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**OF SEPTEMBER 23, 2008**

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September 23, 2008

**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, September 23, 2008. Present were Vice Chairman Wesley S. Davis, and Commissioners Joseph E. Flescher, and Peter D. O'Bryan. Chairman Sandra L. Bowden and Commissioner Gary C. Wheeler were absent. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Leona Adair Allen.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Public Works Director Jim Davis delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

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

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

1. **Deleted** Item 8.R. - Approval of Work Order No. MC1-Revised with Peninsula Hydrologic Data Specialists, Inc. for Water Quality Testing and Support Services for the Main Relief Canal Pollution Control System.

2. **Deleted** Item 10.B.1. - Request to Speak from David Cox, Pelican Island Audubon Regarding Marine Advisory Narrows Watershed Action Committee.

3. **Moved** Item 15.B.5. to be heard before Item 15.B.1. - Request to Create a Third Waste Hauling Franchise Service Area.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the above changes to the Agenda.

**5. PROCLAMATIONS AND PRESENTATIONS**

**5.A. PRESENTATION OF PROCLAMATION – NATIONAL WILDLIFE REFUGE WEEK**

Commissioner O’Bryan read and presented the Proclamation to Kristen Beck from the Pelican Island Preservation Society.

**5.B. PRESENTATION BY GERALDINE MCPHERSON, FLORIDA ATLANTIC UNIVERSITY, TREASURE COAST CAMPUS VICE PRESIDENT, AND DR. SHIRLEY POMPONI, EXECUTIVE DIRECTOR OF HARBOR BRANCH OCEANOGRAPHIC INSTITUTE, CONCERNING ECONOMIC DEVELOPMENT EFFORTS ALONG FLORIDA'S RESEARCH COAST**

**Geraldine McPherson**, Vice President of Florida Atlantic University (FAU), Treasure Coast Campus, gave an overview of FAU's research, and pointed out that this area is gaining a reputation as one of the top biotechnology centers in the country, with FAU being the heart of that activity. She recognized Harbor Branch Oceanographic Institute as a premier marine science organization which recently came under the FAU umbrella as a research institute.

**Dr. Shirley Pomponi**, Executive Director of Harbor Branch Institute at FAU, told about the economic development efforts along Florida's coast, the scientific research of Harbor Branch Oceanographic Institute, ocean exploration, solutions to protect resources, and the programs they are involved with (copy on file of the PowerPoint presentation she expected to use but could not due to equipment malfunctions). She emphasized the importance of their association with FAU – educating the next generation so wise decisions can be made about protecting and conserving the environment.

Commissioners Flescher and O'Bryan voiced their appreciation with Harbor Branch Oceanographic Institute and Florida Atlantic University for partnering with the County.

Vice Chairman Davis believed that Indian River State College, now offering four year degrees, would also be an economic engine for the Treasure Coast.

**6. APPROVAL OF MINUTES - NONE**

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

The Chairman read the following informational items into the record.

**7.A. CITIZEN-AT-LARGE VACANCY ON HISTORIC RESOURCES ADVISORY  
COMMITTEE**

**8. CONSENT AGENDA**

Deputy County Attorney William DeBaal requested Item 8.EE. be pulled for correction/adjustment.

Commissioner O'Bryan requested Item 8.P. be pulled for discussion.

ON MOTION by Commissioner O'Bryan, SECONDED by  
Commissioner Flescher, the Board by a 3-0 vote (Chairman  
Bowden and Commissioner Wheeler absent) approved the  
Consent Agenda, as amended.

**8.A. APPROVAL OF WARRANTS AND WIRES – SEPT 5 TO SEPT 11, 2008**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the list of Warrants as issued by the Clerk to the Board for the time period of September 5, 2008 to September 11, 2008, as requested in the memorandum of September 11, 2008.

**8.B. OUT OF COUNTY TRAVEL TO ATTEND THE 23<sup>RD</sup> ANNUAL GOVERNOR’S HURRICANE CONFERENCE IN FORT LAUDERDALE, FLORIDA**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved out of County travel for Commissioners and staff to attend the 23<sup>rd</sup> Annual Governor’s Hurricane Conference in Fort Lauderdale, from Saturday, May 10, 2009 through Thursday, May 15, 2009, as recommended in the memorandum of September 16, 2008.

