

**INDEX TO MINUTES OF REGULAR MEETING**  
**OF BOARD OF COUNTY COMMISSIONERS**  
**OF JANUARY 6, 2009**

1. CALL TO ORDER .....1

2. INVOCATION .....1

3. PLEDGE OF ALLEGIANCE.....1

CONSTITUTIONAL OFFICERS OATH OF OFFICE .....2

*INDIAN RIVER COUNTY JUDGE JOE WILD* .....2

4. ADDITIONS/DELETIONS TO THE AGENDA /EMERGENCY  
ITEMS .....2

5. PROCLAMATIONS AND PRESENTATIONS - ~~NONE~~ .....3

I. ADDITION: ANNOUNCEMENT BY COMMISSIONER O'BRYAN.....3

6. APPROVAL OF MINUTES - NONE.....3

7. INFORMATIONAL ITEMS FROM STAFF OR  
COMMISSIONERS NOT REQUIRING BOARD ACTION .....3

A. ELECTED PUBLIC OFFICIAL BONDS FOR INDIAN RIVER COUNTY HOSPITAL  
TRUSTEES HARRY BODWELL, HUGH K. MCCRYSTAL, JOHN MOORE, III, AND  
MICHAEL WEISS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD .....3

- B. CITY OF FELLSMERE ORDINANCE 08-23 – ANNEXING 2.16 ± ACRES, DECLARATION OF COVENANTS AND RESTRICTIONS ON LAND, AND ANNEXATION AGREEMENT ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD .....3**
- C. RESIGNATION OF DEVELOPMENT COMMUNITY APPOINTEE TO THE LAND ACQUISITION ADVISORY COMMITTEE.....3**
- D. DEVELOPMENT COMMUNITY APPOINTEE VACANCY ON THE LAND ACQUISITION ADVISORY COMMITTEE.....3**
- E. 2009, DISTRICT 5 APPOINTMENT TO THE CHILDREN’S SERVICES ADVISORY COMMITTEE.....3**
- F. 2009, DISTRICT 5 APPOINTMENT TO THE EMERGENCY SERVICES ADVISORY COMMITTEE.....4**
- G. 2009, DISTRICT 5 APPOINTMENT TO THE PLANNING AND ZONING COMMITTEE.....4**

**8. CONSENT AGENDA.....4**

- 8.A. APPROVAL OF WARRANTS AND WIRES, DECEMBER 12, 2008 THRU DECEMBER 18, 2008.....4**
- 8.B. APPROVAL OF WARRANTS AND WIRES, DECEMBER 19, 2008 THRU DECEMBER 29, 2008.....5**
- 8.C. APPROVAL OF PUBLIC OFFICIAL BONDS FOR CONSTITUTIONAL OFFICERS.....5**
- 8.D. CONSIDERATION OF SUBMITTED APPLICATIONS FOR CITIZEN-AT-LARGE POSITION ON HISTORIC RESOURCES ADVISORY COMMITTEE (HRAC) .....5**
- 8.E. BLANKET AUTHORIZATION FOR COMMISSIONERS TO TRAVEL OUT OF COUNTY.....6**
- 8.F. LAND ACQUISITION FOR FUTURE LIBRARY EXPANSION AT NORTH COUNTY LIBRARY LOCATED IN SEBASTIAN ALONG SEBASTIAN BOULEVARD (C.R. 512).....7**
- 8.G. AMENDMENT NO. 1 TO WORK ORDER NO. 6 TO THE ANNUAL BRIDGE DESIGN SERVICES AGREEMENT 16<sup>TH</sup> STREET BRIDGE OVER IRFWCD RANGE LINE CANAL, IRC PROJECT NO. 9920-B .....8**
- 8.H. ENGINEERING/SURVEYING AGREEMENT, CARTER ASSOCIATES, INC. – RELEASE OF RETAINAGE, 43<sup>RD</sup> AVENUE (8<sup>TH</sup> STREET TO 18<sup>TH</sup> STREET) ROADWAY AND DRAINAGE IMPROVEMENTS, IRC PROJECT NO. 9601.....9**

