. – RELEASE OF RETAINAGE, INDIAN RIVER COUNTY HORIZONTAL CONTROL NETWORK, 2007 GEODETIC (GPS) RE-DENSIFICATION PROJECT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved payment of Creech Engineers, Inc.'s Invoice No. 913007, dated August 22, 2008, in the amount of \$5,125.00 for release of retainage for Work Order No. 5,

as recommended in the memorandum dated August 28, 2008.

**8.Y. WORK ORDER NO. 1 (ENGINEERING/SURVEY), CREECH ENGINEERS, INC. – RELEASE OF RETAINAGE, INDIAN RIVER COUNTY HORIZONTAL CONTROL NETWORK, 2007-2008 GEODETIC (GPS) RE-DENSIFICATION PROJECT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved payment of Creech Engineers, Inc.'s Invoice No. 913008, dated August 22, 2008, in the amount of \$500.00 for the release of retainage held for Work Order No. 1, as recommended in the memorandum dated August 28, 2008.

**8.Z. OSLO ROAD CLEARING, 31<sup>ST</sup> AVENUE S.W. TO 43<sup>RD</sup> AVENUE AND 43<sup>RD</sup> AVENUE CLEARING, 6<sup>TH</sup> PLACE S.W. TO SOUTH RELIEF CANAL, BID NO. 2008013**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 1 to the Contract with Clear Zone Maintenance, Inc., for a reduction of \$7,750.00 and final payment in the amount of \$21,725.00, which includes release of retainage, as recommended in the memorandum dated August 27, 2008.

**8.AA. CR. 512, PHASE III, CR 510, IRC PROJECT # 9611 & 0001, BID NUMBER 2006065, CHANGE ORDER NO. 11 AND RELEASE OF RETAINAGE FOR J.W. CHEATHAM, L.L.C.**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 11 and final payment of Contractor's Application in the amount of \$681,922.66, as recommended in the memorandum dated August 26, 2008.

**8.BB. MISCELLANEOUS BUDGET AMENDMENT 019**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-118** amending the fiscal year 2007-2008 Budget.

**8.CC. PLC, LLC REQUEST FOR RELEASE OF EASEMENTS AT 4079 43<sup>RD</sup> AVENUE (INDIAN RIVER FARMS COMPANY SUBDIVISION)**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-119** releasing Easements on a parcel of land in Indian River Farms Company Subdivision.

**8.DD. APPROVAL OF BID AWARD FOR IRC BID NO. 2008027, SOUTH RO PLANT PUMP UPGRADE AND CAPACITY ENHANCEMENT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved the Bid Award to Interstate Engineering Corporation (IEC), as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the Invitation to Bid; (2) approved the Sample Agreement; and (3) authorized the Chairman to execute said agreement after the required performance and payment bonds, along with the appropriate certificate of insurance, have been received and once the County Attorney has approved the Agreement as to form and legal sufficiency, as recommended in the memorandum dated August 21, 2008.

**8.EE. APPROVAL OF BID AWARD FOR IRC BID NO. 2009001, ANNUAL BID FOR CAUSTIC SODA, UTILITIES DEPARTMENT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved the Bid Award to Allied Universal Corp., 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, 2008 through September 30, 2009, 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, zero cost increase, 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 dated September 2, 2008.

**8.FF. CORRECTIONS TO RESOLUTION 2008-116 CONCERNING RIGHT-OF-WAY ACQUISITION**

This item was removed from the Agenda with intent to be brought back at a later date.

**8.GG. RENEWAL OF SERVICE AGREEMENT FOR INDIAN RIVER COUNTY SHERIFF E911 PUBLIC SAFETY ANSWERING POINT (PSAP) LOGGING RECORDER ON A SOLE SOURCE BASIS FROM REPLAY SYSTEMS, INC.**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the renewal of the Service Agreement for the Indian River County Sheriff E911 Public Safety Answering Point (PSAP) Logging Recorder, with Replay Systems, Inc., at a cost of \$8,300.00, as recommended in the memorandum dated September 2, 2008.

