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**OF JANUARY 20, 2009**

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January 20, 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 20, 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, Deputy County Attorney William DeBaal, and Deputy Clerk Athena Adams.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Pastor Roger Ball, Immanuel Church, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Commissioner Bob Solari led the Pledge of Allegiance to the Flag.

January 20, 2009

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

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

1. Move Item 14.B.1 – “Office request for Congressman Bill Posey” to be heard after Consent Agenda

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, the Board unanimously approved the above change to the Agenda.

**5. PROCLAMATIONS AND PRESENTATIONS**

**A. PRESENTATION OF PROCLAMATION HONORING MARY LOUISE SCHEIDT ON HER RETIREMENT EFFECTIVE JANUARY 15, 2009**

Commissioner O'Bryan read and presented to Mary Louise Scheidt, Chief Deputy Clerk of the Indian River County Circuit Court, the Proclamation honoring her for her years of commitment and dedicated service to the County.

Chief Deputy Scheidt thanked the Board for the Award and credited her Boss, Jeffrey K. Barton, and staff for her success.



**B. PRESENTATION OF PROCLAMATION HONORING ARZELLA HATFIELD ON HER RETIREMENT EFFECTIVE JANUARY 22, 2009**

Commissioner Solari read and presented to Arzella Hatfield, Supervisor of the Finance Department of the Indian River County Circuit Court, the Proclamation honoring her for her years of dedicated service to the County.

Administrator Baird commended Ms. Hatfield for a job well done, stating that Ms. Hatfield was almost impossible to replace, and that there was no one who could have done the job better than her.

**C. PRESENTATION OF PROCLAMATION DESIGNATING JANUARY 18-24, 2009, AS HAZARDOUS MATERIALS AWARENESS WEEK**

Commissioner Wheeler read and presented the Proclamation to Sheryl Dunn of the Solid Waste Disposal District, who updated the Board on Mercury disposal and its effects on humans.

Himanshu Mehta of the Solid Waste Disposal District informed the Board of its upcoming electronics waste disposal event at the Indian River Mall, this weekend.

**D. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF FEBRUARY AS FOUR CHAPLAINS INTERFAITH MEMORIAL MONTH**

Chairman Davis read and presented the Proclamation to Ernest Heaton, a survivor of the Dorchester tragedy.

**Mr. Heaton** was pleased that the County had set aside a month to honor the memory of the Four Chaplains.

**E. PRESENTATION BY JIM BASS, PIPER AIRCRAFT, INC.**

**Jim Bass**, President of Piper Aircraft, Inc., presented a status report on Piper, but first gave a brief overview of how Piper views the current economic environment. He reported on Piper's State of Affairs; on the expenditure of Project Osprey Funds; on Piper's commitment to Indian River County and the State of Florida; and on Piper's "Go Forward" strategy.

**Mr. Bass** referenced the current state of the economy, which he blamed for a fundamental restructuring of Piper, and the reduction in demand over the last several months. He outlined how Piper has taken steps to try and preserve as many jobs as possible, by reducing their workweek from 5 to 4 days, instead of having a major layoff. However, he said Piper was better positioned than most companies in general aviation to weather a "perfect financial storm", because they have an extremely diverse customer base, and sell not only to flight schools, owners and operators, but also all around the world. He also reported on how funds are being spent for Project Osprey, noting that that most of their money is spent in Indian River County and in Florida.

**Mr. Bass** highlighted actions that would help Piper, like the stabilization of the world and US markets with improved liquidity and purchasing confidence; as well as, continuation of the bonus depreciation tax policy; elimination of Florida sales tax on out of state aircraft purchases; state incentives to buy local for flight training schools and other; and continued support from community and state leadership for economic development without sacrificing our quality of life. He urged everyone to buy local, and acknowledged and expressed appreciation for all the community support Piper has received.

Commissioner Wheeler, commenting on the sales tax, was curious as to how the State rationalizes or justifies the sales tax for cars purchased and registered outside of the State but later returned to Florida.

**Mr. Bass's** understanding was that there is an exemption for the boat industry; however, the aviation industry was not put into the Florida Tax Code.

