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OF BOARD OF COUNTY COMMISSIONERS
OF FEBRUARY 10, 2009

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February 10, 2009

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, February 10, 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 Leona Adair Allen.

1. CALL TO ORDER

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

2. INVOCATION

Planning Director Stan Boling delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

County Attorney William G. Collins led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

1. **Addition:** Item 13.B., requested by Commissioner O’Bryan to address an emergency ordinance regarding the impact of the international credit crisis on the local development community.

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the above change to the Agenda.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION BY CYNTHIA L. COX, CIRCUIT JUDGE

Honorable Cynthia L. Cox, 19th Circuit Judge, recalled coming before the Board in 2002 and asking for support in the Drug Courts, but due to the lack of funds, the County took no action. However, with the support of the Commission, through the Substance Abuse and Trust Fund, the Drug Court was started and has continued to be very successful. Since Judge Cox returned to the County, she has been working in Family Court’s Domestic Violence Department. She travels to St. Lucie County (the model Mental Health Court) once a week to handle the Mental Health Court, where substance abuse and mental health are growing concerns; and due to the lack of funding, local County jails and prisons have become the largest mental health providers for the mentally ill. She said her mission is to initiate and help support the community in addressing this problem. Judge Cox addressed two Grant opportunities that the County could apply for, and promised to provide them with more information at a later date.

The Board sought clarification and made comments regarding the Grants and applications; and requested the Sheriff be included in the process while moving forward.

5.B. PRESENTATION OF GOVERNOR'S POINTS OF LIGHT AWARD
RECOGNIZING DEPUTY TEDDY FLOYD FOR HIS COMMITMENT TO
VOLUNTEER SERVICE AND HIS POSITIVE IMPACT ON THE COMMUNITY

Chairman Davis read and presented the Governor's Points of Light award to Teddy Floyd; and Commissioner Wheeler read the congratulatory letter (copy on file) from Governor Charlie Christ.

5.C. PRESENTATION OF PROCLAMATION HONORING 2-1-1 AWARENESS
WEEK FEBRUARY 11 – 17, 2009

Vice Chairman Flescher read and presented the award to Paige Woodward, who accepted the Proclamation on behalf of 2-1-1 Palm Beach/Treasure Coast. She asked for volunteers and provided her phone number -- 772-567-8900, extension 26.

6. APPROVAL OF MINUTES

6.A. SPECIAL CALL MEETING – AMENDMENTS TO MINING REGULATIONS
LDR CHAPTERS 911, 934, AND 971, DECEMBER 8, 2008

The Chairman asked if there were any additions, deletions or corrections to the Special Call Meeting Minutes of December 8, 2008. There were none.

ON MOTION by Commissioner Solari, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Minutes of the Special Call Meeting of December 8, 2008, as written.

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

7.A. INDIAN RIVER COUNTY HOSPITAL DISTRICT MEETING SCHEDULE, ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.B. 2009 ELECTION OF LAND ACQUISITION ADVISORY COMMITTEE CHAIRMAN AND VICE CHAIRMAN

8. CONSENT AGENDA

Chairman Davis requested to pull Item 8.I. for discussion
Commissioner Solari requested to pull Item 8.J. for discussion
Commissioner O'Bryan requested to pull Item 8.K. for discussion

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

**8.A. APPROVAL OF WARRANTS AND WIRES, JANUARY 23, 2009 THRU
JANUARY 29, 2009**

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved the list of Warrants and Wires, issued by the Clerk to the Board for the time period of January 23, 2009 to January 29, 2009, as requested in the memorandum of January 29, 2009.

**8.B. APPOINTMENT OF ARCHITECT APPOINTEE TO THE CONSTRUCTION
BOARD OF ADJUSTMENTS & APPEALS**

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved the appointment of Mr. Gregory J. Burke, A1A to the Architect Appointee position on the Construction Board of Adjustment and Appeals. This position has been vacant since March 14, 2006 with the resignation of Mr. Anthony Donadio. Mr. Burke's term will expire in 2012, all as recommended and stated in the memorandum of February 2, 2009.

