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April 21, 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 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, April 21, 2009. Present were Chairman Wesley S. Davis, Vice Chairman Joseph E. Flescher, and Commissioners Peter D. O'Bryan, and Bob Solari. *Commissioner Gary C. Wheeler was absent.* 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**

Pastor Greg Sempsrott, First Church of God, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

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

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

Chairman Davis announced that Commissioner Gary Wheeler would be absent for medical reasons.

1. There were no additions or deletions to the Agenda.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the Agenda, as written.

#### **5. PROCLAMATIONS AND PRESENTATIONS**

##### **5.A. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 27 THROUGH MAY 1, 2009 AS LAW WEEK IN INDIAN RIVER COUNTY**

Chairman Davis read and presented the Proclamation to Attorney Doug Vitunac, who thanked the Board on behalf of the Young Lawyers Association of Indian River County.

##### **5.B. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 26 THROUGH MAY 2, 2009 AS CRIME VICTIMS' RIGHTS WEEK IN INDIAN RIVER COUNTY**

Vice Chairman Flescher read and presented the Proclamation to Ms. Anne Ferree, who said this was especially important to her because she is the mother of a victim.

**5.C. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 26  
THROUGH MAY 2, 2009 AS NATIONAL CLEANING FOR A REASON WEEK**

Commissioner Solari read and presented the Proclamation to Tom Heveron of Beachland Cleaning Services, who thanked the Board for the recognition.

**5.D. PRESENTATION OF PROCLAMATION FOR TREASURE COAST  
VOLUNTEER APPRECIATION DAY**

Commissioner O'Bryan read and presented the Proclamation to Ms. Sydney Liebermann, who thanked the Board on behalf of all Indian River County volunteers.

**5.E. RECOGNITION OF BEST TASTING WATER AWARD ON THE TREASURE  
COAST**

Chairman Davis congratulated County staff for achieving the high honor of receiving the First Place Award for the Best Tasting Water on the Treasure Coast. Chief Operator Harold Seely, on behalf of the Utility Department, thanked the Board for the recognition.

*Chairman Davis called a recess at 9:19 a.m., to facilitate picture-taking, and he reconvened the Meeting at 9:23 a.m.*

## **6. APPROVAL OF MINUTES**

### **6.A. REGULAR MEETING OF FEBRUARY 10, 2009**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of February 10, 2009. There were none

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the Minutes of the Regular Meeting of February 10, 2009, as written.

### **6.B. REGULAR MEETING OF FEBRUARY 17, 2009**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of February 17, 2009. There were none.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the Minutes of the Regular Meeting of February 17, 2009, as written.

### **6.C. REGULAR MEETING OF MARCH 3, 2009**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of March 3, 2009. There were none.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Davis, the Board by a 4-0 vote

(Commissioner Wheeler absent) approved the Minutes of the Regular Meeting of March 3, 2009, as written.

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

**7.A. 2009 ELECTION OF PROFESSIONAL SERVICES ADVISORY COMMITTEE (PSAC) CHAIRMAN AND VICE CHAIRMAN**

*Noted for the record, the re-election of Todd Smith as Chairman, and Warren Dill as Vice Chairman, of the PSAC for the year 2009.*

**7.B. APPOINTMENT OF A LOCAL REPRESENTATIVE RECOMMENDED BY THE STATE COORDINATING COUNCIL FOR EARLY CHILDHOOD SERVICES (SCCECS) TO SERVE ON THE TRANSPORTATION DISADVANTAGED LOCAL COORDINATING BOARD**

*Noted for the record, the appointment of Jephete Lindor.*

**8. CONSENT AGENDA**

Commissioner O'Bryan pulled for discussion, Items 8.G.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote

(Commissioner Wheeler absent) approved the Consent Agenda, as amended.

**8.A. APPROVAL OF WARRANTS AND WIRES APRIL 3, 2009 THRU APRIL 9, 2009**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the list of warrants and wires, issued by the Clerk to the Board for the time period of April 3, 2009 to April 9, 2009 as requested in the memorandum of April 9, 2009.

**8.B. INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE, QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDING 3/31/09**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) accepted the Investment Advisory Committee Quarterly Report, as recommended in the memorandum of April 17, 2009.