**House Representative Ralph Poppell** described the legislative efforts, last year, of trying to get a Bill that would rectify the purchasing of aircraft, not only in Florida, but out of Florida, and for bringing purchases into Florida. The law, as written, stated that if you sat on a board of directors or if you had a second home or business here, or if you had some tie to Florida, the Department of Revenue would look at that as though you were trying to circumvent paying the taxes, which was in most cases, erroneous. He said there was no real answer to what the State does or doesn't do; and the truth is, there are no teeth in that law that would allow the DOR to go after someone and collect; and that was not only mistreating the wrong people but sending the wrong message.

**Representative Poppell** reported that Bill No. 51 will be coming out later this year and it attempts, from a tax standpoint, with the southeastern states, that you can go to South Carolina, buy the same aircraft that you would buy in Florida and if it was one of Piper's top line aircraft instead of a \$2 million airplane in Florida, you would pay your normal 6% on that plus whatever the county's fees are, depending on what State you are in. He said aircraft purchasing in the State of Florida, like flight school, is a wonderful idea; and they are looking into that along with Enterprise Florida and the Governor's office of what they can do to incentivize the flight schools to buy in Florida.

Commissioner Wheeler offered the County's assistance to make this endeavor happen, perhaps through resolution or with our Lobbyist.

**Representative Poppell** said sending something to the Senate, the Speaker or the Governor's Office, with a copy to him, would be very helpful.

Commissioner Wheeler asked Representative Poppell to send whatever pertinent information he has that he thinks could make a stronger resolution from the Board. He thereafter thanked Mr. Bass and Representative Poppell for the reports.

Commissioner O'Bryan, commenting on Piper's reduced work week, wanted everyone to be aware that there is a state unemployment benefit for those workers whose hours were reduced. He lauded Piper's efforts of trying to keep employees on the payroll and for doing the right thing with the money.

Administrator Baird also thanked Mr. Bass, noting that Piper is our success story in these bad times, and he did not think they could have done it without the leadership of Jim Bass, who has done a tremendous job bringing the community together, as well as the business leaders. He applauded Piper's management team.

**F. PRESENTATION ON CHILDREN'S SERVICES BY BRAD BERNAUER, HUMAN SERVICES; KIP JACOBY, CHAIRMAN, GRANT REVIEW SUB-COMMITTEE; AND RONNIE HEWETT, PRESIDENT, BOYS AND GIRLS CLUB**

**Brad Bernauer**, Director of Human Services, noted that every single dollar the County gives to the Children's Services goes directly to the Agency and their programs for the children in this County; and every dollar reduced for the upcoming year would be taking away from the children or one of the programs that services them. Currently they are funding nineteen (19) different programs for the children in this County.

**Ron Hewitt**, CEO, Boy and Girls Club of Indian River County, talked about the funding received from the County and residents, and by way of a slide presentation, he presented a brief overview of the Club's Mission. He also explained why their programs are important and the needs they are filling; their program results and the impacts they are having on the youths of Indian River County; the benefits to the taxpayer; and what would happen if they lost CSAC funding.

*The Chairman called a break at 10:44 a.m., and reconvened the meeting at 11:01 a.m., with all members present.*

**6. APPROVAL OF MINUTES - NONE**

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

Commissioner Wheeler asked to pull for discussion Items 7.E. & 7.F.

- A. 2009 ELECTION OF METROPOLITAN PLANNING ORGANIZATION (MPO) CHAIRMAN AND VICE CHAIRMAN**
- B. 2009 ELECTION OF ENTERPRIZE ZONE DEVELOPMENT AGENCY (EZDA) CHAIRMAN AND VICE CHAIRMAN**
- C. 2009 ELECTION OF UTILITY ADVISORY COMMITTEE (UAC) CHAIRMAN AND VICE CHAIRMAN**
- D. APPOINTMENT OF CITY OF VERO BEACH ALTERNATES TO THE COUNTY ECONOMIC DEVELOPMENT COUNCIL AND THE TOURIST DEVELOPMENT COUNCIL**

**E. RESIGNATION OF DISTRICT 3 APPOINTEE TO THE PLANNING & ZONING COMMISSION**

Commissioner Wheeler thanked outgoing Planning & Zoning Commissioner Craig Fletcher for the four years that he served; thanked him for his time and effort and for a job well done.

**F. APPOINTMENT OF DISTRICT 3 APPOINTEE TO THE PLANNING & ZONING COMMISSION**

Commissioner Wheeler introduced Jens Tripson who is the new appointee to the Planning & Zoning Commission, replacing P&Z Commissioner Craig Fletcher.