8.C. CLOSING OF PROPERTY EXCHANGE BETWEEN WINDSOR, THE STATE OF FLORIDA BOARD OF TRUSTEES AND INDIAN RIVER COUNTY

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved the closing of the property exchange between Windsor Properties, the State of Florida Board of Trustees, and the County, as recommended in the memorandum of February 2, 2009.

The new Golden Sands Park is substantially complete and the Deeds and Easements to the respective parties have been recorded.

8.D. SUNOCO GAS STATION – C.R. 512, SEBASTIAN: ROADWAY IMPROVEMENTS WITHIN RIGHT-OF-WAY

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved: (1) the Cash Deposit and Escrow Agreement with S & S Rentals, LLC; (2) the Contract for Construction of Required Roadway Improvements and Agreement to Warranty and Guaranty Roadway Improvements at Completion and to Provide a Bill of Sale with S & S Rentals, LLC; and (3) authorized the Chairman to execute same, as recommended in the memorandum of January 26, 2009.

**8.E. RESOLUTION DELEGATING TO THE COUNTY ADMINISTRATOR OR
DESIGNEE THE AUTHORITY TO EXECUTE STANDARD CONTRACTS TO
GUARANTY COMPLETION OF REQUIRED ROADWAY IMPROVEMENTS
AND CASH DEPOSIT AND ESCROW AGREEMENTS RELATIVE TO
SECTION 312.11 OF THE CODE OF INDIAN RIVER COUNTY WHERE
SECURITY IS REQUIRED TO BE POSTED PRIOR TO A RIGHT-OF-WAY
PERMIT BEING ISSUED TO PERFORM WORK IN RIGHT-OF-WAY**

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-008**, Delegating to the County Administrator or designee the authority to execute Contracts for Construction of Required Roadway Improvements and accompanying Cash Deposit and Escrow Agreements, if applicable, under Section 312.11 of the Code of Indian River County.

**8.F. EAGLE TRACE SUBDIVISION – PHASE II – PROJECT No. 0813, BID
NUMBER 2008074, CHANGE ORDER No. 1 (PHASE I REPLAT)**

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved Change Order No. 1, with Tim Rose Contracting, Inc., increasing the contract amount by \$5,290.00. The new

contract amount will be \$142,401.36, all as recommended and stated in the memorandum of January 30, 2009.

8.G. WORK ORDER NO. 5 (ENGINEERING) WITH ARDAMAN & ASSOCIATES, INC. PROVIDING PROFESSIONAL GEOTECHNICAL SERVICES IN ACCORDANCE WITH THE ANNUAL GEOTECHNICAL SERVICES, 17TH LANE SW FROM 27TH AVENUE TO EAST APPROX. 900', 20TH AVENUE FROM 21ST STREET SW TO 17TH LANE SW, 17TH LANE SW FROM FALCON TRACE PROJECT ENTRANCE TO 20TH AVENUE, IRC PROJECTS NOS. 0803, 0837, AND 0838

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved Work Order No. 5 (Engineering) , with Ardaman and Associates, Inc., authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same for a not-to-exceed fee of \$17,658.00, as recommended in the memorandum of February 2, 2009.

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

**8.H. PROFESSIONAL SERVICES WITH G. K. ENVIRONMENTAL, INC. FOR 74TH
AVENUE AND 8TH STREET ROADWAY IMPROVEMENTS, IRC PROJECT
No. 03107**

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Professional Agreement with G. K. Environmental, Inc., authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of January 26, 2009.

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

**8.I. APPROVAL OF BID AWARD FOR IRC BID No. 2009027 SR60 UTILITY
IMPROVEMENTS – 82ND AVE TO I-95**

Chairman Davis voiced concerns to the delays associated with the contractor (Community Asphalt) completing the road work, and the fees that might be passed on to the County if the utility work is not completed within the 90-day timeframe.

Utilities Director Erik Olson explained that the contractor was working in the last of three phases, and conveyed that the Utilities Department had imposed the 90-day time element to the project to provide a 45-day cushion. He pointed out that the Florida Department of Transportation's portion of the project would begin the end of June or early July, and did not believe this would become an issue.

