

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF JULY 14, 2009

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JEFFREY K. BARTON

Clerk to the Board



July 14, 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, July 14, 2009. Present were Chairman Wesley S. Davis, Vice Chairman Joseph E. Flescher, 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 Maureen Gelfo.

1. CALL TO ORDER

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

2. INVOCATION

Father Tri Tang Pham, St. Helen Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman Wesley S. Davis led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

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

*DELETED: ITEM 5.D. PRESENTATION OF "BEST PLACES TO WORK" BY JOE COAKLEY,
WORKFORCE SOLUTIONS*

ON MOTION by Vice Chairman Flescher, SECONDED
by Chairman Davis, the Board unanimously approved the
above change to the Agenda.

5. PROCLAMATIONS AND PRESENTATIONS

*5.A. PRESENTATION OF A PROCLAMATION HONORING THE RECIPIENTS OF THE
2009 DAN K. RICHARDSON AWARD, FATHER RICHARD MURPHY AND
PARISHIONERS OF HOLY CROSS CATHOLIC CHURCH*

Vice Chairman Flescher read and presented the Proclamation to Father Richard Murphy, who accepted on behalf of the parishioners of Holy Cross Catholic Church, some of whom were in attendance.

**5.B. PRESENTATION OF A PROCLAMATION HONORING ROTARY
INTERNATIONAL EXCHANGE YOUTH IN INDIAN RIVER COUNTY**

Commissioner Solari read and presented the Proclamation to Tracy Carroll, District Youth Exchange Chairman; John Carroll, Vice President Rotary Club Vero Beach; and four youths from the Rotary International Exchange Youth Organization.

**5.C. PRESENTATION OF A PROCLAMATION DESIGNATING THE MONTH OF
JULY, 2009 AS RECREATION AND PARKS MONTH**

Vice Chairman Flescher read and presented the Proclamation to Clifford Crawford, Director; Mike Redstone, Assistant Director; Fawna Hattrup, Aquatics Supervisor; Bob Wilson, Athletics; and David Fleetwood, Parks Division.

**5.D. PRESENTATION OF “BEST PLACES TO WORK” BY JOE COAKLEY,
WORKFORCE SOLUTIONS**

DELETED

**5.E. PRESENTATION OF ANNUAL REPORT OF THE WORKFORCE DEVELOPMENT
BOARD OF THE TREASURE COAST BY GWENDA THOMPSON,
PRESIDENT/CEO, WORKFORCE SOLUTIONS**

Gwenda Thompson, President and CEO of Workforce Solutions, introduced three Board members of *Workforce Solutions* (formerly known as the *Workforce Development Board*) as follows: Catherine L. McKenzie, Chairman; Soma Melnick, Vice Chairman; and Patrick Shepherd, Treasurer. She thereafter invited Ms. McKenzie to present the Annual Report.

Ms. McKenzie reported that the Workforce system had been united under one logo and name, *Workforce Solutions*, and that there were three new sites in operation - a Business Service Center on 82nd Avenue; a Mobile Unit on 25th Street; and an Outreach at 2525 St. Lucie Avenue. She read the highlights of the Workforce Solutions Annual Report (copy on file), and discussed future goals for the program, which included having its new website, www.yourworkforcesolutions.com, serve as the primary portal for employers and job seekers to access Workforce services.

Chairman Davis spoke of the excellent services provided by the Mobile Unit which was situated around the corner from the County Administration Building.

Ms. Thompson thanked the Board for its cooperation with *Workforce Solutions*, and additionally recognized for her assistance, Helene Caseltine, member of the *Workforce Solutions* Board, and Economic Development Director for the *Indian River Chamber of Commerce*. Responding to requests from Vice Chairman Flescher and Commissioner O'Bryan respectively, she described *Workforce Solution's* new facility on 82nd Avenue, and provided details on the Best Places to Work program. Concluding, Ms. Thompson related that *Workforce Solutions* was seeking another, larger location to accommodate the increased number of people needing employment services, and asked anyone knowing of an available site to notify her.

Freddie Woolfork, Gifford Youth Activities Center (GYAC), thanked the Commissioners for being supportive of the GYAC, and for allowing the young people to come to the Chambers and watch local government in action, and to show their appreciation for Father Murphy.

The Chairman called a break at 9:26 a.m. and reconvened the meeting at 9:28 a.m.

6. APPROVAL OF MINUTES-NONE

**7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS
NOT REQUIRING BOARD ACTION-NONE**

8. CONSENT AGENDA

8.A. APPROVAL OF WARRANTS AND WIRES, JUNE 26, 2009 THRU JULY 2, 2009

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of June 26, 2009 to July 2, 2009, as recommended in the memorandum of July 2, 2009.