**G. RESIGNATION OF AGRICULTURAL COMMUNITY INTEREST APPOINTEE TO THE LAND ACQUISITION ADVISORY COMMITTEE**

**H. RESIGNATION OF BOARD OF COUNTY COMMISSIONER (BCC) APPOINTEE TO THE ECONOMIC DEVELOPMENT COUNCIL**

**8. CONSENT AGENDA**

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

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 30, 2008 THRU JANUARY 8, 2009**

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 December 30, 2008 through January 8, 2009, as recommended in the memorandum of January 8, 2009.

**8.B. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT, INDIAN RIVER COUNTY TRAFFIC EDUCATION PROGRAM TRUST FUND**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously accepted the Indian River County Traffic Education Program Trust Fund Report of revenues and expenditures from the inception of the \$3.00 fee, as recommended in the memorandum of January 14, 2009.

**8.C. OUT OF COUNTY TRAVEL TO ATTEND THE TREASURE COAST LEGISLATIVE CONFERENCE IN TALLAHASSEE**

Commissioner O'Bryan, in an effort to avoid duplication, announced that he was slated to attend the Florida Association of Counties Conference, on March 25, 2009, in Tallahassee, and wanted to know who else would be attending. Commissioner Solari said he was also slated to attend said Conference on March 25, 2009.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved out-of-county travel for Commissioners and staff to attend the 20<sup>th</sup> Annual Treasure Coast Legislative Conference in Tallahassee, from March 10 – 12, 2009, as requested in the memorandum of January 8, 2009.

**8.D. RELEASE OF RETAINAGE AND FINAL PAYMENT TO GIANETTI CONTRACTORS, INC., FOR THE WABASSO SUBAQUEOUS FORCE MAIN & WATER MAIN REPLACEMENT PROJECT UCP-960**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the release of retainage and final payment to Gianetti Contractors, Inc., in the amount of \$111,406.00, as recommended in the memorandum of January 6, 2009.

**8.E. AMENDMENT NO. 8 TO THE PROFESSIONAL ENGINEERING/LAND SURVEYING SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., FOR OSLO ROAD WIDENING PHASE I FROM WEST OF OLD DIXIE HIGHWAY TO 27<sup>TH</sup> AVENUE – PARTIAL RELEASE OF RETAINAGE**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved payment of Kimley-Horn Associates, Inc.'s Invoice No. 7035046-1008, dated October 31, 2008, in the amount of \$2,067.00 for release of retainage for the



roadway alignment modifications lump sum task, as recommended in the memorandum of January 13, 2009.

**8.F. RELEASE OF RETAINAGE AND A RECONCILIATION CHANGE ORDER FOR CONSTRUCTION OF THE MAIN RELIEF CANAL POLLUTION CONTROL FACILITY**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously: (1) approved Reconciliation Change Order No. 010 for a construction contract decrease of \$56,587.53; (2) authorized release of retainage in the amount of \$183,652.40 to Lucas Marine Construction, LLC; and (3) did not impose liquidated damages, as recommended in the memorandum of January 9, 2009.

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

**8.G. PARTIAL RELEASE OF RETAINAGE – WORK ORDER #3, COASTAL TECHNOLOGY CORPORATION, INC., SECTOR 3 BEACH RESTORATION**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved partial release of retainage, to Coastal Technology Corporation, Inc., as recommended in the memorandum of January 9, 2009.

**8.H. PROCLAMATION AND RETIREMENT AWARD HONORING HOLLY TAYLOR ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF UTILITY SERVICES**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Proclamation honoring Holly Taylor for outstanding performance and faithful service to Indian River County.

**8.I. PROCLAMATION AND RETIREMENT AWARD HONORING KATHERINE SLUSSER ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS SOLID WASTE DISPOSAL DISTRICT**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Proclamation honoring Katherine Slusser for outstanding performance and faithful service to Indian River County.

**8.J. PROCLAMATION PRESENTING THE LIVING LEGEND AWARD TO TOMMY LASORDA**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Living Legend Award to Tommy Lasorda.

(Clerk's Note: Item 14.B. was moved up and heard at this point, but placed in numerical order below, for continuity.)