In response to Chairman Davis's query, Director Olson assured the Board that if a contractor, through their negligence, causes delays to other contractors, that the costs would be passed back to the original contractor, and that the County would not absorb the cost of damages.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously: (1) approved the bid award to H&D Construction Co., Inc. as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the Invitation to Bid; (2) approved the sample agreement; and (3) authorized the Chairman to execute same, when required performance and payment bonds have been submitted along with appropriate certificate of insurance and the County Attorney has approved the agreement as to form and legal sufficiency, as recommended in the memorandum of January 30, 2009.

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

**8.J. CONSIDERATION OF COMMUNITY DEVELOPMENT BLOCK GRANT
NEIGHBORHOOD STABILIZATION PROGRAM CONSULTANT SELECTION
COMMITTEE RECOMMENDATION**

Commissioner Solari pulled this item for discussion because he felt there was too little information in the Backup, relating to the \$4,680,825 Block Grant Program, and he voiced concern that there were only three proposals.

Community Development Director Bob Keating explained that the Federal Government is providing money through the State for communities with a high number of foreclosures. He said that about six to eight weeks ago, the Board gave authorization to solicit consultants to administer the Grant for the County, and that this is the request for the proposal process. He announced that the two top-ranked consultants were close in their costs, and the third consultant was significantly higher. Director Keating said that staff would be negotiating a price with the top-ranked consultant, and that he would be coming back to the Board in March with a contract. He said the maximum amount of the Grant is \$4.6 million, of which 6.8% could be used for administrative cost; yet the initial estimate of costs from the two top ranked consultants ranged from 4.3 to 4.5%.

Commissioner Solari and Director Keating debated the cost information, and discussed the negotiation process.

Administrator Baird said that staff's intention was to inform the Board of the consultant's final ranking and to let them know that this would be brought back (with more funding information) at a later date.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Wheeler, the Board unanimously approved the Consultant Selection Committee's prioritization list and authorized staff to begin contract negotiations starting with the number one ranked firm, as recommended in the memorandum of February 2, 2009.

**8.K. FOLLOW-UP REPORT ON STATE REQUIREMENTS FOR A SUBMERGED
LANDS LEASE OR REMOVAL OF STRUCTURES FROM BOAT CLUB
ISLAND (FOLLOW-UP TO 12/16/08 BOARD ITEM)**

Commissioner O'Bryan recalled this matter coming before the Board earlier, and said that in order to repair the docks and make them functional for the recreational boating community, the State requested the County apply for a submerged lands lease, which would become an expensive process. He said that staff understood that the Florida Department of Environmental Protection (DEP) would work with us on an alternate format; however, the State DEP office in Orlando informed us that they do not want to work with Indian River County; and if these structures are not removed, we would be deemed to be engaged in an act of trespass. Commissioner O'Bryan believed it was necessary to write to Mike Haridopolos, Ken Pruitt, Ralph Poppell, and Debbie Mayfield, asking them to speak with the DEP, and to work with us to get this accomplished.

Chairman Davis said that if the Motion passes, he would gather input from the Commissioners and draft a letter (with the assistance of staff and the Legal Department).

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously agreed to TABLE this item; and for Chairman Davis to send letters to Senators Mike Haridopolos, Ken Pruitt, Ralph Poppell, and Debbie Mayfield informing them of the lack of cooperation from the Submerged Lands and Environmental Resources Program of the State Department of Environmental Protection in requiring the removal of public docks.

CERTIFIED COPY OF LETTER ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.L. WABASSO BEACH PARK RESTORATION; PROJECT NO. 0822 BID
NUMBER 2008070, CHANGE ORDER NO. 2; OCEAN GATE GENERAL
CONTRACTORS INC.

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved Change Order No. 2, with Ocean Gate General Contractors, Inc., and authorized the Chairman to execute same, so the contractor can be directed to make the changes, as recommended in the memorandum of February 2, 2009.

CHANGE ORDER 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 INVESTIGATION
OF CONTAMINATION

Frank Zorc, 1695 20th Avenue, received a response letter from Geosyntec Consultants regarding questions he had posed relative to the investigation of contamination (copy on file). He said he would like to meet with Chairman Davis and staff after the meeting to address questions and concerns regarding the investigation of contamination.

NO ACTION REQUIRED OR TAKEN

10.B.2. REQUEST TO SPEAK FROM FRED MENSING REGARDING THE REPEAL OF RESOLUTION 2008-043

Fred Mensing, 7580 129th Street, Sebastian, through an overhead projection, recapped his handouts and the history regarding the repeal of Resolution 2008-043 (copy of Attachments A through D on file) which pertains to an action case outline, plats, dedications, and causes for the repeal.