**8.B. EASEMENT TO MT. ZION MISSIONARY BAPTIST CHURCH OF VERO
BEACH, INC.**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved and authorized the Chairman to execute the non-exclusive perpetual easement to Mt. Zion Missionary Baptist Church of Vero Beach, as recommended in the memorandum of July 8, 2009.

EASEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.C. 2010 HOLIDAY SCHEDULE

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the proposed schedule of holidays for Indian River County employees for 2010, as recommended in the memorandum of July 6, 2009.

8.D. REQUEST FOR BOARD AUTHORIZATION FOR THE CONSERVATION FUND TO LEVERAGE THE PADGETT BRANCH LAAC SITE CONSERVATION EASEMENTS AS A MATCH FOR A NORTH AMERICAN WETLANDS CONSERVATION ACT REGIONAL GRANT APPLICATION

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously: (1) authorized the use of the Padgett Branch Conservation Easement acquisitions as a match in The Conservation Fund's (TCF) application for funds under the NAWCA (North American Wetlands Conservation Act) Grant Program to protect environmental lands in the regional Kissimmee-St. Johns River Connector corridor; and (2) authorized staff to provide a "Partner Letter" verifying use of the Padgett Branch easements as a match for TCF to submit as a part of its grant application, as recommended in the memorandum of July 6, 2009.

8.E. COURT FUNDING AND GUARDIAN AD LITEM FUNDING INTERLOCAL AGREEMENTS

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Interlocal Agreement for Court Funding and the Interlocal Agreement for Guardian ad Litem funding and authorized the Board Chairman to execute both Interlocal Agreements upon receipt of notice that all other parties have approved such Agreements, as recommended in the memorandum of July 8, 2009.

8.F. MISCELLANEOUS BUDGET AMENDMENT 017

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-105**, amending the Fiscal Year 2008-2009 Budget.

8.G. CHANGE ORDER NO. 1 – SHELTRA AND SON CONSTRUCTION, INC., 12TH STREET SIDEWALK (43RD AVENUE TO 27TH AVENUE), BID NUMBER 2008080 PROJECT NUMBER 0604

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved Change Order No. 1 with Sheltra and Son Construction, Inc., decreasing the contract amount by

\$6,177.25, with the new contract amount now \$297,254.00, as recommended in the memorandum of July 6, 2009.

**8.H. WORK ORDER NO. 1 (SIDEWALK/SOD) H & D CONSTRUCTION CO., INC.,
PINE GROVE SUBDIVISION – FULL AND FINAL PAY**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved payment of Contractor's Application for Payment No. 1 with H & D Construction Co., Inc., in the amount of \$3,902.50 for full and final payment of Work Order No. 1, as recommended in the memorandum of July 2, 2009.

**8.I. AWARD OF BID # 2009043, DEANGELIS DIAMOND CONSTRUCTION, INC.,
IRC PARKS MAINTENANCE COMPLEX, IRC PROJECT NO. 0701**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the contract be awarded to DeAngelis Diamond Construction, Inc., in the amount of \$1,357,000.00, as recommended in the memorandum of July 1, 2009.

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

10. PUBLIC ITEMS

10.A. PUBLIC HEARING

10.A.1. PUBLIC HEARING TO AMEND CHAPTER 105 OF THE INDIAN RIVER

COUNTY CODE TO CREATE NEW SECTION 105.041 TO PROVIDE A LOCAL PREFERENCE POLICY AND PROCEDURE FOR LOCAL BUSINESSES IN COUNTY CONTRACTS (LEGISLATIVE)

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

Pursuant to a directive issued at the June 2, 2009 BCC meeting, County Attorney William Collins brought before the Commission an Ordinance providing a local preference policy for local businesses in County contracts, and a comparison of recent local versus non-local bid awards. Attorney Collins explained that the local preference Ordinance would be for businesses having had a staff and fixed office or distribution point for at least one full year, in Indian River, Brevard, Martin, Okeechobee, Osceola, or St. Lucie County. He explained that if a non-local vendor submits the apparent low bid, a local bidder coming within 5% of the low bid price would be given an opportunity to match that bid. He reviewed the Purchasing Manager's comparisons on local versus non-local bid awards from October 2008 to the present, and said that the General Services Department would report back in approximately six months, and again in one year, at which time the Board would decide whether to continue or modify the Ordinance.

The Chairman opened the Public Hearing.

Nancy Offutt, 686 Date Palm Rd., Treasure Coast Builders Association, expressed wholehearted support for the Ordinance.

Jeff Thompson, Seville Avenue, felt that the Ordinance would provide some hope to local residents.

William Rigby, 8465 59th Avenue, declared that the Ordinance would be a move in the right direction for small businesses in the community.

There being no further speakers, the Chairman closed the Public Hearing.

MOTION WAS MADE by Vice Chairman Flescher,
SECONDED by Chairman Davis, to adopt the proposed
local preference Ordinance.