**8.C. PROPERTY ACQUISITION – TAX ROLL REMOVAL & TAX CANCELLATION**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the following Resolutions:

- (1) **Resolution 2008-142**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (CR510 – Vete Derice, aka Vede Derisse, aka Vete Derisse and Yanick Derice)
  
- (2) **Resolution 2008-143**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (85<sup>th</sup> Street - David Godwin and Inez Terrell)
  
- (3) **Resolution 2008-144**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (85<sup>th</sup> Street, Lot 3 - David Godwin)
  
- (4) **Resolution 2008-145**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (85<sup>th</sup> Street, Lot 1 - David Godwin)
  
- (5) **Resolution 2008-146**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (US 1 and 53<sup>rd</sup> Street – Vero Investment 53, LLC)

(6) **Resolution 2008-147**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (66<sup>th</sup> Avenue and 37<sup>th</sup> Street – Christopher P. Schlitt and Charlene W. Schlitt)

(7) **Resolution 2008-148**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (12<sup>th</sup> Street – Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints)

(8) **Resolution 2008-149**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (58<sup>th</sup> Avenue – Wal-Mart Stores, Inc.)

(9) **Resolution 2008-150**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (58<sup>th</sup> Avenue – Sam’s East, Inc.)

(10) **Resolution 2008-151**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (20<sup>th</sup> Street – Wal-Mart Stores, Inc.)

(11) **Resolution 2008-152**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (66<sup>th</sup> Avenue – Banack Family Limited Partnership)

(12) **Resolution 2008-153**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (70<sup>th</sup> Avenue – Cross Creek Lake Estates, LLC)

(13) **Resolution 2008-154**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (CR510 – James Bradley, Jr.)

(14) **Resolution 2008-155**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (53<sup>rd</sup> Street – NAP Indian River II LLC)

(15) **Resolution 2008-156**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (53<sup>rd</sup> Street – NAP Indian River LLC)

(16) **Resolution 2008-157**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (Porpoise Bay Submerged Land – William W. Caldwell)

(17) **Resolution 2008-158**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (CR512 – Glen Rohm, William Brognano, Todd Brognano, and Daniel J. Brognano – Ameron Homes)

**8.D. THIRD PARTY CLAIMS ADMINISTRATION ADDENDUM**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved Addendum No. III to perform third party claims administration services for the self-insurance program with Johns Eastern Company, Inc. (JEC); for a one-year extension of the Agreement with the same terms and conditions as the original Agreement, and authorized the Chairman to execute same, as requested in the memorandum of September 11, 2008.

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

**8.E. VERO BEACH HIGH SCHOOL USE OF FAIR GROUNDS EXPO CENTER**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) authorized Vero Beach High School to use the Fairgrounds Expo Center for College Board Advanced Placement testing, and waived the standard usage fees and set-up charges, as recommended in the memorandum of September 15, 2008.

**8.F. SEBASTIAN CLAMBAKE LAGOON FESTIVAL**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) authorized the Sebastian Clambake Foundation, Inc. to use the County’s stage for the Sebastian Clambake Lagoon Festival, and waived the standard usage fees and set-up charges, as recommended in the memorandum of September 15, 2008.

**8.G. AUTHORIZATION TO OBTAIN APPRAISALS FOR LAND ADJACENT TO NORTH COUNTY LIBRARY AND AUTHORIZATION TO COMMENCE NEGOTIATIONS FOR POTENTIAL ACQUISITION OF LAND**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) authorized staff to proceed by obtaining the appropriate appraisals to determine the value of the property; (2) authorized the County Administrator or designee to initiate negotiations to determine a fair and reasonable price necessary to obtain the property; and (3) approved that upon reaching a negotiated purchase price, the matter be brought back to the Board for consideration, all as recommended in the memorandum of September 16, 2008.

**8.H. MISCELLANEOUS BUDGET AMENDMENT 021**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved **Resolution 2008-159**, amending the fiscal year 2007-2008 Budget.

**8.I. RIGHT-OF-WAY ACQUISITION, 8500 63<sup>RD</sup> AVENUE, CR510 PROJECT #0610 (NORTH SIDE OF CR510 BETWEEN 64<sup>TH</sup> AVENUE AND 58<sup>TH</sup> AVENUE), JOHN C. SWEARINGEN/OWNER**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board, by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the Agreement as presented, accepting the purchase price of \$31,000, inclusive of all fees and costs, for the 4,500 square foot parcel; and authorized the Chairman to execute same, as recommended in the memorandum of September 17, 2008.