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

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O’Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-043**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[CR 510 (Lydia Broxton)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O’Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-044**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[CR 510 (Lydia Broxton)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O’Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-045**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[CR 510 (Lydia Broxton)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O’Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution**

**2009-046**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[Quay Dock Road (Realtors Assoc of IRC)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-047**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[67<sup>th</sup> Street (Realtors Assoc of IRC)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-048**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[43<sup>rd</sup> Avenue (Elbert Pickerill Trust et al)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-049**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[53<sup>rd</sup> Street (Tarmac America)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution**

**2009-050**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[41<sup>st</sup> Street (Neil Gaeta Trust)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-051**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[Golden Sands (Windsor Properties)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-052**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[66<sup>th</sup> Avenue (Amendola Trust)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-053**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[37<sup>th</sup> Street/66<sup>th</sup> /Avenue (Paul and Mary Thornton)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution**

**2009-054**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[66<sup>th</sup> Avenue (Lakeside Fellowship Baptist Church)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-055**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[82<sup>nd</sup> Avenue (Stephen Bailey Trust)]*

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved **Resolution 2009-056**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

*[82<sup>nd</sup> Avenue (Stephen Bailey Trust)]*

**8.D. RETIREMENT AWARD HONORING THOMAS LARSON FOR FIFTEEN YEARS OF SERVICE DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the Retirement

Award honoring Thomas Larson for fifteen years of service to the County.

**8.E. RETIREMENT AWARD HONORING STEVEN HAYES FOR THIRTY-FIVE YEARS OF SERVICE DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the Retirement Award honoring Steven Hayes for thirty-five years of service to the County.

**8.F. INTERLOCAL AGREEMENT INDIAN RIVER COUNTY & INDIAN RIVER STATE COLLEGE, COLLEGE LANE EXTENSION TO RICHARDSON CENTER**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the Interlocal Agreement with Indian River State College, as recommended in the memorandum of April 14, 2009.

**8.G. REQUEST FOR AUTHORIZATION TO ISSUE A REQUEST FOR QUALIFICATIONS (RFO) AND AN INVITATION TO BID FOR SERVICES NEEDED TO CARRY OUT COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) NEIGHBORHOOD STABILIZATION PROGRAM (NSP) TASKS**

Commissioner O’Bryan, commenting on the Request for Qualifications from contractors, noted, in the series of criteria and a point-award system, that one criterion rested on whether the contractor was disbarred from the State. That left him in wonder and with much concern as to why the applicant was even applying, because he was disbarred in the past.

Community Development Director Bob Keating explained why the application was accepted and the factors staff looked for. He stated that despite the specification that disbarment from the State would disqualify an applicant, a contractor could have been disbarred and then re-instated.

Commissioner O’Bryan believed applicants falling in the disbarment criteria should be automatically disqualified. Director Keating said it could be removed from the evaluation criteria and put in as a prohibition, and that was Commissioner O’Bryan’s preference.

Chairman Davis also questioned the inclusion of the application in the process, thinking there has to be some rationale behind the “State disbarment” for it to be a part of the contract.

Administrator Baird added that staff was accepting people who are qualified but might have been disbarred in the past, and have re-qualified.

Chairman Davis continued to discuss the wisdom of accepting the subject application because of a prior disbarment and the reason for the disbarment.

Commissioner Solari also questioned the criteria for disbarment.

Vice Chairman Flescher also questioned the acceptance of the application, leaning on the intent of the language that seeks to reject disbarred contractors.

MOTION WAS MADE by Commissioner O'Bryan to approve staff's recommendation, but to delete that point criteria and have wording in the bid package that if one has been disbarred he/she is not qualified to bid.

*[Clerk's Note: The Motion received no Second at this point, but subsequently did, by Chairman Davis.]*

Attorney Collins said we are going to get there anyway because there was wording which states that to qualify you have to get 90 out of 100 points, and if this applicant misses the 15 points because of disbarment they would be automatically disqualified.

Based on the Attorney's comments Commissioner O'Bryan amended his Motion, with the understanding that there would be no bonus points the applicant could get to take them above the 85 points.

MOTION WAS AMENDED by Commissioner O'Bryan, Seconded by Chairman Davis, to approve staff's recommendation.

The Chairman asked if there were any further discussions on the issue, and received none.

The Chairman CALLED THE QUESTION and the Motion carried. The Board by a 4-0 vote (Commissioner Wheeler absent) approved and authorized staff to issue the Invitation to Bid for Housing Acquisition Services, the Request for Qualifications for Contractors, and the Request for Qualifications for Surveyors for NSP CDBG activities, as recommended in the memorandum of April 13, 2009.