- 8.I. BRIDGE DESIGN MODIFICATIONS FOR 57<sup>TH</sup> STREET BRIDGE OVER THE I.R.F.W.C.D. LATERAL A CANAL (66<sup>TH</sup> AVENUE) WITH BRIDGE DESIGN ASSOCIATES, INC., WORK ORDER NO. 13.....9
- 8.J. AMENDMENT NO. 1 TO WORK ORDER NO. 5 TO THE ANNUAL BRIDGE DESIGN SERVICES AGREEMENT 53<sup>RD</sup> STREET BRIDGE OVER IRFWCD LATERAL “H” CANAL, IRC PROJECT NO. 0107-B .....10
- 8.K. WORK ORDER NO. 18 (ENGINEERING/SURVEYING), CARTER ASSOCIATES, INC., 66<sup>TH</sup> AVENUE ROAD-WAY IMPROVEMENTS PROJECT, RIGHT-OF-WAY ACQUISITION, BOUNDARY SURVEYS.....10
- 8.L. CR 512, PHASE IV – PROJECT NO. 9611B, BID NUMBER 2008012, CHANGE ORDER NO. 2 .....11
- 8.M. WORK ORDER NO. 10 (ENGINEERING/SURVEYING), MASTELLER, MOLER, REED AND TAYLOR, INC., 66<sup>TH</sup> AVENUE ROAD-WAY IMPROVEMENTS PROJECT, RIGHT-OF-WAY ACQUISITION, BOUNDARY SURVEYS.....11
- 8.N. MISCELLANEOUS BUDGET AMENDMENT 005.....12
- 8.O. RESOLUTION TO RECONNECT THE SOUTH FLORIDA AND ST. JOHNS RIVER WATER MANAGEMENT DISTRICTS .....12
- 8.P. ISLES AT WATERWAY VILLAGE PD – PLAT 1C, REQUEST FROM DEVELOPER, DIVOSTA HOMES, L.P., FOR AN EXTENSION TO COMPLETE REQUIRED IMPROVEMENTS .....13

- 9.A. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE.....14

- 10. PUBLIC ITEMS - .....14

- A. PUBLIC HEARINGS - NONE .....14

- 10.B. PUBLIC DISCUSSION ITEMS .....14

- 1. REQUEST TO SPEAK FROM FRANK ZORC REGARDING CONTAMINATION AT THE AIRPORT .....14

<b>10.C.</b>	<b>PUBLIC NOTICE ITEMS - NONE.....</b>	<b>14</b>
<b>11.</b>	<b>COUNTY ADMINISTRATOR MATTERS - NONE .....</b>	<b>14</b>
<b>12.</b>	<b>DEPARTMENTAL MATTERS.....</b>	<b>15</b>
	<i>A. COMMUNITY DEVELOPMENT - NONE.....</i>	<i>15</i>
<b>12.B.</b>	<b>EMERGENCY SERVICES - NONE.....</b>	<b>15</b>
<b>12.C.</b>	<b>GENERAL SERVICES - NONE.....</b>	<b>15</b>
<b>12.D.</b>	<b>HUMAN RESOURCES - NONE.....</b>	<b>15</b>
<b>12.E.</b>	<b>HUMAN SERVICES - NONE .....</b>	<b>15</b>
<b>12.F.</b>	<b>LEISURE SERVICES – NONE.....</b>	<b>15</b>
<b>12.G.</b>	<b>OFFICE OF MANAGEMENT AND BUDGET - NONE .....</b>	<b>15</b>
<b>12.H.</b>	<b>RECREATION - NONE .....</b>	<b>15</b>
<b>12.I.</b>	<b>PUBLIC WORKS - NONE.....</b>	<b>15</b>
<b>12.J.</b>	<b>UTILITIES SERVICES - NONE .....</b>	<b>15</b>
<b>13.</b>	<b>COUNTY ATTORNEY MATTERS .....</b>	<b>15</b>
	<i>A. REQUEST BY FOSTER I.R.C., LLC FOR AN EXTENSION TO CONTRACT FOR LOT FILL RELATING TO HUNTINGTON PLACE.....</i>	<i>15</i>