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

**8.J. GROVE ESTATES, LLC'S REQUEST FOR EXTENSION OF SITE PLAN  
APPROVAL FOR A MULTI-FAMILY RESIDENTIAL DEVELOPMENT TO BE  
KNOWN AS VERO GROVE TOWNHOMES (QUASI-JUDICIAL)**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved Grove Estates, LLC's request for a one-year extension of the site plan for Vero Grove Townhomes with all original approval conditions to remain in effect. The new site plan approval expiration date will be September 13, 2009, as recommended in the memorandum of September 15, 2008.

**8.K. FEC RAILROAD REIMBURSEMENT AGREEMENT FOR GRADE CROSSING  
AND CROSSING TRAFFIC CONTROL DEVICES, 12<sup>TH</sup> STREET RAILROAD  
CROSSING CONSTRUCTION BY FDOT**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved: (1) the Florida East Coast Railroad, LLC (FEC) Railroad Reimbursement Agreement for Grade Crossing and Crossing Traffic Control Devices; (2) authorized the Chairman to execute same, as recommended in the memorandum of September 15, 2008; and (3) **Resolution 2008-160** authorizing execution of a railroad reimbursement agreement for the installation of grade

crossing traffic control devices, and future maintenance and adjustment of said devices; providing for the expenditure of funds; and providing when this resolution shall take effect.

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

**8.L. APPROVAL OF BID AWARD FOR IRC BID MO. 2009002, ANNUAL BID FOR CARTRIDGE FILTERS**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved the award to WACO Associates, Inc., the third and lowest bidder, and the most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders or individual job purchase orders, as needed, 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, vendor acceptance and the determination that renewal of this annual bid is in the best interest of Indian River County, as recommended in the memorandum of September 16, 2008.

**8.M. SERVICE AGREEMENT FOR INDIAN RIVER COUNTY SHERIFF OFFICE  
E911 PUBLIC SAFETY ANSWERING POINT (PSAP) MGE UPS ON A  
SOLE SOURCE BASIS FROM MGE UPS SYSTEMS, INC.**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the renewal of the Service Agreement with MGE UPS Systems, Inc. at a cost of \$5,082.30, as recommended in the memorandum of September 11, 2008.

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

**8.N. FINAL PAYMENT, ABSOLUTE MARINE TOWING AND SALVAGE INC.,  
DERELICT VESSEL REMOVAL PROGRAM**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the final invoice from Absolute Marine Towing and Salvage, Inc., in the amount of \$33,920. This amount represents a reduction of \$4,000 to the original contract due to owner removal of one of the County's identified derelict vessels, as recommended in the memorandum of September 16, 2008.

**8.O. AWARD OF BID # 2008074, EAGLE TRACE SUBDIVISION-PHASE II, IRC  
PROJECT NO. 0813**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the bid award to Timothy Rose Contracting, Inc., in the amount of \$137,111.36, as recommended in the memorandum of September 15, 2008.

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

**8.P. COLLECTIVE BARGAINING AGREEMENT BETWEEN INDIAN RIVER  
COUNTY AND TEAMSTERS LOCAL 769**

Commissioner O’Bryan recognized Teamsters and staff for a job well done.

Administrator Baird acknowledged this Agreement is a three year contract. He thanked Teamster member Steve Myers for recognizing the current economic environment of the County, and also thanked Jim Sexton and his staff for the smooth negotiation process.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the County and Teamsters Local 769 Agreement, effective October 1, 2008 through September 30, 2011 (Teamster membership ratified the Agreement on September 17,

2008), as recommended in the memorandum of September 17, 2008.

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

**8.Q. RUTH M. SILVA, STATE ROAD 60 / 58<sup>TH</sup> AVENUE INTERSECTION IMPROVEMENTS, PROJECT #0632**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved Alternative No. 1, the purchase of right-of-way to construct improvements at the intersection of State Road 60 and 58<sup>th</sup> Avenue, for \$172,000.00; and authorized the Chairman to execute same, as recommended in the memorandum of September 9, 2008.

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

**8.R. APPROVAL OF WORK ORDER NO. MCI-REVISED WITH PENINSULA HYDROLOGIC DATA SPECIALISTS, INC. FOR WATER QUALITY TESTING AND SUPPORT SERVICES FOR THE MAIN RELIEF CANAL POLLUTION CONTROL SYSTEM**

*(This Item was deleted from the Agenda)*

**8.S. FDOT LOCAL AGENCY AGREEMENT (LAP) SUPPLEMENTAL AGREEMENT AND RESOLUTION AUTHORIZING THE CHAIRMAN'S SIGNATURE AOU94 (FM NUMBER 416083-1-58-01), 12<sup>TH</sup> STREET FOR SIDEWALK CONSTRUCTION FROM VERO BEACH ELEMENTARY SCHOOL TO 11<sup>TH</sup> AVENUE – IRC PROJECT No. 0216**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved the Supplemental Agreement to the FDOT Local Agency Agreement (LAP); (2) authorized the Chairman to execute same, as recommended in the memorandum of September 12, 2008; and (3) approved **Resolution 2008-161**, authorizing execution of a supplemental agreement for sidewalk construction for 12<sup>th</sup> Street from Vero Beach Elementary School to 11<sup>th</sup> Avenue in Indian River County.

