



JEFFREY K. BARTON

Clerk to the Board

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OF BOARD OF COUNTY COMMISSIONERS  
OF SEPTEMBER 15, 2009

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**JEFFREY K. BARTON**

Clerk to the Board



September 15, 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, September 15, 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 Leona Adair Allen.

### **1. CALL TO ORDER**

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

### **2. INVOCATION**

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

### **3. PLEDGE OF ALLEGIANCE**

Commissioner O'Bryan led the Pledge of Allegiance to the Flag.

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

*ADDITION: ITEM 12.J.1. EMERGENCY ITEM REQUESTED BY CHAIRMAN DAVIS  
TO DISCUSS CONSOLIDATION OF WATER AND SEWAGE SERVICES*

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

**5. PROCLAMATIONS AND PRESENTATIONS**

*5.A. PRESENTATION OF PROCLAMATION DESIGNATING SEPTEMBER 14 – 18,  
2009, AS INDUSTRY APPRECIATION WEEK IN INDIAN RIVER COUNTY,  
FLORIDA*

Commissioner O'Bryan read and presented the Proclamation to Linda Gonzales, Chair of the Economic Development Council and the Economic Development Division, and Helene Caseltine, Economic Development Council Officer.

*5.B. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF  
SEPTEMBER AS SICKLE CELL AWARENESS MONTH*

Commissioner Wheeler read and presented the Proclamation to Michael Hall on behalf of the Sickle Cell Foundation of Palm Beach County and the Treasure Coast.

**5.C. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF  
SEPTEMBER 2009 AS WORKFORCE DEVELOPMENT MONTH IN INDIAN  
RIVER COUNTY, FLORIDA**

Vice Chairman Flescher read and presented the Proclamation to Gwenda Thompson on behalf of the Board of Directors for Workforce Solutions, the Workforce Solutions staff, and all their counterparts around the state. She thanked the Board for the Proclamation, for recognizing the importance of Workforce Solutions to Florida's economy, and their proactive stance toward job creation. She thereafter explained the specifics of Workforce Solutions, introduced her staff, and acknowledged the new center located at 1880 82<sup>nd</sup> Avenue, Suite 102, in Vero Beach.

**6. APPROVAL OF MINUTES - NONE**

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

**8. CONSENT AGENDA**

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

**8.A. APPROVAL OF WARRANTS AND WIRES, AUGUST 28, 2009 THRU  
SEPTEMBER 3, 2009**

ON MOTION by Commissioner Wheeler, 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 August 28, 2009 to September 3, 2009, as requested in the memorandum of September 3, 2009.

**8.B. BANKING AND LOCKBOX SERVICES CONTRACTS TO BE AWARDED**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved to award the banking services contract to Wachovia Bank, N.A., and awarding the lockbox services contract to Regions Bank, with each contract to have an initial term of three years and an option to renew for two additional terms of two years each; upon Board approval of staff's recommendation, staff will work with the County Attorney's office and bring back the contracts for approval by the Board at a later date, as recommended in the memorandum of September 4, 2009.

**8.C. CENSUS 2010 – COMPLETE COUNT COMMITTEE (CCC)**

ON MOTION by Commissioner Wheeler,  
SECONDED by Vice Chairman Flescher, the Board  
unanimously approved the appointments to the  
Census Complete Count Committee, as recommended  
in the memorandum of August 31, 2009.

**8.D. PROPERTY ACQUISITION – TAX ROLL REMOVAL & TAX CANCELLATION,  
PROPERTIES ACQUIRED BY INDIAN RIVER COUNTY AND INDIAN RIVER  
COUNTY SOLID WASTE DISPOSAL DISTRICT BETWEEN JULY 10, 2009 AND  
SEPTEMBER 3, 2009**

ON MOTION by Commissioner O’Bryan,  
SECONDED by Vice Chairman Flescher, the Board  
unanimously approved **Resolution 2009-132**,  
canceling taxes upon publicly owned lands, pursuant  
to Section 196.28, Florida Statutes. (*Oslo Road –  
Beale Holdings, Inc.*)

ON MOTION by Commissioner O’Bryan,  
SECONDED by Vice Chairman Flescher, the Board  
unanimously approved **Resolution 2009-133**,  
canceling taxes upon publicly owned lands, pursuant  
to Section 196.28, Florida Statutes. (*49<sup>th</sup> Street/66<sup>th</sup>  
Avenue – Richard Gallagher, Jr.*)