<b>14.</b>	<b>COMMISSIONERS' ITEMS.....</b>	<b>17</b>
<b>A.</b>	<b>COMMISSIONER WESLEY S. DAVIS, CHAIRMAN - NONE .....</b>	<b>17</b>
<b>B.</b>	<b>COMMISSIONER JOSEPH E. FLESCHER, VICE CHAIRMAN - NONE.....</b>	<b>18</b>
<b>C.</b>	<b>COMMISSIONER GARY C. WHEELER - NONE .....</b>	<b>18</b>
<b>D.</b>	<b>COMMISSIONER PETER D. O'BRYAN .....</b>	<b>18</b>
	<i>1. 2009 GOALS AND A STRATEGIC VISION.....</i>	<i>18</i>
<b>E.</b>	<b>COMMISSIONER BOB SOLARI.....</b>	<b>19</b>
	<i>1. COUNTY ECONOMIC DEVELOPMENT SUMMIT .....</i>	<i>19</i>
<b>15.</b>	<b>SPECIAL DISTRICTS AND BOARDS.....</b>	<b>20</b>
	<i>A. EMERGENCY SERVICES DISTRICT - NONE .....</i>	<i>20</i>
	<i>B. SOLID WASTE DISPOSAL DISTRICT - NONE.....</i>	<i>20</i>
	<i>C. ENVIRONMENTAL CONTROL BOARD - NONE.....</i>	<i>20</i>
<b>16.</b>	<b>ADJOURNMENT .....</b>	<b>20</b>

January 6, 2009

**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, January 6, 2009. 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, County Attorney William G. Collins II, and Deputy Clerk Athena Adams.

**1. CALL TO ORDER**

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 Joseph E. Flescher, Vice Chairman, led the Pledge of Allegiance to the Flag.

**CONSTITUTIONAL OFFICERS OATH OF OFFICE**

**INDIAN RIVER COUNTY JUDGE JOE WILD**

Indian River County Circuit Court Judge, Joe Wild, administered the Oath of Office to re-elected Clerk of Court Jeffrey K. Barton, and Property Appraiser David Nolte, as well as, newly elected Sheriff Deryl Loar, and newly appointed Tax Collector Carole Jean Jordan.

*Chairman Davis called a short break at 9:09 a.m. and reconvened the Meeting at 9:12 a.m., with all members present.*

Judge Wild swore in re-elected Supervisor of Elections, Kay Clem, who arrived late.

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

Chairman Davis announced the following changes to today's Agenda:

1. Addition: Item 5.A, Announcement by Commissioner O'Bryan

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

**5. PROCLAMATIONS AND PRESENTATIONS - NONE**

**1. ADDITION: ANNOUNCEMENT BY COMMISSIONER O'BRYAN**

Commissioner O'Bryan announced that the University of Florida Fighting Gator Marching Band would be performing at the Vero Beach High School Citrus Bowl, at 1:30 p.m., today. The event is free and opened to the public. He encouraged everyone to go out and support the Band.

**6. APPROVAL OF MINUTES - NONE**

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

- A. ELECTED PUBLIC OFFICIAL BONDS FOR INDIAN RIVER COUNTY HOSPITAL TRUSTEES HARRY BODWELL, HUGH K. MCCRYSTAL, JOHN MOORE, III, AND MICHAEL WEISS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD**
- B. CITY OF FELLSMERE ORDINANCE 08-23 – ANNEXING 2.16 ± ACRES, DECLARATION OF COVENANTS AND RESTRICTIONS ON LAND, AND ANNEXATION AGREEMENT ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD**
- C. RESIGNATION OF DEVELOPMENT COMMUNITY APPOINTEE TO THE LAND ACQUISITION ADVISORY COMMITTEE**
- D. DEVELOPMENT COMMUNITY APPOINTEE VACANCY ON THE LAND ACQUISITION ADVISORY COMMITTEE**
- E. 2009, DISTRICT 5 APPOINTMENT TO THE CHILDREN'S SERVICES ADVISORY COMMITTEE**



**F. 2009, DISTRICT 5 APPOINTMENT TO THE EMERGENCY SERVICES ADVISORY COMMITTEE**

**G. 2009, DISTRICT 5 APPOINTMENT TO THE PLANNING AND ZONING COMMITTEE**

**8. CONSENT AGENDA**

Chairman Davis asked to pull for discussion, Item 8.L

Vice Chairman Flescher asked to pull for discussion, Items 8.F & 8.P

Commissioner Wheeler asked to pull for discussion, Item 8.F

Commissioner O'Bryan asked to pull for discussion, Item 8.D

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 12, 2008 THRU DECEMBER 18, 2008**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the list of Warrants and Wires for the time period of December 12, 2008 through December 18, 2008, as recommended in the memorandum of December 18, 2008.