**8.T. FDOT LOCAL AGENCY AGREEMENT (LAP) SUPPLEMENTAL AGREEMENT AND RESOLUTION AUTHORIZING THE CHAIRMAN'S SIGNATURE AOU94 (FM NUMBER 416084-1-58-01) 12<sup>TH</sup> STREET FOR SIDEWALK CONSTRUCTION FROM 27<sup>TH</sup> AVENUE TO 43<sup>RD</sup> AVENUE – IRC PROJECT No. 0604**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman

Bowden and Commissioner Wheeler absent):  
(1) approved the Supplemental Agreement to the FDOT Local Agency Agreement (LAP) , (2) authorized the Chairman to execute same, as recommended in the memorandum of September 12, 2008; and (3) approved **Resolution 2008-162**, authorizing execution of a Supplemental Agreement for sidewalk construction for 12<sup>th</sup> Street from 27<sup>th</sup> Avenue to 43<sup>rd</sup> Avenue in Indian River County.

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

**8.U. INTERFUND BORROWING**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved interfund borrowing as necessary to cover any cash deficits of individual funds that may occur, as recommended in the memorandum of September 17, 2008.

**8.V. STATE AID APPLICATION/AGREEMENT**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) authorized the Chairman to execute the State Aid Application, and State

Aid to Libraries Grant Agreement, and return them to the Library Services Director to be forwarded to the appropriate State Library staff, as recommended in the memorandum of September 8, 2008.

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

**8.W. APPROVAL OF BID AWARD FOR IRC BID MO. 2009005, ANNUAL BID FOR ALUMINUM SULFATE, UTILITIES DEPARTMENT/UTILITIES OPERATIONS CENTER**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved the bid award to Fort Bend Services, Inc. as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 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, bidder acceptance, and the determination that renewal of this annual contract is in the best interest of Indian River County, as recommended in the memorandum of September 15, 2008.

**8.X. APPROVAL OF BID AWARD FOR IRC BID NO. 2009010, ANNUAL BID  
FOR POLYMER/UTILITIES DEPARTMENT**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved bid award to Polydyne, Inc. as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 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, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of Indian River County, as recommended in the memorandum of September 15, 2008.

**8.Y. APPROVAL OF BID AWARD FOR IRC BID NO. 2009014, ANNUAL BID  
FOR DAY LABOR SERVICES, PUBLIC WORKS DEPARTMENT / ROAD AND  
BRIDGE DIVISION**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved bid award to Southeast Staffing, Inc. and Tampa Service Co., Inc. d/b/a Pacesetter Service of Houston, TX, as the

two lowest and most responsive bidders meeting the specifications as set forth in the Invitation to Bid. The dual award gives the Road and Bridge Division an extra level of protection in the event one vendor cannot supply the required number of workers; (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, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of Indian River County, as recommended in the memorandum of September 16, 2008.

**8.Z. FLORIDA DEPARTMENT OF LAW ENFORCEMENT, FY 2008/2009**  
**EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG)**  
**PROGRAM**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the Certificate of Acceptance of Subgrant Award for the Indian River County Substance Abuse Planning Grant in the amount of \$3,900, and the Agreement between the Board of County Commissioners and the Substance Abuse Council of Indian River County, as recommended in the memorandum of September 16, 2008.

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

**8.AA. APPROVAL OF BID AWARD FOR IRC BID NO. 2009004, ANNUAL BID  
FOR SOD, PUBLIC WORKS DEPARTMENT / ROAD AND BRIDGE DIVISION**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved the bid award to Sod Rite and All for You Landscape and Maintenance, Inc., as the two lowest and most responsive bidders meeting the specifications as set forth in the Invitation to Bid. The dual award gives the Road and Bridge Division an extra level of protection in the event one vendor cannot supply the required quantity of sod to complete a job; (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, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of Indian River County, as recommended in the memorandum of September 16, 2008.