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

**10. PUBLIC ITEMS -**

**A. PUBLIC HEARINGS**

**1. SUNNYSIDE UP 1, LLC'S REQUEST TO REZONE APPROXIMATELY 40.3 ACRES FROM RM-6, RESIDENTIAL MULTI-FAMILY DISTRICT (UP TO 6 UNITS/ACRE), AND RM-8, RESIDENTIAL MULTI-FAMILY DISTRICT (UP TO 8 UNITS/ACRE), TO PDTND (PLANNED DEVELOPMENT TRADITIONAL NEIGHBORHOOD DESIGN) AND OBTAIN CONCEPTUAL PD PLAN APPROVAL FOR A PROJECT TO BE KNOWN AS SUNNYSIDE UP (LEGISLATIVE)**

Planning Director Stan Boling, through a PowerPoint Presentation, provided background on the request by Sunnyside Up 1, LLC, to rezone approximately 40.3 acres of property from RM-8 to Planned Development Traditional Neighborhood Design, which property is located on the south side of 26<sup>th</sup> Street, between 58<sup>th</sup> Avenue and 66<sup>th</sup> Avenue, adjacent to the Indian River Mall. County Staff and the Planning & Zoning Commission recommended approval of the PDTND and the conceptual PD Plan, with the conditions outlined at pages 78-79 of the backup.

Director Boling responded to questions and comments from the Board regarding encroachment into the wetlands, trees to be avoided, public benefits, MPO greenways plan, culverting of the canal, completion of single-family units, and the reasons for the 10-year reverter.

*The Chairman opened the Public Hearing.*

**Richard Bialosky** of Reef Road believed this type of mixed use community is best for the County.

Commissioner O'Bryan asked Mr. Bialosky if, in their architectural plans, they would be incorporating sustainable building practices, and Mr. Bialosky answered affirmatively.

**Bob Johnson**, Coral Wind Subdivision, wanted to hear more of what is planned for the Town Center.

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

**Mr. Bialosky**, responding to Mr. Johnson, explained the composition of the Town Center.

Commissioner Wheeler questioned Mr. Bialosky regarding access and inter-connectivity for the walking public.

MOTION WAS MADE by Vice Chairman Flescher,  
SECONDED by Chairman Davis, to approve staff's  
recommendation.

Commissioner O'Bryan supported the Motion based on the benefits of a traditional neighborhood design, but for the fact that this is entirely within the Urban Service Area, and it is an individual property owner's right to decide when they want to move forward and develop the property, he was concerned we have a lot of vacant space around there, and hoped that we don't go in, clear the sites, put the roads in, then come to a grinding halt and have a bunch of dirt

sitting there like everyone else. He expressed his faith that Mr. Bialosky would do the right kind of development.

Commissioner Wheeler echoed Commissioner O'Bryan's comments.

ON MOTION by Vice Chairman Flescher, SECONDED by Chairman Davis, the Board unanimously: (1) approved the Planned Development Traditional Neighborhood Design (PDTND) and the conceptual PD Plan, with conditions as recommended in the memorandum of January 12, 2009 (pages 78-79 of the backup); and (2) adopted **Ordinance 2009-001** amending the zoning Ordinance and the accompanying zoning map from RM-8, Residential Multi-family (up to 8 units/acre), and RM-6, Residential Multi-family (up to 6 units/acre), to PDTND, Planned Development Traditional Neighborhood Design, for approximately 40.3 acres of land generally located on the south side of 26<sup>th</sup> Street between 58<sup>th</sup> Avenue and 66<sup>th</sup> Avenue, just north of the Indian River Mall and described herein and providing for an effective date.

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

### **1. REQUEST TO SPEAK FROM TODD C. MARSHALL, STOW-A-WAY STORAGE REGARDING CONSIDERATION OF TEMPORARY MORATORIUM ON PROHIBITING SIGNS AND BUSINESS PROMOTION AS CURRENTLY WRITTEN IN THE CODE**

**Todd Marshall**, 5355 U.S. Highway 1, Owner of a local business in the County (Stow-Away Self Storage), requested that the County, through Community Development, January 20, 2009

consider a Moratorium on certain portions of the Sign Code; and/or a softening of the Code itself, for a time unknown, to help local business owners get through these rough economic times.