**8.B. APPROVAL OF WARRANTS AND WIRES, DECEMBER 19, 2008 THRU DECEMBER 29, 2008**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the list of Warrants and Wires for the time period of December 12, 2008 through December 18, 2008, as recommended in the memorandum of December 29, 2008.

**8.C. APPROVAL OF PUBLIC OFFICIAL BONDS FOR CONSTITUTIONAL OFFICERS**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Public Official Bonds for Constitutional Officers: Deryl Loar, Sheriff-Elect, reelected Clerk of Court, Jeffrey K. Barton, and newly appointed Tax Collector, Carole Jean Jordon, as recommended in the memorandum of December 29, 2008.

BONDS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.D. CONSIDERATION OF SUBMITTED APPLICATIONS FOR CITIZEN-AT-LARGE POSITION ON HISTORIC RESOURCES ADVISORY COMMITTEE (HRAC)**

Commissioner O'Bryan pointed out that there were two applicants vying for the position on the HRAC and they needed to choose one of the two.

Chairman Davis gave the opportunity to the other Commissioners to make a selection.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, to appoint Elizabeth Armistead to the HRAC.

Commissioner Solari requested that, in the future, items of this nature not be placed on the Consent Agenda.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved the appointment of Elizabeth Armistead to the Citizen-at-Large position on the Historic Resources Advisory Committee (HRAC).

**8.E. BLANKET AUTHORIZATION FOR COMMISSIONERS TO TRAVEL OUT OF COUNTY**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved for Commissioners to travel out of County for all current and any future assigned committee meetings, including travel to Tallahassee, Florida, as recommended in the memorandum of December 31, 2008.

**8.F. LAND ACQUISITION FOR FUTURE LIBRARY EXPANSION AT NORTH COUNTY LIBRARY LOCATED IN SEBASTIAN ALONG SEBASTIAN BOULEVARD (C.R. 512)**

Commissioner Wheeler was not sure that banking this property, at this time, was in the best interest of the County; he thought the appraised prices were probably high for today's market and too much money to pay; and desired not to take it off the tax roll currently.

Vice Chairman Flescher had similar concerns.

Commissioner O'Bryan asked what would happen if we do not spend the impact fee money, and whether there was a statutory timeframe to expend those funds.

Attorney Collins said it was six years, and Administrator Baird said Library impact fees were put in place about two years ago, so we have four more years.

**George Gross**, 1230 39<sup>th</sup> Avenue, and former member of the Library Advisory Committee, urged the Board to approve the recommendation to purchase the land.

General Services Director Tom Frame clarified that this acquisition was mainly for future expansion.

Chairman Davis agreed with comments regarding use of the facility and its benefits to the community, and wanted to see them do something to secure this site.

Commissioner Wheeler commenting on the assumed worth of the property, the \$750,000, asked what it amounts to in annual taxes on commercial property.

Administrator Baird did not know the exact number on the roll, but said they usually use \$15.00 per thousand. Commissioner Wheeler reiterated his thoughts that this was

over-priced, and suggested they renegotiate the price or wait a year or two to look at the property again.

MOTION WAS MADE by Commissioner Wheeler to go back and renegotiate the price. Motion DIED for lack of a Second.

Commissioners continued to discuss appraisal of properties, and whether to present a counter-offer for the subject property.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved to present a counter-offer of \$600,000.00 for the subject property.