**8.BB. TEMPORARY EXTENSION OF CURRENT CUSTODIAL SERVICES**  
**AGREEMENT BETWEEN INDIAN RIVER COUNTY AND HEVERON GROUP,**  
**INC., D/B/A BEACHLAND CLEANING SERVICE**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) authorized the County Attorney's office and staff to proceed by drafting an Amendment for a temporary extension of time not to exceed December 31, 2008; and authorized the County Administrator to execute the Agreement on behalf of the Board provided the amended Agreement is reviewed and approved by appropriate staff and the County Attorney office, as recommended in the memorandum of September 16, 2008.

**8.CC. AMENDMENT NO. 3 TO THE PROFESSIONAL ENGINEERING/LAND**  
**SURVEYING SERVICES FOR THE 5<sup>TH</sup> ST. SW BRIDGE OVER LATERAL**  
**"C" CANAL, 43<sup>RD</sup> AVENUE BRIDGE OVER SOUTH RELIEF CANAL AND**  
**OLD DIXIE HIGHWAY BRIDGE OVER SOUTH RELIEF CANAL, INDIAN**  
**RIVER COUNTY PROJECT No. 0204, 0205, 0206**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved

Amendment No. 3, with Bridge Design Associates, Inc., in the amount of \$11,460.53, which will bring the total contract amount to \$343,799.83, as recommended in the memorandum of September 9, 2008.

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

**8.DD. APPROVAL WORK ORDER NO. 4 (ENGINEERING) WITH AM ENGINEERING, INC., PROVIDING PROFESSIONAL GEOTECHNICAL SERVICES IN ACCORDANCE WITH THE ANNUAL GEOTECHNICAL SERVICES CONTRACT NO. 0534, 10<sup>TH</sup> COURT SW FROM OSLO ROAD TO 7<sup>TH</sup> STREET SW – IRC PROJECT #0436, 1<sup>ST</sup> ROAD FROM 35<sup>TH</sup> AVE TO 32<sup>ND</sup> AVE – IRC PROJECT #0522**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved Work Order No. 4, with AM Engineering, Inc. (Engineering) authorizing the project as outlined in the Scope of Services; (2) authorized the Chairman to execute same for fees not-to-exceed \$4,830.00 for 10<sup>th</sup> Court SW, and \$4,121.00 for 1<sup>st</sup> Road, as recommended in the memorandum of September 12, 2008.

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

**8.EE. ACQUISITION OF RIGHT-OF-WAY ALONG 66<sup>TH</sup> AVE**

Assistant County Attorney William DeBraul pointed out that the Attorney's fee on Page 4, Section 9.1.5. of the Agreement to Purchase and Sell Real Estate with Ira J. Jr. and Virginia Bingham should reflect a reduction from 7.5% of the purchase price to 5.75% of the purchase price, bringing the revised fees to \$4,784.00, a decrease of \$1,456.00.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved: (1) the Agreement to Purchase and Sell Real Estate with Ira J. Jr. and Virginia Bingham; and (2) the reduction in attorney's fees.

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

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

**9.A. ESTABLISH OTHER POST EMPLOYMENT BENEFITS TRUST (OPEB TRUST) AND AUTHORIZE INITIAL CONTRIBUTION**

Finance Director Diane Bernardo presented the newly established Other Post Employment Benefits (OPEB) Trust, which was previously reviewed in the July 15, 2008 Board of County Commission Meeting. She urged the Board to approve the Resolution establishing the irrevocable trust for OPEB benefits (for eligible retirees), and the initial contribution of \$2,626,254, which will be invested in Treasuries. Since this will be a short term investment, it will be invested in accordance with the newly drafted investment policy.

In response to Commissioner O'Bryan's query, Director Bernardo affirmed that under OPEB, the Board of County Commissioners will serve as the Board of Trustees and delegate to a team that will seek advice from an independent outside Advisory Committee, as to where and what to invest.

Commissioner Flescher thanked Director Bernardo for making herself available, as the County transitions through the process.

Administrator Baird acknowledged that this new County requirement needs to be in place by October 1<sup>st</sup>, 2008.

Discussion ensued regarding money being set aside for future retirement benefits, accruing and covering liability, and health insurance benefits offered by the County and State.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O'Bryan, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved **Resolution 2008-163**, establishing the Indian River County OPEB Trust as an irrevocable Section 115 Trust pursuant to the Internal Revenue Code and in compliance with Governmental Accounting Standards Board Statements 43 and 45; establishing the Indian River County Board of County Commissioners as the OPEB Board of Trustees; providing for the duties and powers of the Trustee; providing for delegation of certain of the duties and powers of the Trustee to the OPEB Trust Board; providing for various terms of the Trust; providing for

conflicts; providing for severability; and providing an effective date.