**Mr. Marshall** said that as small business owners, visibility is a big thing for them; and it was not about just making more money; it was about survival. He begged the Board to allow business owners to put up certain banners and/or business promotional materials; things that are temporary, to help them promote business. He gave an example of what was done in Amelia Island to allow small businesses to put up a small banner.

Chairman Davis has had complaints about our sign ordinance and he questioned Director Keating on whether there was a way for us to improve upon this.

Director Keating said the whole issue comes down to aesthetics. He noted that our sign code is very strict, and he revealed that County staff and staff from the Cities of Vero Beach and Sebastian are currently working together, looking at the sign codes; and one of the themes is to limit these temporary signs. He believed it was a completely aesthetically discretionary decision, with the question of how we want the County to look.

**Mr. Marshall** said the additional signage is not about outdoing the man down the block; it is making people know that they do exist through visibility. He asked if business owners could put out a reasonable amount of additional signage.

Director Keating said staff could work with owners whose signs are being blocked by trees or vegetation.

Commissioner O'Bryan understood Mr. Marshall's concerns, and wanted staff to come back with recommendations of where they could loosen up, maybe 100 feet, to allow owners to identify their businesses.

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Commissioner Solari said they could discuss that at the upcoming Economic Summit on February 5, as well.

**Mr. Marshall** accepted the Board's suggestion for him to meet with Director Keating to see what they could work out.

There was CONSENSUS for Staff to return to the second Board meeting in February with recommendations.

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

#### **11. COUNTY ADMINISTRATOR MATTERS**

##### **A. PROPOSED ECONOMIC STIMULUS PROJECTS**

Administrator Baird presented to the Board for consideration, a proposed Economic Stimulus Project list, requesting that the Board direct staff on any additions, deletions, or corrections to the list.

Chairman Davis inquired where was the SR 60 project reimbursement from the FDOT for us advancing the funds.

Administrator Baird said that at the MPO they are writing letters to the District office and to the State Legislature asking if we are doing that; but he would add that to the list to get reimbursed.

Commissioner O'Bryan suggested they add to the list some of the non-profits that have projects ready to go.

**B. DISCUSSION REGARDING LOBBYISTS**

County Administrator Joseph Baird believing that this was the year to hire a Lobbyist, if the County desired, asked the Board for direction on whether they want to contract with a Federal Lobbyist, and if so, how they would like the selection to go. He noted that money was still in the budget from last year when they cut our Federal Lobbyist.

Commissioners and Administrator Baird debated the need and feasibility of retaining the services of a Lobbyist.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Wheeler, to go ahead with a contract for a Lobbyist, with Commissioner Solari being the point person, and that Administrator Baird return with a list of three names for Board consideration and selection.

**Bob Johnson** suggested we have our Lobbyist specialize in green/environmental activities to make sure we get our share of the pot when it comes to environmental issues. He believed we also needed someone who specializes in banking credits as well.

The Chairman CALLED THE QUESTION and the Motion carried unanimously, approving for staff to go ahead with a contract for a Lobbyist, with Commissioner Solari being the point person, and that Administrator Baird return with a list of three names for Board consideration and selection.



**12. DEPARTMENTAL MATTERS**

**12.A COMMUNITY DEVELOPMENT - NONE**

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

**12.C. GENERAL SERVICES**

**1. APPROVAL OF CONTRACT WITH THE HEVERON GROUP, INC., D/B/A  
BEACHLAND CLEANING SERVICES FOR CUSTODIAL SERVICES**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved the contract with the Heveron Group, Inc., d/b/a Beachland Cleaning Services, and authorized the Chairman to execute the Agreement as prepared and approved by the County Attorney's office and executed by the Contractor, subject to the acceptance of insurance certificates by the Risk Manager. This annual contract may be renewed for two (2) additional one (1) year periods subject to vendor acceptance, satisfactory performance and staff's determination that a renewal would be in the best interest of the County, as recommended in the memorandum of January 13, 2009.

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

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

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

**12.F. LEISURE SERVICES – NONE**

**12.G. OFFICE OF MANAGEMENT AND BUDGET**

**1. FINANCIAL UPDATE ON THE 2008/2009 BUDGET**

Budget Director Jason Brown presented a Financial Year 2008/09 Outlook on the County's Budget, and responded to questions from the Board regarding inter-fund borrowing.

Administrator Baird said this is the first of many reports throughout the year, during which period staff would be making adjustments and would keep the Board informed.

