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OF BOARD OF COUNTY COMMISSIONERS
OF DECEMBER 23, 2008

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December 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 27th Street, Vero Beach, Florida, on Tuesday, December 23, 2008. Present were Chairman Wesley S. Davis, Vice Chairman Joseph E. Flescher, and Commissioners Peter D. O’Bryan, Bob Solari, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, Deputy County Attorney William K. DeBaal, and Deputy Clerk Leona Adair Allen.

1. CALL TO ORDER

Chairman Davis called the meeting to order at 9:01 a.m.

2. INVOCATION

Father Roger Sargent, St. Mark’s Anglican Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

County Administrator Joseph A. Baird led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY
ITEMS

Deletion: Item 14.C., Discussion on Committees.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Agenda as amended.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION BY BRAD BERNAUER, DIRECTOR, INDIAN RIVER COUNTY HUMAN SERVICES, REGARDING CHILDREN'S SERVICES ADVISORY COMMITTEE

Human Services Director Brad Bernauer thanked the Board for the opportunity to speak, and introduced Grant Review Sub-Committee Chairman Kip Jacoby.

Mr. Jacoby spoke about the functions of the committee as well as funded agencies/programs. He introduced Executive Director of Child Care Resources Pam King who, through a PowerPoint presentation, explained the work of Child Care Resources and their relationship with the Children's Services Advisory Committee.

6. APPROVAL OF MINUTES

6.A. NOVEMBER 21, 2008, SPECIAL CALL MEETING, STAN MAYFIELD WORKING WATERFRONT GRANT APPLICATION

The Chairman asked if there were any additions, deletions, or corrections to the Special Call Meeting of November 21, 2008. There were none.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Special Call Meeting Minutes of November 21, 2008, as written.

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

7.A. CITY OF SEBASTIAN APPOINTMENTS TO COUNTY COMMITTEES AND REGIONAL BOARDS FOR 2008-2009

8. CONSENT AGENDA

Commissioner Wheeler requested Items 8.B., 8.J., and 8.L. be pulled for discussion.
Commissioner O'Bryan requested Item 8.I. be pulled for discussion.

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

8.A. APPROVAL OF WARRANTS AND WIRES DECEMBER 5, 2008 THRU DECEMBER 11, 2008

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the list of Warrants and Wires, as issued by the Clerk to the Board, for the time period of December 5, 2008 to December 11, 2008, as requested in the memorandum of December 11, 2008.

8.B. 2009 BCC COMMITTEE RE-ASSIGNMENTS

Commissioner Wheeler felt Commissioner O’Bryan should continue to serve on the Treasure Coast Regional Planning Council and indicated the reasons why. He believed Commissioner Solari would represent the County well, but felt past experience was invaluable when serving on this committee.

Chairman Davis gave the rationale for his decision in appointing Commissioner Solari to the Council and assured the Board that his decision was not based on Commissioner O’Bryan’s performance, but to allow others the opportunity to gain municipal experience, along with the County’s vision and insight.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner O’Bryan, for Commissioner O’Bryan to remain on the Treasure Coast Regional Planning Council as the Indian River County appointee.

Commissioner O'Bryan voiced his willingness to remain on the Council, and agreed with Commissioner Wheeler, that building relationships and trust are important, and that the continuity and respect gained from serving on the Council would put this County in a leadership position.

The Chairman CALLED THE QUESTION and by a vote of 2-3 (Chairman Davis, and Commissioners Flescher and Solari opposed), the MOTION FAILED.

It was also noted that Vice Chairman Flescher would also be serving on the Treasure Coast Coalition Committee in addition to the committees listed (see page 14-16 of the Backup).

Commissioner O'Bryan wanted clarification as to why there were four Commissioners serving on the Value Adjustment Board when there are only two positions. Chairman Davis believed it to be an oversight and said that the two individuals currently serving would continue in the same capacity.