Chairman Davis wanted to know whether the County Attorney had the opportunity to discuss the proposal/settlement issue with the Community Development office.

County Attorney Will Collins responded that he had not had the opportunity to discuss this matter with the appropriate departments to confirm their positions.

There was a CONSENSUS to direct the County Attorney to bring back to the February 17, 2009 Board of County Commission Meeting a recommendation, so that Mr. Mensing would be able to pursue opportunities with his Mortgage Company, and the Board would be able to make an informed decision.

Commissioner Wheeler also wanted the recommendation to include options.

Commissioner O'Bryan voiced his concerns regarding Mr. Mensing's format and negative comments.

Chairman Davis asked the Commissioners to save their Backup material so that when Mr. Mensing returns to the Board, he will not have to provide it again.

NO ACTION REQUIRED OR TAKEN

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR'S MATTERS

11.A. 2009 INDIAN RIVER ROWING CLUB AND SEBASTIAN RIVER HIGH SCHOOL CREW REGATTA

County Administrator Joe Baird informed the Board that he had received a request from the Sebastian River High School Crew Regatta, wanting the rental fees for County equipment waived. He voiced concern with the staff labor involved in erecting the canopy; the increasing number of requests; overtime for weekend work; and insurance issues.

Chairman Davis believed that waiving the fees would: (1) help the organizations when they are trying to raise money; (2) bring people into the community; (3) allow people to spend money; and (4) outweigh any costs associated therewith.

Vice Chairman Flescher felt the County should contribute the equipment and defray the set up costs for nonprofit organizations. He thought this would be a continuing concern, and suggested that in the future, staff discuss this with the Sheriff to see if the County could encompass inmate assistance to defray the cost of setting up the equipment.

Administrator Baird noted that the location for the event is not in Indian River County.

Chairman Davis acknowledged that the location is about 50 feet on the other side of the C-54 Brevard/Indian River County line.

MOTION WAS MADE by Vice Chairman Flescher,
SECONDED by Chairman Davis, to approve waiving or
reducing the standard rental fees for the use of County
equipment.

Commissioner Wheeler acknowledged the contribution to nonprofits to be a good thing, but he wanted to deal with this issue realistically, or enforce the current policy of charging a rental fee, and giving nonprofits a discount.

Commissioner Solari agreed with Commissioner Wheeler and sought clarification as to what equipment was requested.

There was a brief discussion regarding rental fees and cost factors.

Vice Chairman Flescher believed this should be brought back for review.

Commissioner O'Bryan recognized the need to provide support to the nonprofits during the current economic times, yet he felt concern for the Parks and Recreation Department because they continue to witness fees being waived, and hear about possible layoffs – he wanted assurance that all costs would be covered. He did not believe that the Rowing Club event, held 50 feet on the Brevard side of the County line, would be an issue. He echoed Commissioner Wheeler's thoughts regarding the implementation of a policy and enforcing it; and he voiced concerns over subsidizing the nonprofits with taxpayer dollars. Commissioner O'Bryan suggested the Rowing Club (since they do not have their 501C3 status), as a compromise, pay the nonprofit rate of \$300 instead of \$600, which could cover the overtime cost for weekend work.

Jim Ritenour, 7250 49th Street, Vero Beach, explained the Rowing Club program, how funding is raised, and acknowledged it to be non-funded. He expressed the Club's desire to make this event so prestigious that the schools who did not attend would hear about the event and want to come next year. He hopes that the event will become a two-day event; and he shared how the event would bring in money to the County.

There was a brief discussion among the Commissioners regarding this one-day event growing into a two-day event; revenue it would bring into the County; and possibly funding these events through the Tourist Development Council (TDC) Budget.

Andrew Kennedy, 3001 Ocean Drive, Proctor Properties, expressed what a fantastic opportunity this would be, and was happy to hear that the property would be used for its intended purpose, so he and his colleagues agreed to cover the \$300 rental fee.

The Chairman CALLED THE QUESTION and by a vote of 2-3 (Commissioners O'Bryan, Wheeler, and Solari opposed), the MOTION FAILED.