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

**8.HH. RIGHT-OF-WAY ACQUISITION COUNTY ROAD 510, PROJECT # 0610, 85<sup>TH</sup> STREET, SOUTH SIDE, WEST OF 58<sup>TH</sup> AVENUE, 1 PARCEL: OWNED BY DAVID GODWIN, COMMONLY KNOWN AS: 5825 85<sup>TH</sup> STREET**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, accepting the offer of \$35,000.00 for the purchase of the parcel (Lot # 5), and authorized the Chairman to execute the Agreements, as recommended in the memorandum dated August 22, 2008.

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

**8.II. RIGHT-OF-WAY ACQUISITION, PPDC INVESTMENTS, LLC, A FLORIDA LIMITED LIABILITY COMPANY, 1875 43<sup>RD</sup> AVENUE**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the purchase of the right-of-way for \$18,735.00, and authorized the Chairman to execute the Agreement, as recommended in the memorandum dated August 20, 2008.

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

**8.JJ. LAUREL HOMES, INC., 16<sup>TH</sup> STREET ROAD IMPROVEMENTS,  
PROJECT # 9810**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the Agreement to Purchase and Sell Real Estate for \$127,500.00, and authorized the Chairman to execute said Agreement, as recommended in the memorandum dated August 26, 2008.

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

**8.KK. DOLORES MARY PESCE, STATE ROAD 60 / 58<sup>TH</sup> AVENUE  
INTERSECTION IMPROVEMENTS, PROJECT # 0632**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the Agreement to Purchase and Sell Real Estate for \$125,000.00, and authorized the Chairman to execute the Agreement, as recommended in the memorandum dated August 29, 2008.

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

**8.LL. WABASSO BEACH PARK RESTORATION: WORK ORDER CT-3;  
PROFESSIONAL ENGINEERING SERVICES FOR THE CONSTRUCTION  
PHASE SITE OBSERVATION RELATIVE TO PERMIT AND CONTRACT  
REQUIREMENTS: COASTAL TECHNOLOGY CORPORATION**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. CT-3 with Coastal Technology Corporation, for professional engineering services (Wabasso Beach Park Restoration), in the amount of \$34,122.00, as recommended in the memorandum dated August 28, 2008.

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

**8.MM. RIGHT-OF-WAY ACQUISITION – 66<sup>TH</sup> AVENUE # 0370, 6705 66<sup>TH</sup>  
AVENUE, BETWEEN 65<sup>TH</sup> AND 69<sup>TH</sup> STREETS, ROBERT JOSEPH  
GARDINER II AND WENDY GARDINER, HUSBAND AND WIFE**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the purchase of the entire parcel, land and house located at 6705 66<sup>th</sup> Avenue, for \$250,000.00, and authorized the Chairman to sign the purchase Agreement, as recommended in the memorandum dated September 2, 2008.

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



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

**10. PUBLIC ITEMS**

**A. PUBLIC HEARINGS**

**1. GLADYS WILLIAMS' REQUEST FOR SPECIAL EXCEPTION USE APPROVAL FOR A CHILD CARE FACILITY TO BE KNOWN AS FIRST IMPRESSIONS DAY CARE**

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

Planning Director Stan Boling recapped the backup memorandum dated August 28, 2008, provided background, and outlined the conditions necessary for consideration and approval of the request for Special Exception Use approval for a Child Care Facility to be known as First Impressions Day Care, to be located at 935 9<sup>th</sup> Court S.W. The Planning & Zoning Commission voted 6-0 to recommend that the Board approve the request, with specific conditions as outlined in the Report. Director Boling then presented staff's recommendation as outlined at pages 424-425 of the backup.