**8.G. AMENDMENT NO. 1 TO WORK ORDER NO. 6 TO THE ANNUAL BRIDGE DESIGN SERVICES AGREEMENT 16<sup>TH</sup> STREET BRIDGE OVER IRFWCD RANGE LINE CANAL, IRC PROJECT NO. 9920-B**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved Amendment No. 1 in the amount of \$250.00, bringing the total contract amount to \$23,366.80, as recommended in the memorandum of December 22, 2008.

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

**8.H. ENGINEERING/SURVEYING AGREEMENT, CARTER ASSOCIATES, INC.**  
**– RELEASE OF RETAINAGE, 43<sup>RD</sup> AVENUE (8<sup>TH</sup> STREET TO 18<sup>TH</sup>**  
**STREET) ROADWAY AND DRAINAGE IMPROVEMENTS, IRC PROJECT**  
**No. 9601**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved payment of Invoice No. 55, dated October 31, 2008, that includes the 10% retainage in the amount of \$50,797.96, as recommended in the memorandum of December 23, 2008.

**8.I. BRIDGE DESIGN MODIFICATIONS FOR 57<sup>TH</sup> STREET BRIDGE OVER**  
**THE I.R.F.W.C.D. LATERAL A CANAL (66<sup>TH</sup> AVENUE) WITH**  
**BRIDGE DESIGN ASSOCIATES, INC., WORK ORDER No. 13**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved Work Order No. 13 with Bridge Design Associates, Inc., and authorized the Chairman to execute said Agreement, as recommended in the memorandum of December 22, 2008.

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

**8.J. AMENDMENT No. 1 TO WORK ORDER No. 5 TO THE ANNUAL BRIDGE DESIGN SERVICES AGREEMENT 53<sup>RD</sup> STREET BRIDGE OVER IRFWCD LATERAL "H" CANAL, IRC PROJECT No. 0107-B**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved Amendment No. 1 with Bridge Design Associates, Inc., in the amount of \$1,500.00, bringing the total contract amount to \$32,383.00, as recommended in the memorandum of December 22, 2008.

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

**8.K. WORK ORDER No. 18 (ENGINEERING/SURVEYING), CARTER ASSOCIATES, INC., 66<sup>TH</sup> AVENUE ROAD-WAY IMPROVEMENTS PROJECT, RIGHT-OF-WAY ACQUISITION, BOUNDARY SURVEYS**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved Work Order No. 18, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of December 19, 2008.

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

**8.L. CR 512, PHASE IV – PROJECT No. 9611B, BID NUMBER 2008012,  
CHANGE ORDER No. 2**

Chairman Davis's concern was with the cost of the sand.

Engineer Christopher Kafer reported that the contractor, H & J Contracting, Inc., had gotten bids from Fisher for four different pits that they have throughout the County. He said the one on 99<sup>th</sup> Street, west of U.S. 1, was \$4.25 per cubic yard; tax is added to that; then there is \$2.45 per hauling, to which they add their standard 15% profit, and that comes out to the \$8.05.

Chairman Davis was under the impression that the 15% was in addition to the \$8.00.

Commissioner O'Bryan also questioned the cost and asked that the contractor go back and bid on a couple other mines to make sure this is the correct price. Mr. Kafer was asked to bring this item back to the Board next Tuesday for approval.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved to Table this item, and for it to be brought back to the Board next Tuesday, January 13, 2009, with an updated bid on the fill.

**8.M. WORK ORDER No. 10 (ENGINEERING/SURVEYING), MASTELLER,  
MOLER, REED AND TAYLOR, INC., 66<sup>TH</sup> AVENUE ROAD-WAY  
IMPROVEMENTS PROJECT, RIGHT-OF-WAY ACQUISITION,  
BOUNDARY SURVEYS**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously



approved Work Order No. 10 with Masteller, Moler, Reed & Taylor, Inc., authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of December 18, 2008.

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

**8.N. MISCELLANEOUS BUDGET AMENDMENT 005**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-001** amending the fiscal year 2008-2008 Budget.

**8.O. RESOLUTION TO RECONNECT THE SOUTH FLORIDA AND ST. JOHNS RIVER WATER MANAGEMENT DISTRICTS**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-002** in support of the hydraulic and applicable physical reconnection of the Central and South Florida Flood Control project, as represented presently by the South Florida Water Management District and the St. Johns River Water Management District, through a series of interconnected reservoirs, stormwater treatment areas and canals within the Fort Drum Marsh area.