*The Chairman called a break at 12:53 a.m., and reconvened the meeting at 1:18 p.m., with Attorney DeBaal absent.*

**12.H. RECREATION - NONE**

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

**12.J. UTILITIES SERVICES - NONE**

**13. COUNTY ATTORNEY MATTERS**

**A. UNCONDITIONAL OFFER FOR PARCEL OF PROPERTY OWNED BY  
MATTHEW AND HILDA HARBOUR 3675 66<sup>TH</sup> AVENUE, VERO  
BEACH**

*(Clerk's Note: This item was heard following Commissioner Solari's Matters, Item 14.E. Attorney DeBraul rejoined the Meeting at 1:20 p.m.)*

Deputy County Attorney William DeBraul updated the Board on the subject property and presented staff's recommendation for the Board to approve an unconditional offer to purchase the necessary right-of-way from Mr. & Mrs. Harbourt at a price of \$314,870.00, and an unconditional offer to purchase the entire parcel for \$603,750.00.

Attorney DeBraul responded to questions from the Board regarding the closeness of the 3-acre parcel to the corner of the house; the necessity for partial versus full take; what would be done with the grove if we take the whole parcel; the usability of the property in light of the take; and whether the owners have a preference for full versus partial take.

Commissioner Solari suggested that language be added to the recommendation offering the option of other negotiations if the other party is interested.

Commissioner O'Bryan's idea was for us to buy the top square of the parcel, where the yard is, and the remainder of the grove stays with the western parcel.

Attorney DeBraul said that was one possibility and another would be to give them ingress/egress off of 37<sup>th</sup> Street, rather than 66<sup>th</sup> Avenue.

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

approved an unconditional offer to purchase the necessary right-of-way from Mr. And Mrs. Harbourt Brown at a price of \$314,870.00 and an unconditional offer to purchase of the entire parcel for \$603,750.00, and that the Harbours be informed that the County was open to other alternatives/negotiations.

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

Deputy County Attorney William DeBaal updated the Board on the subject property, pointing out that this is simply a correction of a property description, and recommending that the Board approve the proposed resolution.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved **Resolution 2009-005** amending 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 WESLEY S. DAVIS, CHAIRMAN**

**I. COMMITTEE APPOINTMENTS DISCUSSION**

Chairman Davis invited comments from the public.

Attorney DeBraal updated the Board on the County Attorney's recommendations, noting that we need to follow the Ordinance, and if it needed to be changed, we should do so intelligently.

The Board discussed how best to approach appointments to committees.

**Charlie Wilson**, 1057 6<sup>th</sup> Avenue, believed that people who want to get on these Boards should have a hearing, giving them the opportunity to be reviewed instead of having automatic placements back on committees. He argued that because of that, there are some people serving for almost twenty years. He suggested the Board, at some point, look at other alternatives.

Chairman Davis discussed the issues of a vacancy versus the expiration of a term.

Commissioner O'Bryan referenced certain Boards/Committees that are not able to meet because of expired terms or no quorum, and felt they needed to address this issue today. He believed attorney and liaisons should meet and discuss the matter. He suggested a blanket reappointment of all the expired terms as they have done over the past three years, and in the event the people want to serve.

Vice Chairman Flescher said he would place discussion of Resolution 112 on next week's Agenda to address the issues of how said resolution has affected the crafting or design of

these committees. Board members continued to discuss the expiration of terms at the same time, and whether to stagger or reappoint everyone to a one-year term.

MOTION WAS MADE by Commissioner O'Bryan,  
SECONDED by Vice Chairman Flescher, to reappoint all  
the expired terms for a one-year term.

**Cindy Falco**, Sebastian, expressed her desire to apply for a position on the Tourism Committee. She said Mr. Conn who is also in the hospitality industry would like to fill one of those seats as well.

**Mr. Wilson** pointed out that Tourist Development has three expirations and they are 4-year terms, and if the Board does this, it would effectively lock in people who have been there since 1989, for another three years.

Commissioner O'Bryan said that was technically incorrect and explained the Motion for a one-year term.

Commissioner Wheeler suggested they leave things the way they are and extend the term to two weeks. Commissioner Wheeler also suggested they could extend for a couple of weeks to keep business rolling, and each Commissioner come back to the Board with a list of recommendations for final consideration.