*The Chairman opened the Public Hearing.*

**Joe Bittle** of Schulke Bittle & Stoddard, invited questions from the Board, but they had none.

*There were no other speakers and the Chairman closed the Public Hearing.*

ON MOTION by Commissioner Wheeler,  
SECONDED by Commissioner O'Bryan, the Board:

(1) unanimously found that:

- (a) It is empowered under the provisions of Chapter 971 to review the special exception applied for;
- (b) The granting of the special exception will not adversely affect the public interest;
- (c) The application satisfies the general and specific criteria required for special exception approval; and
- (d) The conditions stated below are adequate to ensure compatibility between the special exception use and surrounding land uses;

(2) unanimously granted special exception use approval for the child care use with the following conditions:

- (i) Prior to issuance of a certificate of occupancy, the applicant shall install all required buffers and opaque features.
- (ii) Prior to site plan release, the applicant shall dedicate, without compensation, the 5 feet of right-of-way along 9<sup>th</sup> Court S.W., to satisfy the 60-foot local road right-of-way requirement.
- (iii) Prior to site plan release, the applicant shall execute and record a Unity of Title to combine the two lots into a single parcel, all as

recommended in the memorandum of August 28, 2008.

**10.A.2. QUAIL RIDGE OF VERO BEACH, LLC'S REQUEST TO AMEND THE TRANSPORTATION ELEMENT OF THE COMPREHENSIVE PLAN TO REMOVE SEGMENTS OF 61<sup>ST</sup> STREET BETWEEN 74<sup>TH</sup> AND 90<sup>TH</sup> AVENUES AND REMOVE SEGMENTS OF 65<sup>TH</sup> STREET BETWEEN 74<sup>TH</sup> AVENUE AND INTERSTATE 95 FROM THE COUNTY'S EXTENDED ROADWAY GRID MAP**

Community Development Director Bob Keating, through a recap of the backup memorandum dated August 14, 2008, and a PowerPoint presentation, presented background and the conditions necessary for consideration of the request by Quail Ridge of Vero Beach to amend the Transportation Element of the Comprehensive Plan to remove segments of 61<sup>st</sup> Street between 74<sup>th</sup> and 90<sup>th</sup> Avenues, and removing segments of 65<sup>th</sup> Street between 74<sup>th</sup> Avenue and Interstate 95 from the County's Extended Roadway Grid Map. He then presented staff's recommendation for approval of the proposed amendment, and directions for staff to submit the adopted amendment to the State Department of Community Affairs for compliance review.

*The Chairman opened the Public Hearing. There were no speakers and the Chairman closed the Public Hearing.*

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously adopted Ordinance **2008-015** amending the Transportation Element of the Comprehensive Plan by

removing segments of 61<sup>st</sup> Street between 74<sup>th</sup> Avenue and 90<sup>th</sup> Avenue and by removing segments of 65<sup>th</sup> Street between 74<sup>th</sup> Avenue and Interstate 95 from the County's Extended Roadway Grid Map; and providing codification, severability, and effective date.

**10.A.3. INDIAN RIVER COUNTY'S REQUEST FOR ABANDONMENT OF A PORTION OF 130<sup>TH</sup> STREET (GIBSON STREET) AND AN UNNAMED RIGHT-OF-WAY IN ROSELAND**

Planning Director Stan Boling presented description, conditions, and background on the request by County staff to abandon a portion of 130<sup>th</sup> Street (Gibson Street) and an unnamed right-of-way in Roseland. He then presented staff's recommendation that the Board of County Commissioners abandon its rights to the subject rights-of-way and authorize the Chairman to execute the abandonment resolution.

*The Chairman opened the Public Hearing.*

**Bob Johnson**, Coral Wind Subdivision, asked who currently owns the conservation area, and Director Keating said it was the County.

**Fred Mensing** was opposed to the abandonment request. He was aware of the County's contract with U.S. Fish and Wildlife, which has indicated that the County should abandon the right-of-way, but gave reasons why the Board should not approve the request. He suggested staff be instructed to contact Fish and Wildlife to inform them that the County would not use it during the term of their contract without going through their approval; and when the

contract is up the matter could be reviewed by staff, as to the real needs, as far as public safety on that roadway.

**Jens Tripson**, Vero Beach, and Chairman of the Lands Advisory Committee, encouraged the Board to go with staff's recommendation and approve the abandonment of the right-of-way.

**C.N. Kirrie**, said he had no problem with the abandonment except that the map shows the drawback from the northerly lot line of Lot 19, and Lots 19 and 15 do not match in their northern boundaries by 60 feet. Consequently, if this abandonment is approved with the current verbiage in the application to abandon, it would be incorrect. He asked that the Board puts this on hold until the written documentation coincides with the map.