MOTION WAS MADE by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, to accept Andrew Kennedy and his colleagues' donation of \$300.00 (nonprofit rate) for the use of County equipment, for the 2009 Opening Day Regatta.

Some Commissioners volunteered to help with the expense.

Commissioner O'Bryan wanted staff to initiate a list of those who contribute so they can be publicly acknowledged for their contribution to the community.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board accepted Andrew Kennedy and his colleagues' donation of \$300.00 (nonprofit rate) for the use of County equipment, for the 2009 Opening Day Regatta.

There was a brief discussion regarding other organizations requesting waivers, justifying expenditures, and possibly adding this as a line item in the budget.

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. STATUS REPORT ON STOW-A-WAY STORAGE SIGN ISSUE

Community Development Director Bob Keating recapped his memorandum of January 30, 2009, and reported that after analyzing the Stow-A-Way site, that Mr. Marshall could accommodate a significant amount of additional signage, based on current County sign

regulations. He stated how staff had discussed many alternatives with Mr. Marshall; however, he preferred using a permanent changeable copy sign, which the County currently prohibits in various corridors for aesthetic purposes. Director Keating said that after discussing this with Mr. Marshall, and conducting further research, staff had determined that there is a possibility for changeable copy signs that would fit into the corridor aesthetics. He asked the Board to authorize staff to initiate a change to the Land Development Regulation (LDR) Amendment to allow permanent changeable copy signs in corridors.

Director Stan Boling and Director Keating responded to questions and concerns from the Board regarding corridor signage.

MOTION WAS MADE by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, to direct staff to initiate an LDR Amendment to allow changeable copy signs in all designated corridor areas in the County.

Commissioner O'Bryan said he would like to see staff review the electronic version of signage with text only, and no distractions.

Director Boling explained the SR 60 corridor parameters for signage.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved to direct staff to initiate an LDR Amendment to allow changeable copy signs in all designated corridor areas in the County, as recommended in the memorandum of January 30, 2009.

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. APPROVAL FOR ADDITIONAL MATERIALS AND AMENDMENT NO. 1 TO
WORK AUTHORIZATION DIRECTIVE NO. 2007-005 FOR ADDITIONAL
LABOR FOR UTILITY CONFLICT RESOLUTIONS ALONG US1 FROM
SOUTH RELIEF CANAL TO SOUTH OF OSLO ROAD**

MOTION WAS MADE by Vice Chairman Flescher, SECONDED by Chairman Davis, the Board unanimously: (1) approved an increase in the amount of \$202,317.28 for materials; (2) approved Amendment No. 1 to Work Authorization Directive 2007-005, with Underground Utilities, Inc., in the amount of \$198,194.84; and (3) authorized the Chairman to execute same.

Commissioner O'Bryan wanted to know if staff was attempting to recover funding from the Florida Department of Transportation (FDOT).

Assistant Utilities Director Cindy Corrente, specified that \$70,000 of the request is for the damage they feel the FDOT contractor is liable for. She said that staff had been working with FDOT to resolve it, and hopes to come to a compromise on the \$70,000 portion.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board: (1) approved an increase in the amount of \$202,317.28 for materials; (2) approved Amendment No. 1 to Work Authorization Directive 2007-005 in the amount of \$198,194.84; and (3) authorized the Chairman to execute same, as recommended in the memorandum of February 4, 2009.

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

12.J.2. AWARD OF BID FOR BIOSOLIDS FACILITY

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

Commissioner O'Bryan commented that he was pleased to see the winning bid had been awarded to a Vero Beach company.

Director Erik Olson, at the request of Vice Chairman Flescher, provided a brief update on the project, its importance, and acknowledged the project to be a fulfilled commitment.

Freddie Woolfork, 4590 57th Avenue, thanked Director Olson and his staff, on behalf of the Progressive Civic League of Gifford, for keeping his promise to the citizens.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board: (1) approved the bid award for the Biosolids Facility to Summit Construction Management, Inc., of Vero Beach for \$4,687,578.00; (2) approved the sample agreement; and(3) authorized the Chairman to execute said agreement when required performance and payment bonds have been submitted along with appropriate certificate of insurance and the County Attorney has approved the agreement as to form and legal sufficiency, as recommended in the memorandum of February, 3, 2009.