MOTION WAS AMENDED by Commissioner O'Bryan,  
SECONDED by Commissioner Solari, for a three-month  
blanket reappointment of all expired terms.

**Mr. Wilson** though it was an excellent suggestion.

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The Chairman CALLED THE QUESTION and the Motion carried unanimously, approving a three-month blanket reappointment of all expired terms.

**B. COMMISSIONER JOSEPH E. FLESCHER, VICE CHAIRMAN**

**I. CONGRESSMAN BILL POSEY**

*(Clerk's Note: this item was moved up and heard after the Consent Agenda, but placed here for continuity.)*

Vice Chairman Flescher asked the Board to consider designating an office space within the County Administration Building for Congressman Bill Posey. He thought it would be a tremendous asset to the community for the Congressman to have a satellite office in Indian River County. He suggested the office in the back of the Chambers could be utilized for that purpose.

**Kathryn Rudloff**, District Director, on behalf of Congressman Posey, thanked the Board for consideration of this great opportunity. She explained what their hope for this satellite office would entail, and felt the facility shown to her, and mentioned by Vice Chairman Flescher, would be ideal.

Chairman Davis, not knowing whether or not the space would be conducive to the desires of the Congressman, thought the area suggested might not be readily accessible to members of the public, and suggested another location be looked at, especially with accessibility in mind.

Commissioner Wheeler recommended that Administrator Baird look at other available spaces and return to the Board with options.

MOTION WAS MADE by Vice Chairman Flescher, SECONDED by Chairman Davis, to accord office space in the Administration building to Congressman Bill Posey.

Commissioner O'Bryan liked the idea of having a satellite office for the Congressman, but was not in favor of it being in the secured area, because it would prevent easy access. He suggested Administrator Baird and Director Frame collaborate on the issue and return with recommendations.

The Chairman CALLED THE QUESTION and the Motion carried unanimously, granting approval for office space to be identified in the County Administration building to accommodate Congressman Bill Posey.

#### **14.B.2. COUNTY ADMINISTRATOR'S CONTRACT**

Vice Chairman Flescher reviewed the monetary value, including severance payout and current salary, of the County Administrator's contract. He stated that his public and private concerns over the past year, with the contract, have compelled him to place this item on the Agenda for discussion. He clarified that this was a personnel not a personal matter, and wanted to discuss and make some changes for the community at large because of the current stressed economy. He believed the community deserves a full open government and that was what he expected of Administrator Baird.

Among Vice Chairman Flescher's areas of concern was the shroud of secrecy that surrounds certain projects such as Dodger Town and the Orioles as a replacement team. There was also the right-of-way issue and how it was handled by staff; the handling of the 66<sup>th</sup> Avenue project; and the attempted purchase of the Library parcel, which was placed on the Consent



Agenda. Above all, he was not happy with responses he got from Administrator Baird to his inquiries. The dismissal of employees and notice provision was another area of concern for him and he voiced his disapproval of Administrator Baird's "autocratic" style of management.

Administrator Baird addressed the issue of the Library land purchase and how it came about; explained the cut back on right-of-way issues; and presented a chronology of the Dodgers' departure. He referenced criticism he took over the Piper issues, pointing out how that has since changed for the better of our community. He offered his commitment to try to get a baseball team here, and dismissed the allegations of being secretive, explaining the requirements for the non-release of information during certain stages of negotiations. He justified his actions in the handling of certain matters and defended his management style by acknowledging that sometimes management styles are not what one would like.

Vice Chairman Flescher wanted to see more openness to all Commissioners, members of the County, and staff. He also wanted Administrator Baird to assume more accountability and responsibility in response to queries. He wanted to ensure the best of communications at all times.

Commissioner Wheeler, referring to Administrator Baird's contract, reiterated, as he had done over the past years, his opposition to certain provisions of the contract. Before airing his concerns, Commissioner Wheeler acknowledged the open relationship he has had with Administrator Baird; he appreciated that Administrator Baird has had some strong conversations with him and he doesn't hold back; he has never not gotten answers from him and has clearly understood him; he believes there are certain things that have to be confidential; and Administrator Baird is as good as anyone else when it comes to crisis and fiscal management doing the job. However, he and Administrator Baird do not agree on management styles; and that is understood and accepted by both.

Commissioner Wheeler's first concern was with Section 9 of the contract, where it is stated that the Administrator can resign under pressure from one or more Commissioner. He disagreed with that clause.