Deputy County Attorney William DeBaal sought further clarification, as to who would be serving on the Value Adjustment Board. Chairman Davis reported that the two appointees would be Commissioners O'Bryan and Flescher.

There was a CONSENSUS to approve the 2009 Committee Assignments for each Commissioner, as recommended in the Memorandum dated December 16, 2008.

**8.C. VERONA TRACE SUBDIVISION AND THE VILLAS AT VERONA TRACE,
LENNAR HOMES, LLC TO MS RIALTO VERONA TRACE FL, LLC,
CONSENTS TO ASSIGNMENT OF CONTRACT FOR CONSTRUCTION OF
REQUIRED SIDEWALK IMPROVEMENTS AND ASSIGNMENT OF
WARRANTY AND GUARANTY AGREEMENT, AND BILL OF SALE FOR
REQUIRED IMPROVEMENTS**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Assignment of Contract for Construction of Required Sidewalk Improvements and Assignment of Warranty and Guaranty Agreement, and Bill of Sale for Required Improvements, and authorized the Chairman to execute the County's consent to same, as well as the Cash Deposit and Escrow Agreement, as recommended in the memorandum of December 11, 2008.

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

**8.D. RELEASE OF DEMOLITION LIENS, JOSEPH S. FILBURN, TAX PARCEL
I.D. No. 31-39-28-00000-0020-00010.0, 8960 44TH AVENUE,
SEBASTIAN, FL 32958**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously authorized the Chairman to execute each Release of Lien for recording in the Public Records of Indian River County, as recommended in the memorandum of December 16, 2008.

RECORDED COPY OF RELEASE OF LIEN ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.E. AUTHORIZATION TO ATTEND 2009 ANNUAL GFOA CONFERENCE

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved out of County travel for Administrator Baird to attend the Government Finance Officers Association Annual Conference in Seattle, Washington, from June 28, 2009 through July 1, 2009, as recommended in the memorandum of December 16, 2008.

8.F. WORK ORDER NO. 9 (ENGINEERING/SURVEYING) MASTELLER, MOLER, REED AND TAYLOR, INC. – FINAL PAY AND RELEASE OF RETAINAGE CR512 PHASE III – DRAINAGE POND E, ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT BOUNDARY SURVEY, INDIAN RIVER COUNTY PROJECT 9611A

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved payment in the amount of \$407.05 to Masteller, Moler, Reed and Taylor, Inc., Invoice No. 2704-7427, dated December 4, 2008, for final payment and release of retainage for Work Order No. 9, as recommended in the memorandum of December 10, 2008.

**8.G. AWARD OF BID # 2009024, OSLO ROAD BOAT RAMP, IRC PROJECT
No. 0381**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the contract be awarded to Pelican Pete Construction Company, Inc., in the amount of \$107,494.93, as recommended in the memorandum of December 15, 2008.

**8.H. CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT FOR CR510
FROM CR512 TO 75TH COURT – AMENDMENT No. 4**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved Amendment 4 to Stanley Consultants, Inc., for the negotiated design cost of \$59,984, as recommended in the memorandum of December 3, 2008.

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

8.I. ACCEPTANCE OF PHASE I ENERGY SAVINGS AUDIT AND APPROVAL OF SAVINGS GUARANTEE

Commissioner O'Bryan conveyed that the energy saving audit and the changes made to electrical and water usage improvements would pay for the installed systems and capital cost. He stated that the changes would continue to provide savings to the taxpayers over the life cycle of the fixtures and asked General Services Director Tom Frame to highlight this project.

Director Frame recognized Facility Manager Lynn Williams as the key staff person involved in the audits and meetings with Florida Power and Light. He explained that the intent is to find savings, and changing out the old light fixtures with electronic ballasts and new light bulbs, along with lower water consumption flush facilities in older buildings, would offer an approximate savings of \$85,000 annually.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved Energy Conservation Measures 1 through 3 included in the Phase I Technical Audit; and authorized the Chairman to execute the Energy Savings Guarantee, and Implementation Services Authorization Form, after review and approval of the County Attorney's office, as recommended in the memorandum of December 17, 2008.