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARINGS**

**10.A.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR SEPTEMBER 23, 2008:**

**RYALL ACQUISITION GROUP, LLC'S REQUEST TO REZONE APPROXIMATELY 585.57 ACRES FROM A-1, AGRICULTURAL 1 (UP TO 1 UNIT/5 ACRES), RS-3, RESIDENTIAL SINGLE-FAMILY (UP TO 3 UNITS/ACRE), RM-3, RESIDENTIAL MULTI-FAMILY (UP TO 3 UNITS/ACRE), RM-6, RESIDENTIAL MULTI FAMILY (UP TO 6 UNITS/ACRE), RM-8 RESIDENTIAL MULTI-FAMILY (UP TO 8 UNITS/ACRE), AND CON-2, ESTURINE WETLAND CONSERVATION DISTRICT TO PLANNED DEVELOPMENT TRADITIONAL NEIGHBORHOOD DESIGN (PDTND) AND OBTAIN CONCEPTUAL PLANNED DEVELOPMENT PLAN APPROVAL FOR A PROJECT TO BE KNOWN AS LIBERTY PARK (LEGISLATIVE)**

*(This Item was deleted from the Agenda)*

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM DAVID COX, PELICAN ISLAND AUDUBON**

**REGARDING MARINE ADVISORY NARROWS WATERSHED ACTION COMMITTEE**

*(This Item was deleted from the Agenda)*

**10.B.2. REQUEST TO SPEAK FROM EVERETTE BROWN REGARDING IMPACT OF  
THE 43<sup>RD</sup> AVE PROJECT ON HOME OWNERS**

Everette Brown, 4236 11<sup>th</sup> Street informed the Board that he would like to reserve his presentation for a later date, when all the Commissioners are present. He wanted to know when the plans for widening 43<sup>rd</sup> Avenue were approved, and requested a presentation be given on the status of this project during the next scheduled Board meeting.

Vice Chairman Davis told Mr. Brown to leave him with the specifics, and someone would contact him.

NO ACTION REQUIRED OR TAKEN

**10.C. PUBLIC NOTICE ITEMS**

**10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING OCTOBER 7, 2008:**

**ADOPT AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER  
105 OF THE CODE OF INDIAN RIVER COUNTY (LEGISLATIVE)**

**10.C.2. NOTICE OF SCHEDULED PUBLIC HEARING OCTOBER 7, 2008:**

**129<sup>TH</sup> PLACE PETITION WATER SERVICE, A PORTION OF INDIAN RIVER  
ACRES, INDIAN RIVER COUNTY PROJECT No. UCP-2953  
(ADMINISTRATIVE)**

Vice Chairman Davis read the notices into the record.

**11. COUNTY ADMINISTRATOR'S MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT - NONE**

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

**12.C. GENERAL SERVICE - NONE**

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

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

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

**12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE**

**12.H. RECREATION - NONE**

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

**12.J. UTILITIES SERVICES**

**12.J.1. FINAL PAY AND RELEASE OF RETAINAGE ON TLC DIVERSIFIED, INC.**  
**WITH CONTRACT 2006025 FOR MEMBRANE RESTORATION WORK AT**  
**THE SOUTH RO PLANT**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved pay request No. 9 in the amount of \$23,146.35, as final and release of retainage to the contractor, as recommended in the memorandum of September 10, 2008.

**12.J.2. PRICE INCREASE FOR SULPHURIC ACID**

Director of Utilities Erik Olson acknowledged that even though chemical prices have continued to rise, the County has still been able to reduce the usage of sulphuric acid.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O’Bryan, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved the changes in pricing with the current sole source supplier, from FY 2008 at \$5,610.00, to FY 2009 at \$9,938.00; for sulfuric acid, as recommended in the memorandum of September 12, 2008.

**12.J.3. MEADOWLARK WOODS SUBDIVISION PETITION WATER SERVICE (61<sup>ST</sup> AVENUE NORTH OF 41<sup>ST</sup> STREET), INDIAN RIVER COUNTY PROJECT**  
**No. UCP-2324, RESOLUTION IV – FINAL ASSESSMENT**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved **Resolution 2008-164**, certifying “as-built” costs for installation of water service to Meadowlark Woods Subdivision (61<sup>st</sup> Avenue North of 41<sup>st</sup> Street) Indian River County, Florida, and such other construction necessitated by such project; providing for formal completion date, and date for payment without penalty and interest.