MOTION WAS MADE by Commissioner Wheeler to delete the language in Section 9 of the contract that states that the County Administrator can resign under pressure from one or more commissioners. There was no SECOND. MOTION DIED.

Chairman Davis questioned the appropriateness or legality of removing clauses from a signed contract.

Attorney DeBraal explained that the Board could revise or change the terms of the contract, but only with Administrator Baird's consent.

Administrator Baird, in response, said he would exercise his contract.

MOTION WAS MADE by Commissioner Wheeler to remove the statement in Section 8 of the contract that states, "... giving the Administrator 90 days Notice for termination." There was no SECOND. MOTION DIED.

While Commissioners debated the pros and cons of the 90-day Notice, Commissioner Wheeler clarified that his reason for the above Motion, was not a criticism of Mr. Baird, but of the contract.

Commissioner Solari pointed out the inappropriateness of the Motions, especially that they lacked a Second, and although he agreed that there were certain terms in the contract

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that he would not have voted for, the contract is still in force and the Board had signed it. He felt this was an inappropriate forum to go through the terms one by one just to show disapproval.

MOTION WAS MADE by Commissioner O'Bryan,  
SECONDED by Commissioner Solari, to not make any  
changes to the contract and move forward.

Vice Chairman Flescher asked if Administrator Baird had any comments about the conversations that took place, and whether there was a level of understanding and commitment that may have developed as a result of their discussions last night.

Commissioner Solari repeated that this was inappropriate discussions for this venue and any further discussions should be in either Mr. Baird's office or the Commissioner's office after this meeting, and that this was not fair to Mr. Baird. Vice Chairman Flescher agreed.

The Chairman CALLED THE QUESTION and by a 4-1  
vote (Commissioner Wheeler dissenting), the Board  
approved to not make any changes to Administrator  
Baird's contract and to move forward.

Administrator Baird thanked all Commissioners for their comments and looked forward to moving the organization forward in a positive fashion.

**C. COMMISSIONER GARY C. WHEELER**

**1. SECURITY SYSTEM INSTALLATION FOR THE GIFFORD SECURITY HOUSE**

Commissioner Wheeler requested installation of a security system at the Gifford Security House, the residence of Deputy Teddy Floyd, which was recently burglarized. The system would be of no cost to the County.

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved the installation of a 24-hour monitored security system in the Gifford Security House, with Deputy Floyd being responsible for paying the one-time \$30.00 Alarm User Permit Fee and the monthly monitoring fee of \$19.00, as requested in the memorandum of January 14, 2009.

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

**E. COMMISSIONER BOB SOLARI**

**1. ECONOMIC DEVELOPMENT SUMMIT**

*(Clerk's Note: this Item was heard prior to Item 13.A., County Attorney's Matters and is placed here for continuity.)*

Commissioner Solari updated the Board on the upcoming Economic Development Summit and proposed matters to be discussed and implemented. He announced that the possible location would be at the Assembly of God in Vero Beach, at 9:00 a.m., on February 5, 2009.

Commissioner O'Bryan explained what he envisioned for the PM/afternoon meeting, and asked that each Commissioner present a list of their goals, for review, prior to the meeting.

It was suggested that other venues be considered, including the City Council Chambers at the City of Sebastian, if the aforementioned venue was not available.

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

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

The Chairman announced that immediately upon adjournment of the regular meeting of the Board of County Commissioners, 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.

- 1. APPROVAL OF MINUTES REGULAR MEETING OF DECEMBER 9, 2008**
- 2. LETTER OF AGREEMENT FOR PERSONS WITH SPECIAL NEEDS**
- 3. HEALTH SCIENCE STUDENT(S) EXPERIENCE AGREEMENT BETWEEN INDIAN RIVER STATE COLLEGE AND INDIAN RIVER COUNTY DEPARTMENT OF EMERGENCY SERVICES**

### **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.

**I. APPROVAL OF FLORIDA POWER & LIGHT (FPL) EASEMENT FOR THE FELLSMERE CUSTOMER CONVENIENCE CENTER**

**C. ENVIRONMENTAL CONTROL BOARD - NONE**

**16. ADJOURNMENT**

There being no further business, the Chairman declared the Meeting adjourned at 2:41 p.m.

ATTEST:

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

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

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

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