Director Boling showed a sketch of the abandonment and said staff would check the verbiage, but this was the legal description staff was going by.

Vice Chairman Davis acknowledged Mr. Kirrie's point that if there was a discrepancy with the verbiage (the legal description versus the legal sketch) then they should have it corrected.

Chief of Environmental Planning Roland DeBlois said the legal/general description in the application itself evolved during the review process to the point where the actual legal description and the resolution does reflect that pullback of 136 feet, but he would double check to confirm. He pointed out that the legal description was modified through the course of the review process to allow for that pullback.

*There were no other speakers and the Chairman closed the Public Hearing.*

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved the following resolution, on condition that the legal description matches the sketch shown at today's meeting:

Resolution **2008-120** providing for the closing, abandonment, vacation and discontinuance of a segment of 130<sup>th</sup> Street (Gibson Street) right-of-way and an unnamed right-of-way in Roseland, said land lying in Indian River County, Florida.

## **10.B. PUBLIC DISCUSSION ITEMS**

### **1. REQUEST TO SPEAK FROM BOB ADAIR, CHAIRMAN, AGRICULTURAL ADVISORY COMMITTEE, REGARDING RECOMMENDATION FROM AGRICULTURAL ADVISORY COMMITTEE TO REQUEST AN UPDATED STUDY ON THE HYDROGEOLOGY OF INDIAN RIVER COUNTY**

**Bob Adair** addressed the need for the tremendous value this geo/hydrology report would provide the County. He spoke about the importance of the water quality, and outlined the proposed accomplishments and purposes of the study. He believed it is in the best interest of the County to pursue a geo/hydrological study, and he asked for the Board's commitment to do so. He thereafter introduced two representatives from the U.S. Geological Survey (U.S.G.S.) Office, who would provide more details of the study: Dr. Lewis Murray, Hydrologist with U.S.G.S. at the Florida Integrated Science Center, and David Brown, Associate Center Director with the U.S.G.S.

Commissioner O'Bryan questioned the solidity of the cooperative funding from the Water Management District and the U.S.G.S, and whether there was a commitment for that in the budget.

**Mr. Adair** understood that funds are available, but invited Lewis Murray to better explain and confirm.

**Lewis Murray**, Hydrologist, stated that the Water Branch of the U.S.G.S. is federally funded in a Federal State Cooperative Program, meaning they can fund with federal dollars up to 50% of the total cost of a given hydrologic study. They have a long record of having cooperation at the State and local agencies, and in the past fifteen years have conducted similar studies, as the one proposed, for the Counties of Orange, Seminole, Lake and Polk, and were currently involved in a study with Highland County that would be completed next year.

**Mr. Murray** reported that under funding for Fiscal Year 2009, they have federal funds that would be opened to start this project, possibly mid-fiscal year that could be used to match a contribution by the County. He has not talked extensively with St. John's, but has received an indication of interest in possibly participating, starting in fiscal year 2010, with funding. This would be a 3-3 ½ year project and St. John's would be committed through those years.

**Mr. Murray** believed the Water Management Districts could also contribute, in this Study, some complementary services such as drilling new monitoring wells in necessary areas, and logging some of the abandoned artesian wells, to enable proper evaluation of the water quality collected from them. He could not give an exact fund-figure, but could estimate that it would probably be about a total of \$600,000 across three and a half years, and of that figure they anticipate the County's contribution would be no more than 10% (\$60,000.00 across 3 ½ years) with the remaining \$540,000.00 being contributed by U.S.G.S. and the St. Johns River Water

Management District. He suggested, if there is enough interest on the County's part, they could arrange a meeting with the District to discuss their possible support.

Commissioner O'Bryan asked if it mattered what fiscal year they pay, if the County decided to go ahead and contribute the 10%.

**Mr. Murray** said timing was important, and 2009 would be a good time if they decided to initiate the project.

Administrator Baird suggested they do an Interlocal Agreement before moving forward with financial obligations.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Commissioner Flescher, to direct staff to look into the feasibility of doing an intergovernmental agreement between the entities, so the County could determine the financial cost, to be able to accomplish the survey.