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

12.J.3. APPROVAL OF CHANGE ORDER NO. 1 FOR SAN SEBASTIAN SPRINGS
WATER ASSESSMENT PROJECT – UCP 3014, WIP NO.
473-169000-08502, BID NUMBER 2008072

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously approved: (1) the proposed revisions to the water system plans; (2) Change Order No. 1, with Derrico Construction Corporation, for \$11,336.50; and (3) increasing the total estimated construction cost of the project to \$508,565.50, as recommended in the memorandum of January 30, 2009.

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

13. COUNTY ATTORNEY MATTERS

13.A. UNCONDITIONAL OFFER FOR PARCEL OF PROPERTY OWNED BY
STEVEN AND SHELLY RYAN 6775 66TH AVENUE, VERO BEACH

Deputy County Attorney William DeBraal, displayed an aerial map, recapping his memorandum of February 4, 2009. He clarified the recent appraisal, indicating that the value of the entire parcel is \$615,000, and the partial take for the needed right-of-way is \$82,300, plus 15% for severance damages. Due to the size, shape, and location of the property, staff recommended an unconditional offer to purchase only the right-of-way.

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved an unconditional offer to purchase the necessary right-of-way from Steven and Shelly Ryan, at a price of \$94,645.00, as recommended in the memorandum of February 4, 2009.

13B. EMERGENCY ORDINANCE

County Attorney Collins recalled that at the February 5, 2009, Goals and Visions Workshop, there was a consensus to bring forward an emergency ordinance to address the impact of the international credit crisis on the local development community, in particular local developers who are being turned down by banks when they request extensions of Letters of Credit (LOC) that either support warranties of their subdivision improvements, or future sidewalk construction. He said that the Community Development Department had drafted ordinance amendments that would allow annual sidewalk security reductions, and also deferral of sidewalk construction in the posting of sidewalk construction security, if certain conditions are met. A similar amendment would allow reductions in the posting of maintenance security that could be made at the end of year one (of the three-year warranty period) and also deferral of paving and drainage warrant security, if certain criteria are met. He disclosed that site plan approval time limitations have been extended from 12 months to 24 months. Due to this being an emergency ordinance, it requires an action by a four-fifths vote, if the Board declares that an emergency exists, and the immediate enactment of the ordinance is necessary. He informed the Board that the Budget office had declared there to be approximately nine separate development projects that are “under the gun” to have \$1.1 million of security drawn on (against their LOC) within the next 30 days, which is the reason this ordinance is being brought forward. Attorney Collins suggested the Board conduct the public hearing and consider any necessary amendments. He pointed out that if

the ordinance is not adopted today, it could be considered and brought back at the next meeting; however, he wanted the Board to note that of the nine projects in the Backup, the Budget office was scheduled to call two LOC's next Monday. He specified that the LOC's do not expire until a week or two later, so if the Board would choose not to act today, he would like them to direct the Budget office to delay calling the LOC's until next week.

Chairman Davis believed this to be an emergency, and wanted to examine the Backup information (copy on file).

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Flescher, to TABLE the Emergency Ordinance until the Board of County Commission Meeting of February 17, 2009; and delay calling the Letters of Credit as specified by Attorney Collins.

There was a brief discussion to postpone this item instead of tabling it.

MOTION WAS AMENDED by Commissioner Solari, SECONDED by Vice Chairman Flescher, to POSTPONE the Emergency Ordinance until the Board of County Commission Meeting of February 17, 2009; and delay calling the Letters of Credit as specified by Attorney Collins.

Attorney Collins informed the Board of the LOC draw dates and expiration dates.

Attorney Bruce Barkett, 756 Beachland Boulevard, expressed his appreciation for the reception of the proposals and the timely consideration.

Jeff Thompson, Seville Avenue, Vero Beach, was encouraged by how quickly the Board had moved forward on this issue. He voiced concern on the second and third year of the Maintenance Bond, feeling that they could be construed as an economic development issue. He did not feel the Developer should have to hire an Engineer to write a letter requesting a reduction to the Maintenance Bond from 25% to 5%, he felt it should be automatic. He asked the Board to “fine tune” these items, as they look at the big picture.