8.J. SCRP RECREATION FACILITY

Commissioner Wheeler said that he continues to oppose building the South County indoor recreation multi-purpose facility, and due to budget constraints he felt this needed to be revisited at a later date.

MOTION WAS MADE by Commissioner Wheeler, to put this item on hold and revisit it at a later date. There was no SECOND. MOTION DIED.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Davis, by a 4-1 vote (Commissioner Wheeler opposed), the Board authorized: (1) staff to reject the Design Build Proposal RFP No. 6092, and (2) staff to prepare Request for Proposals (RFP) for design services only for the South County Indoor Recreation Multi-Purpose Facility, as recommended in the memorandum of December 12, 2008.

8.K. MISCELLANEOUS BUDGET AMENDMENT 004

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2008-204**, Amending the Fiscal Year 2008-2009 Budget.

**8.L. FINAL PAY REQUEST FOR THE INDIAN RIVER COUNTY
ADMINISTRATION CENTER**

Commissioner Wheeler mentioned that during the past few years there had been controversy with the cost of the building. He pointed out that the actual cost of the building was \$27,822,765, and that \$554,500 was the remaining amount of the guaranteed maximum price that would be released back to the County.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board unanimously approved the final payment on the County Administration Center to Turner Construction Company, Inc., in the amount of \$302,632, as recommended in the memorandum of December 17, 2008.

County Administrator Baird explained the controversy over the cost of the County Administration Center; reported that the building would serve the community for 20 to 25 years; and acknowledged that it was paid for by using the cash balance of \$26 million and the allocated optional sales tax money.

**8.M. APPROVAL OF LEASE AGREEMENTS FOR DEPUTIES AT DONALD
MACDONALD PARK, SOUTH COUNTY PARK, AND THE FAIRGROUNDS**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Leases with: (1) the tenant at Donald MacDonald Park; (2) the tenant at South County Park; and (3) the tenant at the Fairgrounds, in the forms presented; and (4) authorized the Chairman to execute same, as recommended in the memorandum of December 16, 2008.

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

8.N. ACQUISITION OF RIGHT-OF-WAY ALONG CR510 LYDIA K. BROXTON

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the three contracts for purchase of the four Lydia Broxton parcels: Parcel 232 for \$36,000; Parcel 231 for \$34,000; and Parcels 301 and 302 for \$92,894, as recommended in the memorandum of December 17, 2008.

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

8.O. INTERIM CUSTODIAL SERVICES AGREEMENT BETWEEN INDIAN RIVER COUNTY AND HEVERON GROUP, INC., D/B/A BEACHLAND CLEANING SERVICES

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously authorized the County Attorney's Office and staff to proceed by drafting an Amendment for an interim agreement of time to January 31, 2009 for custodial services at a price of \$45,922; 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 December 17, 2008.

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

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS - NONE

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM FRANK ZORC REGARDING CONTAMINATION AT THE AIRPORT

Frank Zorc, 1695 20th Avenue, thanked Chairman Davis for sending a follow up letter to Governor Charlie Crist. He recapped his list of factors (copy on file) and assured the Board that even though he appreciates the economic benefits Piper Aircraft has provided, his

primary concern continues to be how Piper ignored and violated the Federal Environmental Protection Agency (EPA) program and Florida Statutes. He believed that only a Special Prosecutor and out of town Grand Jury could correct this situation, and asked the Board for their support.

NO ACTION REQUIRED OR TAKEN

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR MATTERS

11.A. 2009 FELLSMERE FROG LEG FESTIVAL

Administrator Baird requested the Board waive Fellsmere's rental fees for the use of County equipment during the festival.

Discussion ensued to clarify the charges and costs to the County, and Administrator Baird said that the commitment to exempt Fellsmere's rental fees started four years ago.