**8.P. ISLES AT WATERWAY VILLAGE PD – PLAT 1C, REQUEST FROM DEVELOPER, DIVOSTA HOMES, L.P., FOR AN EXTENSION TO COMPLETE REQUIRED IMPROVEMENTS**

Vice Chairman Flescher was concerned about Divosta's inability to complete the improvements and that they had requested a six-month extension. If the Board approves the extension, he wanted a caveat added to have the Letter of Credit pulled at the end of the period, if the job was not completed.

Commissioner O'Bryan questioned whether or not we were in litigation with Divosta, and whether it would be favorable for us if the request is approved.

Attorney Collins explained that we are in litigation with respect to concurrency and vesting of traffic; we are not in litigation with respect to any aspect of the development or their performance of the development. He said it was really a matter of what entitlements they have under their approvals with respect to vesting traffic and roads; and it has nothing to do with them completing the project.

Responding to whether we have a bargaining chip or whether granting the request is favorable for us, Attorney Collins said staff's position is, if we pull the Letter of Credit then we are in the position of going out to bid to complete the work. He understood that Divosta was 90% complete on the work, and said it was more of a punch list type thing.

**Chris Ward**, 564 7<sup>th</sup> Square, of Divosta Homes, confirmed that all improvements were completed: all common area sidewalks have been put in; roads are in, minus the final lifts; all landscape are in; there are some minor lake bank repairs to be completed, including laying sod on the lake banks; and very minor punch list items that they are currently working out with Engineering, and should have completed within the next three (3) months. They do not anticipate any further requests for extensions.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Solari, the Board unanimously approved the Modification to Contract for construction of required improvements No. PD-05-04-08(C)-CFC (2004010124-56284) to extend the completion date to June 30, 2009, for the remaining required improvements associated with lots 342-462, and authorized the Chairman to execute same, as recommended in the memorandum of December 30, 2008.

COPY OF MODIFICATION ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

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

**10. PUBLIC ITEMS -**  
**A. PUBLIC HEARINGS - NONE**

**10.B. PUBLIC DISCUSSION ITEMS**  
**1. REQUEST TO SPEAK FROM FRANK ZORC REGARDING CONTAMINATION AT THE AIRPORT**

Mr. Zorc was absent.

**10.C. PUBLIC NOTICE ITEMS - NONE**

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**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 - NONE**

**13. COUNTY ATTORNEY MATTERS**

**A. REQUEST BY FOSTER I.R.C., LLC FOR AN EXTENSION TO  
CONTRACT FOR LOT FILL RELATING TO HUNTINGTON PLACE**

County Attorney William Collins provided background on the request and presented staff's recommendation that no extension be granted.

Commissioner O'Bryan felt this was something they need to find a good solution for. He had visited the area; saw the vegetation; and could not imagine why they would want to destroy such natural habitat for the sake of fills.

Chairman Davis, too, had seen the vegetation and agreed with Commissioner O'Bryan's comments.

Commissioner Wheeler said the main thing that concerned him was the verbiage at page 260 of the backup, which reads, "Should lot filling not occur the developer can shift that responsibility to the homeowners' association (which will be ill-equipped to follow through)." Although he agreed with Commissioners Davis and O'Bryan, his concern was that the people buying those lots have invested in them for their future, and he felt they need to be protected.

**Jim Taylor**, Esquire, Rossway Moore & Taylor Law Firm, 5070 N. Highway A1A, representing Foster I.R.C., LLC, the Developer of Huntington Place, commenting on the 141 lot subdivision, west of Town off Kings Highway, said only three lots have sold; and on the County's imposed lot-fill requirement, in January 2007, that the lots be filled to 75% of finished grades within two years, while not necessarily viewed as palatable, was accepted because they understood the County's concern.

**Mr. Taylor** agreed that lot filling would result in a destruction of that natural habitat and beauty of the subdivision. As a consequence, he said the developer was prepared to work with staff in a manner consistent with Attorney Collins suggestions. He stated that if the Letter of Credit is pulled it would have a disastrous effect on Foster, as well as on the subdivision and lot owners.