**12.J.4. AMENDMENT NUMBER 2 TO CONTINUING CONSULTING SERVICES**  
**WORK ORDER NO. 4 WITH MASTELLER & MOLER, INC. FOR**  
**ENGINEERING SERVICES FOR CONVERSION OF LATERAL G FORCE**  
**MAIN TO REUSE MAIN – UCP No. 2830**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner O’Bryan, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved Amendment No. 2 to Work Order No. 4 with Masteller and Moler, Inc. for an additional amount of \$27,430.00 for engineering services, bringing the new total amount for Work Order No. 4 to \$131,590.00; and (2)

authorized the Chairman to execute the same, as recommended in the memorandum of September 2, 2008.

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

**12.J.5. APPROVAL OF PRIVACY AGREEMENT BETWEEN INDIAN RIVER COUNTY AND BOYLE ENGINEERING FOR DESIGN OF AND APPROVAL OF CONSTRUCTION FOR 16" WATER MAIN ON COLLEGE LANE FROM THE WEST END OF EXISTING COLLEGE LANE TO 66<sup>TH</sup> AVENUE – UCP 3014**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) approved the Privacy Agreement with Boyle Engineering in the amount of \$20,000.00 for engineering design of the 16" water main on College Lane; (2) authorized the Chairman to execute same; and (3) approved \$271,166.00 for the construction of the water main facilities by SPS Contracting of Vero Beach, Florida, as recommended in the memorandum of September 2, 2008.

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

**12.J.6. VERO CADILLAC – RESCIND A PORTION OF THE DEVELOPER’S  
AGREEMENT, APPROVE RETAINING LABOR CONTRACTOR FOR  
REPLACEMENT OF 6-INCH TRANSITE WATER MAIN ON 13<sup>TH</sup> LANE AND  
REIMBURSE DEVELOPER FOR ENGINEERING COSTS**

Director of Utilities Erik Olson, recapped his Memorandum dated September 12, 2008, explaining the history and details of utilizing the County’s labor contractor, Derrico Construction, Corp., to construct water main improvements at Vero Cadillac.

In response to Vice Chairman Davis’s query, Director Olson affirmed that the engineering costs were expenditures that the County would have incurred regardless of how the project was accomplished.

Administrator Baird affirmed that the old water line was an inherited problem from the 1980’s that requires correction.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent): (1) authorized staff to prepare an amendment to the Developer’s Agreement to reflect the changes outlined and delegate the authority to execute the Amendment to the County Administrator after review and approval by staff and the County Attorney’s office; (2) approved the project for \$32,383.02 in labor and materials and retaining the Labor Contractor, Derrico Construction Corp., to construct the water main improvements at Vero Cadillac for up to

\$19,831.76 in labor and authorized the Chairman to execute Work Authorization No. 2007-017; and (3) approved the County's reimbursement to the Developer of Vero Cadillac, James J. Linus, an amount of \$13,685.00 to offset engineering fees incurred by the Developer, as recommended in the memorandum of September 12, 2008.

WORK AUTHORIZATION DIRECTIVE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**13. COUNTY ATTORNEY MATTERS - NONE**

**14. COMMISSIONER ITEMS**

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

**14.B. COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN**

**14.B.1. AMENDMENT TO ORDINANCE SECTION 912.17 PARKING AND STORAGE OF VEHICLES**

Vice Chairman Davis conveyed that a gentleman, who works for a local cable company, approached him about an Ordinance which limits the capacity weight of vehicles in residential developments to one ton. He said the issue is that a person cannot tell the difference between a  $\frac{3}{4}$  ton, 1 ton, or  $1\frac{1}{4}$  ton vehicle by looking at them. He suggested an Amendment to the Ordinance, supporting the increase in vehicle weight capacity in residential areas.

Community Development Director Bob Keating pointed out that pickup trucks are getting bigger and he clarified that it is not staff's intent to treat them as commercial vehicles in

neighborhoods. He proposed that staff amend the Land Development Regulation (LDR) to make a change recognizing the fact that vehicles are receiving more hauling capacity, and should not be treated as commercial vehicles. He told the Board that if they authorize staff to move forward with the amendment, he would return with an LDR Amendment.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) directed the County Attorney's office to draft an Amendment to Ordinance Section 912.17, Parking and Storage of Vehicles, to increase vehicle weight capacity in a residential area to 1 ¼ ton or less.