**8.H. RIGHT-OF-WAY ACQUISITION – CR 510 #0610, 6265 85<sup>TH</sup> STREET, VERO BEACH, FL 32967, OWNER: ANDERSON, PEARLIE MAE**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Option 1, the purchase of the needed right-of-way at a price of \$1,851.50 and authorized the Chairman to sign the Purchase and Sale Agreement with Pearlie Mae Anderson, as recommended in the memorandum of April 2, 2009.

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

**8.I. RIGHT-OF-WAY ACQUISITION – SDGR, LLC, A FLORIDA LIMITED LIABILITY COMPANY, 825 OLD DIXIE HIGHWAY, VERO BEACH, FL**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O’Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Alternative 1, the \$3,332.00 purchase and authorized the Chairman to execute the Agreement with SDGR, LLC, as recommended in the memorandum of March 11, 2009.

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

**8.J. RIGHT-OF-WAY ACQUISITION – CR 510 #0610, 6425 85<sup>TH</sup> STREET, VERO BEACH, FL 32967, OWNER: TRS OF ALLEN CHAPEL AME CHURCH, TRUSTEE CHAIRMAN/WILLIAM WILSON, JR.**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O’Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Option 1, the purchase of the needed right-of-way at a price of \$1,060.88, and authorized the Chairman to sign the Purchase and Sale Agreement with the Trustees of Allen Chapel AME Church, as recommended in the memorandum of April 1, 2009.

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

**8.K. STATE LOBBYIST AGREEMENT RENEWAL**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved renewal of the Professional Services Agreement with Ronald L. Book, and authorized the Chairman to sign an agreement substantially the same as the 2008 Agreement, as recommended in the memorandum of April 15, 2009.

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

**8.L. DECLARE EXCESS EQUIPMENT SURPLUS FOR SALE OR DISPOSAL**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent): (1) declared the submitted list of items, surplus, and authorized its sale and/or proper disposal; (2) authorized that the excess equipment be delivered to the Indian River County Sheriff's Complex to be sold at public auction at 10:00 a.m., on May 9, 2009; and (3) approved the sample agreement and authorized the County Administrator to execute same, as recommended in the memorandum of April 14, 2009.

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

**8.M. OSLO ROAD BOAT RAMP, CHANGE ORDER NO. 1, PROJECT # 0381,  
BID NUMBER 2009024**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Change Order No. 1 to Pelican Pete Construction Company, Inc., in the amount of \$9,410.50 increasing the contract amount to \$116,905.43, as recommended in the memorandum of April 14, 2009.

**8.N. WORK ORDER NO. 17 (ENGINEERING/SURVEY) CARTER ASSOCIATES,  
INC., PROPOSED 26<sup>TH</sup> STREET BETWEEN 74<sup>TH</sup> AVENUE AND 82<sup>ND</sup>  
AVENUE, IRC PROJECT 0809 – FULL AND FINAL PAYMENT,  
CONTINUING PROFESSIONAL SURVEYING & MAPPING/GIS SERVICES  
CONTRACT 0725**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved payment of Invoice No. 08488-1, dated April 3, 2009, in the amount of \$10,450.00 for full and final payment of Work Order No. 17 to Carter Associates, Inc., as recommended in the memorandum of April 13, 2009.

**8.O. ACCEPTANCE OF EMERGENCY MANAGEMENT FEDERALLY-FUNDED  
SUBGRANT AGREEMENT 09-DS-20-10-40-01**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the Federally Funded Subgrant Agreement (09-DS-20-10-40-01), and authorized the Chairman to execute said Agreement between Indian River County Emergency Management and the State of Florida, Division of Emergency Management, as recommended in the memorandum of April 7, 2009.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL  
AGENCIES – NONE**

**10. PUBLIC ITEMS**

**A. PUBLIC HEARINGS - NONE**

**10.B. PUBLIC DISCUSSION ITEMS**

**1. REQUEST TO SPEAK FROM BRIAN HEADY REGARDING THE  
ECONOMY AND WHAT WE CAN DO FOR ECONOMIC RECOVERY FOR  
INDIAN RIVER COUNTY**

**Brian Heady** complained about government spending among politicians, and asked the Board to consider what a “Buy American” plan would do for us. He also asked the Board to adopt a resolution to send to our congressional delegation, with a directive as to how we want them to represent us. His three-point plan being:

1. Stop sending money to banks and eliminate the middle man, and give stimulus dollars to the Small Business Administration with instructions to lend that money to small businesses, to taxpayers facing foreclosures.
2. We need to enforce immigration laws.
3. All stimulus dollars must be spent on American workers and products and not on foreign corporations.