Commissioner O'Bryan asked if Foster could provide an extended Letter of Credit and **Mr. Taylor** said Fifth Third Bank was prepared to extend the letter of credit.

Chairman Davis had concerns with comments from Commissioner Wheeler and asked Attorney Collins if he was comfortable with the verbiage read by Commissioner Wheeler (page 260 of the backup memorandum).

Attorney Collins summed up his understanding of discussions on the topic: that that they could do a modification to extend the contract for a two-year extension; that the security supporting that extension would remain in place for three months beyond the contract default date or perhaps six months, because this is like cure period; Foster would have the ability to modify the design to avoid filling in the interim, coming up with some design solutions that could be implemented through a re-plat; and that whatever extension the Commission afforded to the Developer would be passed through to individual lot owners, through an amendment with Deed Restriction, to have a commensurate extension for each lot owner to complete their full obligation. He said if those were the terms, staff could return, in a week or two, with a contract to implement that Agreement.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved to extend the contract for two (2) years; approved the security for two (2) years and six (6) months; approved to amend restrictions to allow individual lot owners the benefits of the same period of time extensions to fill their lots; and approved for the Agreement to be brought back to the Board for final approval.

#### **14. COMMISSIONERS' ITEMS**

##### **A. COMMISSIONER WESLEY S. DAVIS, CHAIRMAN - NONE**

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

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

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

**I. 2009 GOALS AND A STRATEGIC VISION**

Commissioner O'Bryan realized the Board of Commissioner has no long range plan and/or strategic vision for the future. He proposed that the Board get together in a workshop format and each Commissioner submit a list of their goals for one or five years; they could brainstorm and come up with decisions, so they could have goals to achieve and be better able to direct staff. He thought they could combine Commissioner Solari's Economic Summit and they could have a daylong workshop to discuss all these goals.

Chairman Davis liked the idea, and felt the time was appropriate to have a workshop with public input on the matter.

Other Commissioners agreed with Commissioner O'Bryan's proposal and Commissioner Solari was agreeable to having his Economic Summit on the same date as the Strategic Vision Workshop, provided it was doable. A suggested date for said Workshops was February 5, 2009, and Commissioners proffered ideas they want discussed.

MOTION WAS MADE by Commissioner Solari,  
SECONDED by Vice Chairman Flescher, to conduct two  
Workshops on February 5, 2009, with the Economic  
Summit scheduled for the morning and the Strategic  
Planning/Goals scheduled for the afternoon.

Administrator Baird informed the Board that staff would present, on January 20, 2009, an update on the budget and the revenues, because staff is seeing significant reduction on overall revenues; and they may want to review that before the Workshop, because it shows some significant budget revenue shortfall.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved to conduct two Workshops on February 5, 2009: the Economic Summit scheduled for the morning and the Strategic Planning/Goals scheduled for the afternoon.

Chairman Davis announced that the Workshops would be opened to the Public and he encouraged everyone to participate.

*(Clerk's Note: Mr. Martin requested permission to present a number of documents/Reports to Board Members: copies of Bermuda Trail research, titled "US 1 & CV 8"; and the "Brown Bomber", which involves Indian River Naval Air Station connection to the Tokyo Raid Midway and the Battle of Santa Cruz – to be found at the British Imperial War Museum; and the "County's Administration Complex, a Watergate of this information, leaves Commission in a situation of SNAFU.")*

**E. COMMISSIONER BOB SOLARI**

**1. COUNTY ECONOMIC DEVELOPMENT SUMMIT**

This item was addressed at Item 14.D.1, above.



**15. SPECIAL DISTRICTS AND BOARDS**

**A. EMERGENCY SERVICES DISTRICT - NONE**

**B. SOLID WASTE DISPOSAL DISTRICT - NONE**

**C. ENVIRONMENTAL CONTROL BOARD - NONE**

**16. ADJOURNMENT**

There being no further business, the Chairman declared the Meeting adjourned at 10:09 a.m.

ATTEST:

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

\_\_\_\_\_  
Wesley S. Davis, Chairman

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