ON MOTION by Commissioner O'Bryan,  
SECONDED by Vice Chairman Flescher, the Board  
unanimously approved **Resolution 2009-134**,  
canceling taxes upon publicly owned lands, pursuant  
to Section 196.28, Florida Statutes. (*26<sup>th</sup> Street –  
Stephen M. Bailey Trust*)

ON MOTION by Commissioner O'Bryan,  
SECONDED by Vice Chairman Flescher, the Board  
unanimously approved **Resolution 2009-135**,  
canceling taxes upon publicly owned lands, pursuant  
to Section 196.28, Florida Statutes. (*41<sup>st</sup> Street –  
Kenneth Chesnut*)

ON MOTION by Commissioner O'Bryan,  
SECONDED by Vice Chairman Flescher, the Board  
unanimously approved **Resolution 2009-136**,  
canceling taxes upon publicly owned lands, pursuant  
to Section 196.28, Florida Statutes. (*66<sup>th</sup> Avenue  
(Michael and Taffi Abt)*)

ON MOTION by Commissioner O'Bryan,  
SECONDED by Vice Chairman Flescher, the Board  
unanimously approved **Resolution 2009-137**,  
canceling taxes upon publicly owned lands, pursuant  
to Section 196.28, Florida Statutes. (*66<sup>th</sup> Avenue –  
Gary D. Brown Trust*)

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-138**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (*85<sup>th</sup> Street – David Godwin*)

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-139**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (*85<sup>th</sup> Street – David Godwin*)

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-140**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (*Landfill – George Tuerk, George Streetman, Sandra Streetman, Kevin Streetman, Shannon Padget, and Calphrey Streetman*)

**8.E. APPROVAL OF STATE AND FEDERALLY FUNDED SUBGRANT AGREEMENT –  
CONTRACT NUMBER 10-BG-25-10-40-01**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the contract for the FY 09/10 Emergency Management, Preparedness and Assistance Trust Fund Base Grant Agreement (EMPA) portion of the State Funded Subgrant Agreement (10-BG-25-10-40-01); and authorized the Director of Emergency Services John King as the contract manager for this agreement, as recommended in the memorandum of September 4, 2009.

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

**8.F. MISCELLANEOUS BUDGET AMENDMENT 023**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved **Resolution 2009-141**, amending the fiscal year 2008-2009 Budget.

**8.G. PUMP STATION No. 2058 UPGRADES, UCP No. 2784, FINAL PAYMENT TO CONTRACTOR AND RELEASE OF RETAINAGE, W.I.P. No 472-169000-09503, BID NUMBER 2008063**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the total project construction cost of \$159,056.00, and approved Application for Payment No. 2 – Final as final payment to the Contractor, Timothy Rose Contracting, Inc., in the amount of \$7,952.80, as recommended in the memorandum of September 1, 2009.

**8.H. 16" FORCE MAIN RELOCATION ON US1 AT SOUTH RELIEF CANAL, UCP No. 2952, FINAL PAYMENT TO SHELTRA AND SONS CONSTRUCTION Co., INC. AND RELEASE OF RETAINAGE, W.I.P. No. 471-23536-044699-07522**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the total project construction cost of \$25,520.73, and approved Application for Payment No. 2 – Final as final payment to the Contractor, Sheltra and Sons Construction Company, Inc. in the amount of \$1,276.04, as recommended in the memorandum of September 1, 2009.

**8.I. AGREEMENT WITH KEN AND LAURA MCKELLER TO PURCHASE A PORTION OF 31<sup>ST</sup> AVENUE**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the contract with Ken and Laura McKeller, for the acquisition of right-of-way (ROW) consisting of 0.609 acres for a selling price of \$34,200.00, as recommended in the memorandum of August 26, 2009.

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

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

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARING**

**10.A.1. EMERGENCY ORDINANCE GRANTING TEMPORARY USE PERMIT, CDS  
MANUFACTURING FOR A TEMPORARY INDUSTRIAL SITE (LEGISLATIVE)**

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

County Attorney William Collins clarified why this proposal was put on the Agenda as an Emergency Ordinance, and told how the Ordinance would grant the Temporary Use Permit

(TUP) to CDS Manufacturing for a temporary industrial site (on 20<sup>th</sup> Street) to prefabricate bridge structures that would be used for the Indian Street Bridge project in Martin County. Attorney Collins pointed out that Attachment A of the Ordinance is the application for a temporary use permit, and that the attachment of the TUP, along with the Site Plan, would be the approval through Ordinance of a temporary use permit. He also noted that the temporary use permit would terminate upon completion of the bridge.