Commissioner Solari opposed the Ordinance. He stated that it is a form of protectionism which is anti-competition and discriminatory against other Americans, and alluding to the local versus non-local bid award comparison data, he voiced that the Ordinance would probably not have any material impact on the County. He read quotes from the *Wall Street Journal* and the *Economist* regarding the negative impacts of economic nationalism, and reiterated his position that in terms of economic development, a local preference policy would be a small step in the wrong direction.

Commissioner Wheeler also opposed the Ordinance. He did not believe in protectionism, noting that we live in a free enterprise system, where we deal with Americans across the County where we can get the best deal. He felt the results obtained from the local preference policy would be inconsequential; that it sets a poor standard to not allow outsiders to participate in our system; and that it discourages outsiders from bidding in the County, thus eliminating competition and driving up prices.

Chairman Davis disagreed with Commissioners Solari and Wheeler. He supported the Ordinance, and saw therein the opportunity for those who have generated the tax revenues in the community to be able to provide jobs through local employment. He affirmed that it would be a net positive for both Indian River and the neighboring counties.

Commissioner O'Bryan alluded to page 66 of the backup, wherein DeAngelis Diamond Construction, Inc., from Naples, Florida, had been granted the Bid Award for a \$1.3 million project. He did not believe it was right to let that amount of money leave the County, pointing out that if the Ordinance had been in effect prior to this bid, two local contractors would have been eligible to try to match the low bid. Commissioner O'Bryan acknowledged points made by Commissioners Solari and Wheeler; however, although he did not regard it as a permanent step, he felt the Ordinance should be adopted at this time.

The Commissioners continued to voice their support or lack thereof, for the proposed Ordinance.

Vice Chairman Flescher's disclosure (for the record), that he had purchased two American-made vehicles at local car dealerships, one of which was now closed, sparked further discussion on vehicle origins, and on the benefits of purchasing local products from local businesses.

The Chairman CALLED THE QUESTION, and by a 3-2 vote (Commissioners Wheeler and Solari opposed), the Motion carried. The Board adopted **Ordinance 2009-010**, amending Chapter 105 (Purchasing) of The Code of Ordinances of Indian River County, Florida to create a new Section 105.041 to provide a local preference policy

and procedure for local businesses in County contracts; providing for repeal of other conflicting ordinances; providing for severability; providing for inclusion in the Code of Indian River County; providing for filing with the Department of State; and providing for an effective date.

10.B. PUBLIC DISCUSSION ITEMS-NONE

10.C. PUBLIC NOTICE ITEMS

10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR AUGUST 18, 2009:

KENNEDY GROVES, INC./510, LLC REQUEST TO ABANDON A SEGMENT OF 86TH STREET BETWEEN 47TH AVENUE AND CR510, AND A SEGMENT OF 46TH AVENUE BETWEEN 86TH PLACE AND CR510 IN WABASSO (LEGISLATIVE)

Attorney Collins read the notice into the record.

11. COUNTY ADMINISTRATOR MATTERS-NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT-NONE

12.B. EMERGENCY SERVICES-NONE

12.C. GENERAL SERVICES-NONE

12.D. HUMAN RESOURCES

12.D.1. TEAMSTERS LOCAL 769 – MEMORANDUM OF AGREEMENT

Director of Human Resources James Sexton recapped the memorandum of July 7, 2009 to provide background and details on the proposed Memorandum of Agreement (MOA) with the Teamer's Local 769. He said that in view of the upcoming fiscal year's budget challenges, Human Resources had engaged in dialogue with both the IAFF (International Association of Firefighters) Local 2201, and the Teamsters Local 769, and that negotiations have resulted in a Memorandum of Agreement with the Teamsters Local 769 to forgo their contractual increases for the next fiscal year. Staff's recommendation was for the Board to ratify the Memorandum of Agreement.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously ratified the Memorandum of Agreement with Teamsters Local Union No. 769, as recommended in the memorandum of July 7, 2009.

Commissioner O'Bryan commended **Steve Myers**, the business representative for the Teamster's Local Union No. 769, and the members of the Union, for stepping forward with this agreement at this time.

Chairman Davis hoped that Mr. Myers and the members of Teamster's Local 769 would receive the recognition that they deserve for helping the County in this manner.

Administrator Baird wanted to personally thank the employees and Mr. Myers for their cooperation and unselfishness. He said that the MOA is a great thing for the community, and will result in a savings of approximately \$470,000.

Vice Chairman Flescher added his thanks and commended the employees and Mr. Myers for stepping up to the plate. He hoped that the opportunity for the County to grant contractual raises would prevail in the succeeding fiscal year.

Commissioner Wheeler desired to have presented at the next Commission meeting on July 21, 2009, a proclamation acknowledging the unselfish actions of Mr. Meyers and the members of Teamsters Local 769.