Chuck Mechling, 1999 Pointe West Drive, wanted to know if the “contractor posting the first-year as a Maintenance Bond” concept would be incorporated into the Ordinance; and suggested the warranty and guaranty period be reduced to one year, similar to that of Utilities.

Attorney Collins did not believe that it would be incorporated into the Ordinance; and clarified that as of now, the Utilities warranty is for a period of one year, and the paving and drainage warranty is for a period of three years.

Discussion ensued regarding the Ordinance; the LOC’s called since the Ordinance was created; a three-year warranty requirement to ensure roads are tested; and a one-year renewable Bond which would be reevaluated annually.

Penny Chandler, Indian River Chamber of Commerce, expressed her appreciation on behalf of the Chamber and business community, for the Board’s partnership and individual concerns, and for the immediacy in which they reacted to the County’s economic concerns.

Joseph Paladin, President of Atlantic Coast Construction and Development, indicated that his company had experienced problems on sidewalk bonds over the past several

months with developers not completing the sidewalks in their subdivisions. He did not feel it necessary to have a sidewalk LOC when there is no construction in progress, nor would there be for the next few years. He suggested that when the first permit is pulled on a street or block (that would affect a community) that the LOC be enacted at that time, instead of tying-up the developer's money for numerous years. He wanted the consideration of being able to come before the Board on a case-by-case basis.

Attorney Collins addressed Mr. Paladin's concerns.

Commissioner O'Bryan related that the wording and deferral in the draft Ordinance had come from an earlier meeting, whereby the developer could identify the lot numbers of those that will be deferred, and not moved forward until security is posted.

Attorney Barkett acknowledged that the Ordinance was drafted exactly as discussed in their meeting; believed it could be tweaked forever, but encouraged the Board to pass it next week.

The Chairman CALLED THE QUESTION. The Board unanimously approved to postpone the Emergency Ordinance until the Board of County Commission Meeting of February 17, 2009; and to delay calling the Letters of Credit as specified by Attorney Collins.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER WESLEY S. DAVIS, CHAIRMAN - NONE

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

14.C. COMMISSIONER GARY C. WHEELER - NONE

14.D. COMMISSIONER PETER D. O'BRYAN

**14.D.1. CONSIDERATION OF SUBMITTED APPLICATIONS FOR THE BOARD OF
COUNTY COMMISSIONER'S APPOINTEE ON THE ECONOMIC
DEVELOPMENT COUNCIL (EDC)**

Commissioner O'Bryan informed the Board that Representative Debbie Mayfield, a Board of County Commissioner appointee on the Economic Development Council (EDC), would not be able to serve on the EDC due to her Legislative duties. On January 20, 2009, that opening was announced and read for the record. Pursuant to Resolution 2008-112, the 14-day open period expired on Tuesday, February 3, 2009.

MOTION WAS MADE by Commissioner O'Bryan,
SECONDED by Vice Chairman Flescher, to nominate
Scott Stradley, as the Board of County Commission
appointee to the Economic Development Council.

Vice Chairman Flescher disclosed that he had received a notification from Harry Zambelli, that he had withdrawn his application.

There were no other nominations.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved the nomination of Scott Stradley as the appointee to the Economic Development Council.

Commissioner O'Bryan reiterated that there were many qualified candidates, and he thanked them for the interest. He conveyed that the applications will remain on file and brought forward should there be another opening.

14.E. COMMISSIONER BOB SOLARI

14.E.1. IRC UTILITIES

Commissioner Solari had heard that the City of Vero Beach was considering moving their Wastewater Treatment Facility. He requested that staff come before the Board at the February 17, 2009 Board of County Commission Meeting, to present the pros and cons of regionalization of sewer and water within the County; and he also requested that Utilities Director Erik Olson discuss the preliminaries.

Utilities Director Olson acknowledged that staff could be prepared by the next meeting, and sought clarification as to what information the Board was seeking.

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved the request for staff to give the Board a presentation, at the February 17, 2009 Board of County Commission Meeting, on the pros and cons of regionalization of sewer and water

in Indian River County, as requested in the memorandum of
February 2, 2009.

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT - NONE

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

16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at
11:59 a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Wesley S. Davis, Chairman

Minutes Approved: _____

BCC/LAA/2009Minutes