**14.C. COMMISSIONER JOSEPH E. FLESCHER - NONE**

**14.D. COMMISSIONER PETER D. O'BRYAN**

**14.D.1. CONSTITUTIONAL AMENDMENT 6 (TABLED FROM 9/16/08 MEETING)**

Commissioner O'Bryan explained how Constitutional Amendment 6 deals with working waterfronts and noted that it would be on the November General Election ballot. He said that this Amendment was placed on the ballot by the Taxation and Budget Reform Committee, which meets once every twenty years to review changes regarding budget and reform, and to make recommendations to the ballot. He felt it important to our working waterfronts that they are not taxed out of business. He explained that under the current law, property can be accessed and therefore taxed, not at its current use but at its best and greatest possible use. He said this affects all working waterfronts, to include commercial docks, marinas, boat ramps, anything along the water front that provides jobs. Commissioner O'Bryan believed it critical to keep our waterways open,

our waterfronts working, and jobs intact, not only for the local economy but also for the State. He requested the Board direct the County Attorney to draft a Resolution of support for Amendment 6.

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Davis, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) directed the County Attorney’s office to draft a Resolution of support for Amendment 6 – Proposed Constitutional Amendment for Working Waterfront Properties, as recommended in the memorandum of September 10, 2008.

**14.D.2. BOARD CONSIDERATION TO REFUND FEES PAID TO RENT THE INDIAN RIVER COUNTY FAIRGROUND EXPO CENTER FOR A BENEFIT ON BEHALF OF THE ENVIRONMENTAL LEARNING CENTER**

Commissioner O’Bryan conveyed how the Environmental Learning Center (ELC) had planned a fund raiser event for August 23, 2008, to assist in their fire restoration efforts (after their classroom had been struck by lightning), but due to flooding from Tropical Storm Fay, they had to relocate to the County Fairground building. Normally there is a \$750 fee to rent the facility, but since the ELC is a prominent, not for profit organization, he requested the fee be waived.

MOTION WAS MADE by Commissioner O’Bryan, SECONDED by Chairman Davis, the Board by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) approved waiving the \$750.00 rental fee for the Fairgrounds building, as requested in the e-mail of September 17, 2008.

Commissioner Flescher agreed with Commissioner O'Bryan, and asked that the Board also consider facilitating lights to the Citrus Gala and Cattle Baron's Ball for their American Cancer Society fundraising activity. He likewise requested the lights be delivered to the facility when needed.

Administrator Baird acknowledged that staff could deliver the lights when needed, and remembered that last year they had additionally requested the stage, lights, and help with tents.

MOTION WAS AMENDED by Commissioner O'Bryan, SECONDED by Vice Chairman Davis to waive rental fees for the use of the County's lights, stage, and bleachers for the annual Citrus Gala and Cattle Baron's annual fund raiser with the American Cancer Society.

The Chairman CALLED THE QUESTION and by a 3-0 vote (Chairman Bowden and Commissioner Wheeler absent) the Board approved to: (1) waive the \$750.00 rental fee for the Fairgrounds building; and (2) waive rental fees for the use of the County's lights, stage, and bleachers for the Citrus Gala and Cattle Baron's annual fund raiser with the American Cancer Society.

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

**15. SPECIAL DISTRICTS AND BOARDS**

**15.A. EMERGENCY SERVICES DISTRICT - NONE**

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

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

**15.B.1. PUBLIC HEARING TO APPROVE THE THIRD AMENDMENT TO THE  
FRANCHISE AGREEMENTS FOR WASTE MANAGEMENT, INC. OF  
FLORIDA AND REPUBLIC SERVICES OF FLORIDA, LP (LEGISLATIVE)**

**15.B.2. CANCEL 2008 PETITION HEARING, SOLID WASTE DISPOSAL DISTRICT  
ASSESSMENT FEES**

**15.B.3. SCRAP METAL PROCESSING CONTRACT WITH TRADEMARK METALS  
RECYCLING LLC**

**15.B.4. STYROFOAM RECYCLING IN INDIAN RIVER COUNTY AND REQUEST  
FOR APPROVAL OF A SUB-LEASE AGREEMENT WITH RECYCLETECH  
CORPORATION**

**15.B.5. REQUEST TO CREATE A THIRD WASTE HAULING FRANCHISE SERVICE**

**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 11:18 a.m.

ATTEST:

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

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

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

BCC/LAA/2008Minutes