Administrator Baird mentioned that those employees who are not represented by the Union, will also not get raises, adding that there is only one segment who would receive raises.

Rene Renzi, Waverly Place, wanted to know which workers are represented by the Teamster's Local 769.

Administrator Baird divulged that the Union represents mainly the field people, and clarified that the firefighters did not forgo their raises.

Commissioner O'Bryan pointed out that both the Teamsters Local 769 and the IAFF agreed to forgo a cost of living increase for the coming fiscal year; however, the Teamsters have also agreed to forgo their annual step increase, which is based on longevity of service.

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

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

**12.I.1. AS-BUILT RESOLUTION & ASSESSMENT ROLL FOR PAVING AND
DRAINAGE IMPROVEMENTS TO 10TH COURT SW FROM OSLO ROAD (9TH
STREET SW) TO 7TH STREET SW AND INTERSECTING STREET, IN OSLO
PARK SUBDIVISION, IRC PROJECT #0436**

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-106**, certifying "As-Built" costs for certain paving and drainage improvements to 10th Court SW from Oslo Road (9th Street SW) to 7th Street SW including the intersecting street 8th Street SW, designated as Project No. 0436, and other construction necessitated by such project; providing for formal completion date, and date for payment without penalty and interest.

**12.I.2. APPROVAL FOR THE INDIAN RIVER DRIVE NORTH SIDEWALK FROM
NORTH CITY LIMITS OF SEBASTIAN TO ROSELAND ROAD, FEDERAL AID
PROJECT NUMBER: FM 409504-1-58-01, INDIAN RIVER COUNTY
PROJECT NO. 0202**

Chairman Davis presented to the Deputy Clerk for inclusion in the Official Record, a letter outlining Sebastian resident Jannet E. Perry's concerns on the proposed sidewalk.

Assistant Public Works Director Chris Mora used maps and displayed an aerial view of the boundaries of the proposed sidewalk, to be constructed along the east side of Indian River Drive, connected to the existing sidewalk at the north city limits of the City of Sebastian at Capt'n Butcher's, and extended to Roseland Road subject area. He detailed the background history and conditions of the project, divulging that the Project would receive 100% Federal Funding, with the County contributing its staff for design and construction. After outlining two alternatives for the Board, Director Mora presented staff's recommendation to approve Alternative No. 1, the sidewalk plan, and to authorize staff to move forward with the bidding and construction of the project.

Director Mora and County Engineer Chris Kafer responded to Commissioner Solari's inquiry on why the boundaries of the project would not extend to U.S. 1.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Vice Chairman Flescher, to approve
staff's recommendation, Alternative No. 1.

Sherry Reichert, 13415 North Indian River Drive, supported the sidewalk, noting that it would increase safety, beautify the road, and increase property values, but wanted staff to protect the oak trees and to not put out signage.

Chairman Davis recalled some of the concerns expressed at a public meeting with the homeowners residing near the proposed sidewalk, and said that the Commission would be following up with those residents.

Commissioner O'Bryan felt that the proposed sidewalk would improve pedestrian and bike safety.

Director Mora responded affirmatively to **Ms. Renzi's** question regarding maintaining the low speed limits beyond Sebastian's City Limits.

Chairman Davis sought and received confirmation from staff that at this time, no benches would be placed along the sidewalk.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved the sidewalk plan and authorized staff to move forward with the North Indian River Drive Sidewalk Project, as recommended in the memorandum of June 25, 2009.

12.J. UTILITIES SERVICES

**12.J.1. SPOONBILL MARSH WETLAND FACILITY – CHANGE ORDER No. 2 – UCP
2785, CONTRACT EXTENSION FOR TIMOTHY ROSE CONTRACTING, INC.,
ADDENDUM #8 TO WORK ORDER No. 1, ECOTECH, INC.**

ON MOTION by Commissioner Solari, SECONDED by Commissioner Wheeler, the Board unanimously: (1) approved the contract extension of 134 days to July 31,

2009, for Timothy Rose Contracting, Inc., for the Spoonbill Marsh Wetland Facility Project; (2) approved Amendment No. 8 to Work Order No. 1 with Ecotech Consultants, Inc. (EcoTech, Inc.), in the amount of \$3,500.00; and (3) authorized the Chairman to execute same as presented, and as recommended in the memorandum of June 29, 2009.

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

13. COUNTY ATTORNEY MATTERS-NONE

14. COMMISSIONER ITEMS

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

14.B. COMMISSIONER JOSEPH E. FLESCHER-NONE

14.C. COMMISSIONER GARY C. WHEELER-NONE

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

14.E. COMMISSIONER BOB SOLARI-NONE

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 10:15 a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Wesley S. Davis, Chairman

Minutes Approved: _____

BCC/MG/2009Minutes