**Mr. Heady** further requested that the Board also adopt some form of policy that instructs the County Administrator to instruct his employees that any stimulus money at all is to be spent on American-made products, if at all possible. He also requested that a notice be sent to our congressional delegation that at the grassroots level, the constituents are opposed to government spending.

Chairman Davis remarked that to the best of his knowledge, the items we are eligible for in the stimulus projects are mostly resurfacing projects on roads, and he imagined that asphalt would be local and would be contracted out to corporations that are local.

Vice Chairman Flescher stated that we had sent a resolution to Congress about our concerns for the stimulus package. On the matter of immigration and enforcement, he said Florida Statutes and Federal mandates do not allow law enforcement or the local police to arbitrarily enforce certain laws regarding immigration. He agreed we should all “buy American” and felt it was an affront for certain items, like our American Flag, to be made by another country. He also believed we should send a message to Capitol Hill that this Commission intends to earmark any stimulus money to our local economy and to the U.S. economy. Vice Chairman Flescher wanted to make that a Motion to assure we have a resolution to send a clear message to Capitol Hill, with a copy to the President.

Chairman Davis suggested Vice Chairman Flescher, instead of making a Motion, add this as an item for discussion, under his Matters, so that the Board may consider it at the next Board meeting. Vice Chairman Flescher Agreed.

No Board action taken.

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

## **11. COUNTY ADMINISTRATOR’S MATTERS**

### **A. DODGERTOWN**

Administrator Baird distributed to Board members a listing of important data/facts (copy on file) that would be incorporated in a Memorandum of Understanding (MOU), if the Board approved, for an organization to take over the Dodgertown facility. He requested Board approval for staff to start working on these options.

Inasmuch as he could reveal, Administrator Baird reported that the proposed Tenant is an international organization, and staff felt it would be a very good thing for the community, which he hoped would bring more jobs and improve our economy. He thereafter listed the specific provisions of the Lease, which included the lease term, commencement, renewal and amount; responsibility for general upkeep and maintenance of the facility; keeping the name "Holman Stadium;" first right of refusal on the 9-hole golf course owned by the City; and the taking over of the parking agreement of the 9.16 acres owned by the County.

Administrator Baird said he could not reveal the name of the prospective Tenant, but he stressed the potentially great economic impact this venture would bring. He requested Board approval for staff to incorporate the listed provisions in a Memorandum of Understanding and a Facility Lease Agreement.

Administrator Baird responded to questions from Chairman Davis regarding first right of refusal on the 9-hole Golf Course and whether it meant an opportunity to lease and not a purchase of any kind. Other Board questions pertained to the facility being available for certain events like the Harvest Festival and Sunrise Services, which Chairman Davis wanted included in the contract. Other matters discussed were reduction in cost from the Orioles to the new Tenant; and withdrawal from major league teams. Administrator Baird stressed that our goal is to create jobs without increasing ad valorem taxes. He said the name of the Tenant would be released tomorrow, at a Press Conference, if the Board approved.

Chairman Davis found interesting, the language which states that the tenant would cooperate with the County in responding to any major league baseball team expressing interest in utilizing the facility for traditional spring training purposes. He felt that gives a major league team the opportunity to use Dodgertown as a relief valve whenever they negotiate with other communities. He thought it would be nice to have new spring training teams come in on a regular or irregular unplanned basis.

Commissioner Solari questioned the ways funds are represented on the expense description document provided, and Administrator Baird explained the layout of the cost comparison chart. He responded to further Board questions regarding the \$100,000 re-branding expenses; what would be the determining factor for the cost to the taxpayer; and how the \$2 million in the Capital Reserve Account is utilized.

Vice Chairman Flescher's concerns focused mainly on the lack of a business plan or a commitment from the proposed new Tenant. He was concerned about moving forward with an MOU with so many unknowns, and without the public being able to review and provide input.