**Mr. Murray** reiterated that it might be useful to also approach the Water District with a request for support.

Board members deliberated the timeframe to bring this item back, and reached a CONSENSUS to make Bob Adair the "Point Person" for the U.S.G.S., who would coordinate this matter through Vice Chairman Davis, as the County's contact person.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved for staff to look into the feasibility of doing an



intergovernmental agreement between the entities, so the County could determine the financial cost, to be able to accomplish the survey.

**2. REQUEST TO SPEAK FROM CHARLES G. SEARCY REGARDING REPAIR AND IMPROVEMENT OF OSLO BOAT RAMP**

Charles Searcy, 1035 22<sup>nd</sup> Avenue, Vero Beach, suggested that in an effort to satisfy both sides (those against and for this issue), the Board or staff should review the sea grass, (because the survey was done 20 years ago), and based on that research, there has not been any Manatee sightings near the Oslo boat ramp. He assured the Board that Manatees were there, because he recently ran into one while kayaking. He observed that in the County's Manatee Protection Plan, there is a restriction (slow- speed zone) from Oslo Road to County Line, but it is not marked nor enforced. He recommended the County mark that zoning "SLOW" and to make that area a "trolling, polling, no motor zone" and patrol it.

**3. REQUEST TO SPEAK FROM VERA LOCKE, EXECUTIVE DIRECTOR, MARINE INDUSTRIES ASSOCIATION OF THE TREASURE COAST INC., REGARDING A RESOLUTION FROM THE COUNTY IN SUPPORT OF AMENDMENT 6**

Vera Locke was absent.

In the absence of the above speaker, Vice Chairman Davis sought approval to use the slot to add an item, "Impact Fees, by Chuck Mechling," to the Agenda.

ON MOTION by Vice Chairman Davis, SECONDED  
by Commissioner O'Bryan, by a 4-1 vote

(Commissioner Wheeler opposed) the Board DENIED to add a “Request to Speak by Chuck Mechling” to the Agenda.

*(Clerk’s Note: a unanimous vote is required to add items to the Agenda during a Board meeting)*

**10.C. PUBLIC NOTICE ITEMS**

**I. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR SEPTEMBER 16, 2008:**

**A. IMAGINE SCHOOL’S REQUEST TO MODIFY A CONDITION OF THE SPECIAL EXCEPTION USE APPROVAL FOR THE IMAGINE SCHOOLS 4<sup>TH</sup> STREET FACILITY (QUASI-JUDICIAL)**

**B. ALLIANCE HOLDING, LLC’S (RACETRAC’S) REQUEST FOR ABANDONMENT OF A PORTION OF 107<sup>TH</sup> COURT BETWEEN 94<sup>TH</sup> STREET AND CR 512 IN VERO LAKE ESTATES (LEGISLATIVE)**

The Chairman read the Notices into the record.

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

## **12. DEPARTMENTAL MATTERS**

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

#### **1. CONSIDERATION TO ABATE A PUBLIC NUISANCE AT 2025 SURFSIDE TERRACE (LANDOWNER: LEWIS BARTON: CODE ENFORCEMENT CASE No. 2006120082 (QUASI-JUDICIAL))**

Chief of Environmental Planning, Roland DeBlois, described this request to the Board and provided background, including prior actions on this matter. The matter was brought for Board consideration to decide if conditions on the subject property pose a serious health and safety issue and therefore warrant County nuisance abatement of the nuisance. Director DeBlois displayed photographs of the site, while pointing out materials and debris strewn about the property. He then presented the Board's alternatives for consideration, and staff's recommendation for Alternative 3, that the Board, in accordance with County Code Section 973.04, direct the County Administrator or his designee to take appropriate action in abating this nuisance.

Director DeBlois acknowledged that at the end of last week, Mr. Barton had moved a steel container onto the property with the intent to put the materials in it. He believed, if this is done, the serious public health and safety issues would be abated and County abatement would not be warranted. However, they would still have the issue of the container to deal with, if there were no permits for its use.