Commissioner Solari felt that due to the County's current financial situation, Fellsmere should be given the opportunity to share the burden.

Discussion ensued regarding Fellsmere using, purchasing, and/or leasing the equipment; and recovering the labor cost for setting it up.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved to waive the standard rental fees for the use of County equipment (stage, tent and bleachers) for this year; and structure an agreement whereby Fellsmere can use and cost share for the labor involved in setting up the equipment.

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT - NONE

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES - NONE

12.D. HUMAN RESOURCES - NONE

12.E. HUMAN SERVICES - NONE

12.F. LEISURE SERVICES - NONE

12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

12.H. RECREATION - NONE

12.I. PUBLIC WORKS - NONE

12.J. UTILITIES SERVICES

12.J.1. AMENDMENT NUMBER 1 TO CONTINUING CONSULTING SERVICES

**WORK ORDER NO. 11 WITH MASTELLER & MOLER, INC. FOR
ENGINEERING SERVICES FOR SR 60 PHASE 1 – UCP No. 3026**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved Amendment No. 1 to Work Order No. 11 with Masteller and Moler, Inc. for an additional amount of \$4,827.50 for engineering services, bringing the new total amount for Work Order No. 11 to \$107,517.50; and authorized the Chairman to execute same, as recommended in the memorandum of December 12, 2008.

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

12.J.2. 2ND AMENDMENT AND EXTENSION TO WETLAND MAINTENANCE

SERVICES AGREEMENT WITH ECOTECH CONSULTANTS, INC.

Commissioner O’Bryan advocated this project and pointed out that the mitigation will help restore the Lost Tree Islands by removing the exotic vegetation and replacing it with wetland and coastal habitat species.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Vice Chairman, under discussion, to approve the 2nd Amendment and Extension to Wetland Maintenance Services Agreement, in the amount of \$256,202.

Utilities Director Erik Olson announced that staff is moving forward with the development of the Spoonbill Marsh Project, and he reported that the Florida Department of Environmental Protection (FDEP) recommends the County focus on the Lost Tree Islands as part of the mitigation requirement.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved the 2nd Amendment and Extension to Wetland Maintenance Services Agreement, in the amount of \$256,202.00; and authorized the Chairman to execute same, as recommended in the memorandum of November 21, 2008.

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

13. COUNTY ATTORNEY MATTERS - NONE

14. COMMISSIONER ITEMS

14.A. COMMISSIONER WESLEY S. DAVIS, CHAIRMAN

14.A.1. OBSERVING THE FLORIDA SUNSHINE LAW

Chairman Davis suggested a PowerPoint presentation of the Florida Sunshine Law be placed on the County's website. He felt this would be beneficial to new and existing Committee members.

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Flescher, to place a PowerPoint presentation of the Florida Sunshine Law on the County's website.

In response to Commissioner O'Bryan's inquiry, Attorney Debraal informed the Board that a joint training session had been held with two Committees last week before their regularly scheduled meeting. He acknowledged that his office is always available to address Sunshine Law issues.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved that a PowerPoint presentation of the Florida Sunshine Law be placed on the County's website.

14.B. COMMISSIONER JOSEPH E. FLESCHER, VICE CHAIRMAN - NONE

14.C. COMMISSIONER GARY C. WHEELER

14.C.1. DISCUSSION ON COMMITTEES

Commissioner Wheeler requested this item be deleted from the Agenda.

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

14.E. COMMISSIONER BOB SOLARI - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT

15.A.1. ASSISTANCE TO FIREFIGHTERS GRANT AWARD

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 appended to this document.

15.B. SOLID WASTE DISPOSAL DISTRICT - NONE

15.C. ENVIRONMENTAL CONTROL BOARD - NONE

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

ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 9:56 a.m.

ATTEST:

Mary Louise Scheidt, Clerk, *Ad Interim*

Wesley S. Davis, Chairman

Minutes Approved: _____
BCC/LAA/2008Minutes