Commissioner Solari said this was much better than the Orioles and Dodger deals and they needed to go forward and endorse the MOU.

Commissioner O'Bryan agreed that this would be great for the community. He talked about how much this new team wants to be a part of Indian River County; and said they are a professional baseball organization who believes they can make it a success.

MOTION WAS MADE by Commissioner O'Bryan  
SECONDED by Commissioner Solari, to approve the  
Lease Proposal submitted by Administrator Baird, and that  
said provisions be incorporated into a Memorandum of  
Understanding for the lease of the Dodgertown facility.

**Bob Johnson**, Coral Wind Subdivision, recalled that the Dodgers contract had a bond issue, and he inquired whether this new team has a bond commitment.

Administrator Baird said the existing bond issue will remain in effect and we are not looking at issuing any more debt to bring in the new organization, which would be a

tremendous benefit to the community. He said there would be no impact on the rating of the bond we still owe to Dodgertown.

**Chuck Mechling**, 1999 Pointe West Drive, thanked Administrator Baird and all who worked on the proposal for a new team to come to Vero Beach. He said he has had another business contact from another team for the use of the facility.

**Brian Heady**, Vero Beach, understood the legitimate concerns of Vice Chairman Flescher and hoped they would be addressed in the contract. He believed the proposal was clearly a step in the right direction.

**Joseph Paladin**, President, Black Swan Consulting, recalling that Administrator Baird had said the ad valorem tax would not be affected by this ( because we could use the one cent optional sales tax, the Tourist tax, or impact fees), asked what impact fee would qualify for this.

Administrator Baird pointed out that those were our potential options, and he did not know if we could use impact fees; but if we could, it would be recreational impact fees, because it is being looked at as a regional impact.

Vice Chairman Flescher hoped that many of the positive comments made about this endeavor are well founded and can be proved. He hoped that in the weeks to come his questions would be answered, in the best interest of taxpayers.

The Chairman invited further comments, but none was forthcoming.

The Chairman CALLED THE QUESTION and by a 3-1 vote, (Vice Chairman Flescher dissenting, and

Commissioner Wheeler absent), the Board approved the Lease Proposal submitted by the County Administrator, and directed the County Administrator to incorporate the provisions of the Lease into a Memorandum of Understanding for the lease of the Dodgertown facility.

Administrator Baird hoped the community would embrace the new organization in a positive fashion, and believed that Vice Chairman Flescher will be very pleasantly surprised when the announcement of the new Tenant is made.

## **12. DEPARTMENTAL MATTERS**

### **A. COMMUNITY DEVELOPMENT**

#### **I. APPROVAL OF BID AWARD FOR REHABILITATION OF THE FIRST SEVEN HOMES APPROVED UNDER THE HURRICANE WILMA COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY INITIATIVE**

Commissioner O'Bryan declared that he had no conflict of interest with any of the contractors or applicants on the recommended list, and so said all the other Board members.

ON MOTION by Commissioner Solari, SECONDED by Chairman Davis, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the following contractors and total awards for each of the following applicants, as recommended in the memorandum of April 8, 2009:

1. Grier, Judith (3469 44<sup>th</sup> Street) to Steve Fields Companies, Indialantic FL, for the total amount of \$1,118.00.
  
2. Person, Sylvia (5855 59<sup>th</sup> Court) to T.C. Enterprises of the Treasure Coast, Vero Beach, FL, for the total amount of \$8,314.75.
  
3. Fischer, Cathy (7865 97<sup>th</sup> Court) to Steve Fields Companies, Indialantic FL, for the total amount of \$1,637.72.
  
4. Justus, Earnest (816 19<sup>th</sup> Place SW) to Steve Fields Companies, Indialantic FL, for the total amount of \$1,343.00.
  
5. Baker, Sevon (416 16<sup>th</sup> Street SW) to Steve Fields Companies, Indialantic FL, for the total amount of \$1,908.00.
  
6. Walker, James (10080 90<sup>th</sup> Street) to Steve Fields Companies, Indialantic FL, for the total amount of \$1,337.76.
  
7. Williams, Moses (754 5<sup>th</sup> Place SW) to McAlhany Construction Company, Vero Beach FL, for the total amount of \$14,130.00.