Commissioner Wheeler questioned the level of safety with the container, in the event there is a hurricane.

Assistant County Administrator Mike Zito asked for a deferral in further discussions until an interested party, Sheryl Gerstner, arrives.

*It being the usual time for a recess, the Chairman called a Break at 10:34 a.m., and reconvened the Meeting at 10:46 a.m., with all members present.*

The Deputy Clerk administered the Oath, pursuant to quasi-judicial requirements.

Director DeBlois continued his Presentation by displaying photographs of specific areas of the debris-strewn property of Mr. Lewis Barton. He thereafter responded to questions from the Board regarding building permits and process requirements.

Deputy County Attorney DeBraal asked if the material shown under the tarp was salvage material, because Mr. Barton had said it was all salvage material from his house that was damaged in the Hurricanes of 2004.

Director DeBlois thought Mr. Barton would have to speak to that, and referred to a letter in the backup, which gave a summary of the materials.

Attorney DeBraal inquired if salvage material could be used in the construction of a new home, and pointed out that this matter has been on appeal for more than a year, and Mr. Barton had not yet filed his initial brief. His latest filing is a Motion to add this matter to his appeal, on which the court had not rule.

**Mr. Barton** argued that the appeals have been legally done, and the Court automatically accepts an appeal unless there was an Order to deny it, and he has not seen any Motion to Deny. He defended the issues of building materials, trash and debris, and the design of his home. He also responded to questions from Board members regarding compensation for use of his property as access to the beach.

Commissioner Wheeler inquired of the total amount of Liens pending against Mr. Barton, and the duration of this issue.

Director DeBlois said there was a separate distinct case that started back in 1997 regarding Mr. Barton's residence, which was settled essentially when the house was removed. The current fine is \$253,000.00, which is under appeal, and the \$43,000.00 is separate.

**Mr. Barton** voiced his disagreement with the \$43,000 and the \$253,000.00, which is under appeal. He believed the problem still exist because Code Enforcement cannot tell him what materials he is allowed to have on site. He also pointed out that he had already loaded over 50% of the material into the container, and would continue to load the rest of the material into containers, in a couple of weeks, subject to one condition: if someone decides who has jurisdiction or who can tell him what he is allowed to have for materials on his site, and go out with him to confirm the items accordingly.

Attorney DeBraal explained the "threshold" issue to Mr. Barton and why he had to re-figure his plans initially.

**Mr. Barton** objected to the Attorney's explanation and provided his own. He suggested the problem be solved through instructions to Code Enforcement or to the Building Department to tell him what he legally could or could not have on his property.

**Sheryl Gerstner**, 2035 Surfside Terrace, neighbor of the subject property, hoped the Board approves staff's recommendation. She disclosed her representation of everyone on her street, specifically those in close proximity to the subject property, and said they all have the same concerns.

ON MOTION by Commissioner Wheeler,  
SECONDED by Vice Chairman Davis, the Board  
unanimously approved Alternative 3, and in  
accordance with County Code Section 973.04, directed  
the County Administrator or his designee to abate the

nuisance, authorizing the County's employees, servants, agents or contractors to enter upon Mr. Barton's property at 2025 Surfside Terrace at all reasonable times, and take whatever action is necessary to abate the nuisance described in this report, with costs of the abatement to be recorded as a lien against the subject property, as recommended in the memorandum of September 3, 2008.

**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**

**53<sup>RD</sup> STREET RAILROAD CROSSING AGREEMENT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative 1, the License Agreement, and authorized the Chairman to execute same, as recommended in the memorandum of August 22, 2008.

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

**12.J. UTILITIES SERVICES**

**1. APPROVAL OF CONSENT ORDER WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) AND INDIAN RIVER COUNTY FOR THE SOUTH REVERSE OSMOSIS WATER TREATMENT PLANT**

Utilities Director Erik Olson informed the Board that Indian River County South Water Treatment Plant currently discharges its “brine-discharge” into the South Relief Canal. This discharge is permitted by the Department of Environmental Protection (DEP) and staff is currently in the process of getting that re-permitted. DEP has expressed the wish for the County to go through some extensive testing and monitoring to determine if indeed we could continue with the process of discharging within the South Relief Canal. In order to allow us to continue doing this over the next three years, subject to more possible extensions, DEP wants the County to enter into a Consent Order, which is just a process of permitting, and for which staff was seeking approval.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1)

approved the Consent Order between Indian River County and FDEP, and authorized the Chairman to execute same; and (2) authorized payment to FDEP in the amount of \$2,000.00 pursuant to Paragraph 13, page 11 of 17 of the Agreement for Administrative and Processing fees, as recommended in the memorandum of August 27, 2008.

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

**12.J.2. 129<sup>TH</sup> PLACE, A PORTION OF INDIAN RIVER ACRES PETITION WATER SERVICE, INDIAN RIVER COUNTY PROJECT No. UCP-2953, PRELIMINARY ASSESSMENT RESOLUTIONS I & II**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the following Resolutions:

(1) **Resolution 2008-121** providing for water main expansion to 129<sup>th</sup> Place (a portion of Indian River Acres) in Indian River County, Florida; providing the total estimated cost, method of payment of assessments, number of annual installments, and description of the area to be served.

(2) **Resolution 2008-122** setting a time and place at which the owners of properties, located along 129<sup>th</sup> Place (a portion of Indian River Acres) in Indian River County, Florida, and other interested persons, may appear before the Board of County Commissioners of Indian River County and be heard as to the propriety



and advisability of constructing the water main extension, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be specially assessed against each property benefited thereby.

### **13. COUNTY ATTORNEY**

#### **A. TRANSFER OF RESPONSIBILITY OF COMPLETING SIDEWALKS IN OAK HOLLOW ESTATES SUBDIVISION FROM DEVELOPER TO POA**

Attorney DeBraul informed the Board that this was a request from the Developer to transfer the responsibility of installation of the remaining sidewalk, in the Oak Hollow Estates Subdivision, to the Homeowners' Association. He explained the Developer's intent and recommended the Board's approval of the Agreement, because this was one more subdivision that the budgeting and engineering staff would not be required to monitor. It places the responsibility for completion of the sidewalks on the backs of the Homeowners' Association (HOA).

Vice Chairman Davis observed that everyone was agreeing with this except the HOA. He was uncomfortable with this request, without documentation from the HOA, and Attorney DeBraul assured him that the HOA was in agreement with the request.

**Maria DiRocco**, 854 Carolina Circle SW, said the Developer is still in charge of the Property Owners Association (POA), and they want to turn the responsibility of the Subdivision over to the POA. They would deposit the funds in the POA with their Attorney, to be placed in a Trust account. She said the reason they are not doing the sidewalks is because they are brick pavers.

Vice Chairman Davis was concerned that sometimes when the developer turn things over to the POA, there are issues with the POA getting things done because they are not happy with the state in which the developer turns it over to them. He wanted to see written support from the community, maybe in the form of a Petition.

Commissioner O'Bryan pointed out that each lot owner had presented a consent form/letter showing their agreement to the request. He suggested they could table this item until next week to facilitate the receipt of further documentation from lot owners.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously agreed to table this item until next week.

**13.B. NECESSITY OF TAKE RESOLUTION FOR A PARCEL OF PROPERTY  
LOCATED ON 16<sup>TH</sup> STREET BETWEEN 66<sup>TH</sup> AND 74<sup>TH</sup> AVENUES**

Attorney DeBraal asked the Board to approve the Necessity of Take Resolution for taking a parcel of property located on 16<sup>th</sup> Street between 66<sup>th</sup> and 74<sup>th</sup> Avenues, for completion of the improvements and paving projects. This is the Fleming property, a 6/10<sup>th</sup> of an acre, single-family residential home located on the north side of 16<sup>th</sup> Street. He recapped the backup memorandum of September 3, 2008 and provided the project purpose and chronology. He reminded the Board of the extensive presentation from staff in May 2008, on the various alignment types, and on the individual scale elements as far as safety, alignment, long range planning, environmental, and each aspect of the different project.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-123**, declaring a reasonable necessity to

acquire certain real property for the purposes of improving and reconstructing 16<sup>th</sup> street, including sidewalk improvements; authorizing the County Attorney to acquire the attached properties by the institution of proceedings in eminent domain, and providing an effective date.