**12.A.2. REQUEST TO APPROVE THE HURRICANE WILMA COMMUNITY BLOCK  
GRANT DISASTER RECOVERY INITIATIVE SECOND APPLICANT LIST AND  
AUTHORIZE STAFF TO ADVERTISE TO SOLICIT BIDS FOR HURRICANE  
WILMA HARDENING WORK ACTIVITIES**

Commissioner O'Bryan declared that he had no conflict of interest with the applicant, and so said the other Board members.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board by a 4-0 vote (Commissioner Wheeler absent) approved the list of Hurricane Wilma CDBG-DRI applicants and authorized staff to begin the bid process to secure services from licensed contractors for needed rehabilitation work, as recommended in the memorandum of April 8, 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**

**1. RIGHT-OF-WAY ACQUISITION – 66<sup>TH</sup> AVENUE #0370, 7115 66<sup>TH</sup> AVENUE, VERO BEACH, FL 32967, OWNER: O’NEAL, THOMAS LESTER, JR.**

Assistant Public Works Director Chris Mora updated the Board on this request for the subject right-of-way acquisition to facilitate the widening of 66<sup>th</sup> Avenue from 2-lanes to 4-lanes. He thereafter presented the two Alternatives for Board consideration: (1) to approve the Agreement as presented, plus leaseback, or (2) to reject the terms of the Agreement and proceed to eminent domain. It was staff’s recommendation that the Board approve the total acquisition package of \$258,000.00, plus a leaseback of the property to Mr. O’Neal. The property would be leased back to the O’Neals for \$1.00 per month until construction of the roadway begins.

Commissioner O’Bryan believed staff had done a good job negotiating the price and came up with a fair value; but was concerned that the lease was kind of open ended and does not expire until 45 days from bid opening. He would rather see the Lease amended to one year with annual renewals approved by the Board or an initial two-year term with Board approved renewals, if Mr. O’Neal needs more time.

Assistant County Administrator Mike Zito stated that that was staff’s last offer a two-year lease with one-year renewals; however, Mr. O’Neal would not accept that offer.

Chairman Davis presented a scenario of what could happen without the one-year option, and discussed the flexibility of the 45 days versus the one-year option.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, to approve the purchase, and the terms of the leaseback would be an initial two-year Lease with annual renewals of one year, based upon Board approval.

Under discussion, Commissioner Solari gave reasons why he thought the offer was generous, and because of which, he was happy to go along with the Motion.

Vice Chairman Flescher believed it was a fair and equitable offer and well negotiated. He commended everyone involved with the process; but said he did not agree with the Lease, in concept, because it might set a precedent.

**Bruce Barkett**, Esquire, 756 Beachland Boulevard, addressed the 45-days concerns and explained why he thought those days were longer than perceived. He also suggested that at the time of renewal, some standards could be inserted in the document so everyone would be aware.

Chairman Davis felt they needed more than 45 days and suggested they renew on an annual basis instead. That prompted further debate between Mr. Barkett and the Board, and Vice Chairman Flescher stated, for the record, that this Board has never denied the extension of a lease.

Assistant Administrator Zito proposed adding language, “to include a 2-year lease term with renewals and intervals, not less than six (6) months upon consent of the Board not to be unreasonably or arbitrarily withheld.”

Commissioner O’Bryan offered to amend his Motion to incorporate the proposed new language suggested by the Assistant County Administrator.

The suggestion to table this for a week was not favorable among the parties. The Board debated whether that was the right approach and determined that they would take a break to allow Mr. Barkett to discuss the proposal with his client and return with a decision.

*The Chairman called a break 10:45 a.m., and reconvened the Meeting at 11:00 a.m. with all members present.*

Mr. Zito informed the Board that he believed Mr. O’Neal would entertain an amended Motion to two (2) years on the initial term of the Lease followed by automatic renewals, as long as the project is in the 5-Year Capital Improvement Element of the Comprehensive Plan. Said Lease would terminate upon any movement out of said Plan and said Lease would be \$1 per month for up to five (5) years.

Board members discussed further, the time of termination and renewal, and how long construction of the roadway would take if things went smoothly. Director Mora said it would be a 3 to 5-year timeframe before construction begins.

Based on the foregoing response from Mr. Mora, Commissioner Solari said he would vote against this if there were no lease payments for three to five years. He suggested a policy for these leases be worked on.

Vice Chairman Flescher felt we need to be firm and consistent with what we have done in the past; and said he would withdraw his Second to the Motion if that was the direction this was going.