**14. COMMISSIONERS ITEMS**

**A. COMMISSIONER SANDRA L. BOWDEN, CHAIRMAN - NONE**

**B. COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN - NONE**

**C. COMMISSIONER JOSEPH E. FLESCHER - NONE**  
**1. ADDITION: GIFFORD POOL**

Commissioner Flescher, in light of and prior to tomorrow's Final Budget Hearing, wanted to address concerns regarding the Gifford Pool closing. He appealed to fellow Board members to consider the options for keeping the pool open.

Vice Chairman Davis questioned the days of operation for the pool, and felt they should try to maintain recreational benefits for the community.

Administrator Baird defended the budget cut, listing some of the major institutions that have had their budgets decreased. He felt this matter should be procedurally discussed at tomorrow's Budget Hearing.

Commissioner Flescher did not want to miss the window of opportunity to be heard on this important matter; hence his reason for adding this to today's Agenda. He was concerned that seven to eight (7-8) months of pool closure would be left in the balance.

Chairman Bowden recalled that in her experience there have never been changes on the last day of budget.

Commissioners Wheeler and O'Bryan agreed that the matter needed to be addressed at tomorrow's Budget Hearing.

**Godfrey Gibson**, 4136 57<sup>th</sup> Court, understood this is a tough year, and everyone has to make adjustments, but believed they should all share the burden. He noted that Wabasso is left open seven (7) days a week, while Gifford would be closed for eight (8) months. He urged equity and a fair, equal, playing field for all.

Chairman Bowden invited all interested parties to attend tomorrow night's Budget Hearing.

**D. COMMISSIONER PETER D. O'BRYAN – NONE**

**E. COMMISSIONER GARY C. WHEELER - NONE**

## **15. SPECIAL DISTRICTS AND BOARDS**

### **15.A. EMERGENCY SERVICES DISTRICT**

The Chairman announced that immediately upon adjournment of the Board of County Commissioners Meeting, the Board would reconvene as the Board of Commissioners of the Emergency Services District. Those Minutes are being prepared separately and are appended to this document

#### **15.A.1. APPROVAL OF MINUTES OF REGULAR MEETING OF JULY 1, 2008**

#### **15.A.2. APPROVAL OF MINUTES OF REGULAR MEETING OF JULY 15, 2008**

#### **15.A.3. INVITATION FROM JOHN'S ISLAND GOLF CLUB FOR STAFF TO PARTICIPATE IN A "PUBLIC SAFETY DAY" GOLF OUTING**

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

The Chairman announced that immediately upon adjournment of the Emergency Services District Board Meeting, the Board would reconvene as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are being prepared separately and are appended to this document

#### **15.B.1. APPROVAL OF MINUTES, REGULAR MEETING OF JULY 15, 2008**

#### **15.B.2. APPROVAL OF MINUTES, REGULAR MEETING OF AUGUST 19, 2008**

**15.B.3. PUBLIC HEARING TO AMEND SWDD RATE RESOLUTION FOR CONTAMINATED SOILS**

**15.C. ENVIRONMENTAL CONTROL BOARD**

The Chairman announced that immediately upon adjournment of the Solid Waste Disposal District Board Meeting, the Board would reconvene as the Board of Commissioners of the Environmental Control Board. Those Minutes are being prepared separately and are appended to this document

**15.C.1. APPROVAL OF MINUTES, REGULAR MEETING OF MAY 6, 2008**

**15.C.2. RELEASE OF LIEN – OSCAR ROSS, ENVIRONMENTAL CONTROL HEARING BOARD CASES NO. 03-86 AND 258-96**

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

**16. ADJOURNMENT**

There being no further business, the Chairman declared the Meeting adjourned at 11:44 a.m.

ATTEST:

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

\_\_\_\_\_  
Sandra L. Bowden, Chairman

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

BCC/AA/2008 Minutes