Vice Chairman Flescher WITHDREW HIS SECOND to the Motion.

In response to Chairman Davis, as to what has caused the change, Vice Chairman Flescher said we need to have a strong policy so we are fair and consistent with all our offers as far as the leaseback, and it was unfair to change leaseback on past ones.

Mr. Zito explaining how this leaseback is different from the ones offered in the past, said this would simply give some alternate termination language in the event the project fails for financial or other reasons and has moved out of the CIE.

Discussion continued regarding the change in language in the leaseback and whether this offer is different from those of the past. Chairman Davis pointed out that this offer is similar to the other offers except for the caveat if MPO changes their mind.

**Mr. O'Neal** said the leaseback would help him keep his son in the house without having to rent someplace else, and it would help him reclaim some of the capital gains tax he has to pay on the house.

At the request of the Chairman, Mr. Zito repeated the previous Motion by Commissioner O'Bryan, inclusive of the new language proposed by him (Mr. Zito), as follow:

Motion - to accept staff's recommendation, with the caveat of a 2-year leaseback and automatic renewal so

long as the project remains in the 5-Year Capital Improvements Element of the Comprehensive Plan, with termination no later than five years after the inception of the Lease, in which case, the parties would renegotiate terms of a continued Lease.

**Mr. Barkett**, to show that subleasing is not allowed, cited paragraph 12 (Assignment or Sublease) of the Lease Agreement, which states that “Tenant cannot assign, sublease, or transfer any part of the Lease without prior written consent to the Landlord ...”, and “No additional residents, whether permanent or temporary shall be permitted to move into the house during the term of the lease without the Landlord’s written consent...”.

Mr. Zito said staff could add language that the subject house be maintained as a primary residence.

Based on the foregoing comments and proposals, which he understood are all agreeable to Mr. O’Neal, **Vice Chairman Flescher re-instated his Second to the Motion, thereby reinstating Commissioner O’Bryan’s initial Motion with the caveat repeated by Mr. Zito.**

The Chairman CALLED THE QUESTION and the MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, carried. The Board by a 4-0 vote (Commissioner Wheeler absent) approved Alternative 1, the Purchase Agreement for the entire property (0.48 acres plus 4-bedroom, 2-bath house) for \$255,000.00 plus \$3,000.00 in attorney fees, for a total package of \$255,000 + \$3,000 = \$258,000.00 plus leaseback, as recommended

in the memorandum of March 27, 2009, *and with the caveat* of a 2-year leaseback and automatic renewal so long as the project remains in the 5-Year Capital Improvements Element of the Comprehensive Plan, with termination no later than five years after the inception of the Lease, in which case the parties would renegotiate terms of a continued Lease.

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

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

**13. COUNTY ATTORNEY MATTERS - NONE**

**14. COMMISSIONER ITEMS**

**14.A. COMMISSIONER WESLEY S. DAVIS, CHAIRMAN**

**1. RESOLUTION IN SUPPORT OF THE FELLSMERE EXTENSION OF SCENIC HIGHWAY**

**Beth Mitchell**, Director of the Sebastian River Area Chamber of Commerce, and co-chair of the Indian River Lagoon Scenic Highway Coalition, introduced Coalition members Mayor Susan Adams of the City of Fellsmere, and Laurie Burns.

**Ms. Mitchell** displayed a photograph/route map of the existing Indian River Lagoon's Scenic Highway which was established in 2000, which she said has not only State

status as a scenic Highway, but also a National Scenic Highway status. She said the existing byway runs from Cape Canaveral south to Wabasso, across the Wabasso Bridge and unto A1A. The Coalition has until May 13 to have all supporting resolutions in place and hoped that the Board would support the effort.

Through an area location map, **Ms. Mitchell** pointed out the planned extension route, which takes it along Micco Road down to Babcock, through the Town of Fellsmere, back to CR 512 and onto Roseland. She explained the reason for the expansion, and outlined the benefits of having this designation. She disclosed that the City of Fellsmere passed their resolution last Thursday, and the Coalition would be visiting Brevard and the Town of Palm Bay, next week, to seek their support.

MOTION WAS MADE by Commissioner O'Bryan,  
SECONDED by Commissioner Solari, to approve the  
Resolution of Support.

Attorney Collins sought clarity of whether it was the Coalition's intent to get a resolution from this County Commission designating that portion of the Scenic Highway in the unincorporated area of Indian River County, as a scenic part of this corridor, which Ms. Mitchell affirmed as correct.

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Commissioner Wheeler absent) the Motion carried. The Board approved **Resolution 2009-057**, supporting the designation of the Fellsmere Corridor extension through the unincorporated area of Indian River County; providing an effective date.

#### **14.A.2. APPOINTMENTS TO TOURIST DEVELOPMENT COUNCIL**

Chairman Davis explained that there were three individuals currently serving on the Committee, whose terms have or are about to expire, plus the three new applicants on file, and he has subsequently received a fourth application from Daniel Fourmont.

Commissioner Solari asked the Chairman if it was his intent to vote on this matter today, and the Chairman responded affirmatively. Commissioner Solari thereupon requested that the matter be tabled until the first Meeting in May, because after this Agenda was posted, he received a call from one of the current members who had no knowledge that this was being brought before the Board, and he also understood that the other members had no such knowledge either. He preferred that all three current members be notified prior to the matter being brought before the Board, giving them an opportunity to say if they want to stay on or not.

Vice Chairman Flescher implied that there must have been some public awareness of the upcoming appointments because two individuals knew of the process, applied, and were interviewed.

The Board debated whether to postpone, replace or automatically re-appoint the three sitting members.

MOTION WAS MADE by Commissioner O'Bryan,  
SECONDED by Chairman Davis, to reappoint all three  
sitting members.

The Chairman asked if there were any further discussions and there were none.

The Chairman CALLED THE QUESTION and the Motion carried. The Board by a 4-0 vote (Commissioner Wheeler absent) approved the re-appointment of all current Tourist Development Council members, Jon W. Bates, Kathryn Beatty-Self (Owners/Operators, Tourist Accommodations) and Susan Hunt (Interested in Tourist Development, not an Owner/Operator).

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

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

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

**14.E. COMMISSIONER BOB SOLARI**

**1. REQUEST FOR DISCUSSION ON FREQUENCY OF COMMITTEE MEETINGS**

Commissioner Solari requested Board discussion on this matter and asked that they take no action today, and perhaps bring it back in about three or four weeks. He highlighted numerous Committees assigned to each Commissioner, noting that not all of them seem to have a need to meet as often as they do. He also noted the cost associated with preparation for each meeting, and suggested that certain Committees could meet quarterly, annually, or on an as-needed basis. He asked that Commissioners discuss this with their Assistants and think about their committees, and revisit in about three weeks with the idea for possible cutbacks on the number of meetings. He acknowledge that the meetings are well meant, but felt they are not

needed, and in the next two (2) or three (3) years they need to work to get what they need done in order to move this County forward.

Chairman Davis wanted more specificity; favored the idea; saw the rationale; and wanted to send a directive to cut the number of meetings in half or along those lines.

Vice Chairman Flescher said this discussion has already been established in some of the Committees, and they were meeting less frequently. He also, supported reduction in the meetings.

Commissioner Solari desired to bring this back in three or four weeks, depending on the status of Commissioner Wheeler, because he preferred the sitting of the full Board when they next discuss and consider this matter.

Commissioner O'Bryan agreed with the concept and figured it would take a lot of Legal staff-time to rewrite all these ordinances/policies. He believed it was much easier cancelling a meeting than having to rewrite the whole ordinance, and suggested Chairmen of respective committees be contacted in the hope of having certain meetings cancelled, instead.

Vice Chairman Flescher preferred a blanket cut of the number of meetings, in half.

Chairman Davis suggested that they do not take decisive action today, but to have the intent of trying to cut the number of meetings in half, bring it back, and look at the viability of that plan.

The Board's CONSENSUS was to come back in three weeks with options.

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

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

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

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

1. **APPROVAL OF MINUTES OF MEETING OF FEBRUARY 17, 2009**
  
2. **PUBLIC MEETING TO APPROVE OR DISAPPROVE FRANCHISE**  
**APPLICATIONS: RFA No. 2009025 WASTE HAULING FRANCHISE –**  
**UNINCORPORATED ENTERPRISE ZONE**
  
3. **ODOR CONTROL SYSTEM DEMONSTRATION AT THE INDIAN RIVER**  
**COUNTY LANDFILL**

### **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 11:32 a.m.

ATTEST:

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

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

Minutes Approved: \_\_\_\_\_  
BCC/AA/2009Minutes