Assistant County Attorney George Glenn provided the Board with a copy of the final *Temporary Use Permit (TUP) Application* (copy on file).

Community Planning Director Stan Boling acknowledged that staff had reviewed the application and sketch, and was satisfied that it could be used in terms of a site plan.

Commissioner Solari proposed adding the following verbiage to the Ordinance: **“WHEREAS, this temporary use will have a significant positive economic impact for Indian River County.”**, and **“WHEREAS, we are now suffering from the worst economic conditions since before World War II.”**

The Chairman opened the Public Hearing.

The following individuals addressed the Board, encouraging them to support the Emergency Ordinance and/or Temporary Use Permit.

**Jens Tripson**, 2525 14<sup>th</sup> Street

**Brian Carman**, Executive Director, IRNA, Indian River Neighborhood Association

**Linda Gonzales**, Economic Development Council (EDC)

**Bob Johnson**, Coral Wind Subdivision, voiced support but was concerned about the notification of residents around the subject site.

Due to Mr. Johnson's concerns, Director Boling, through an aerial photo, showed the remoteness of the site.

There were no additional speakers and the Chairman closed the Public Hearing.

Commissioner O'Bryan clarified that this would not be used as a cement batch plant, and that they would be using local existing cement companies to pour cement into molds on the site.

MOTION was made by Commissioner O'Bryan,  
SECONDED by Commissioner Wheeler, to approve  
the Emergency Ordinance with the amendments as  
stated by Commissioner Solari.

There was a brief discussion regarding safety issues and staff's interpretation of the policies as set in the past.

THE Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board: adopted **Emergency Ordinance 2009-014**, with amendments to include: **“WHEREAS, this temporary use will have a significant positive economic impact for Indian River County”**, and **“WHEREAS, the County of Indian River is now suffering from the worst economic conditions since before World War II”** approving a temporary use permit issued to CDS Manufacturing, for a temporary construction site located at 16505 20<sup>th</sup> Street.

**10.B. PUBLIC DISCUSSION ITEMS - NONE**

**10.C. PUBLIC NOTICE ITEMS**

**10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING**

**SEPTEMBER 22, 2009: COUNTY INITIATED REQUEST: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING TITLE X, IMPACT FEES, OF THE CODE OF INDIAN RIVER COUNTY TO REVISE APPENDIX A, IMPACT FEE RATE SCHEDULE; AND AMENDING CODE SECTION 1000.06 “IMPOSITION” TO PROVIDE AN EXTENSION TEMPORARILY SUSPENDING FOR SIX MONTHS THE IMPOSITION OF IMPACT FEES FOR EMERGENCY SERVICES FACILITIES, CORRECTIONAL FACILITIES, PUBLIC BUILDINGS DEVELOPMENT, LAW ENFORCEMENT, AND SOLID WASTE FACILITIES; AND, PROVIDING FOR CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE (LEGISLATIVE)**

**10.C.2. NOTICE OF SCHEDULED PUBLIC HEARING**

**SEPTEMBER 22, 2009: MARK MONTGOMERY ET AL'S REQUEST TO  
ABANDON A SEGMENT OF 12TH PLACE SW BETWEEN US 1 AND 1ST  
AVENUE SW LYING EAST OF US1 (LEGISLATIVE)**

Attorney Collins read the notices into the record.

**11. COUNTY ADMINISTRATOR MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT**

**12.A.1. OCUCUE LLC'S REQUEST FOR A LOCAL JOBS GRANT**

Community Development Director Bob Keating informed the Board that this request for a Local Jobs Grant from OcuCue LLC was the first jobs grant request since the Board modified the parameters of the program in March. He said that because OcuCue LLC proposes to create 25 jobs in various income categories, they are eligible for a jobs grant of up to \$131,000.00, which would be paid out over a three-year period. He indicated that the funds for the grant would come from General Fund Contingency, and that the Economic Development Council (EDC) had recommended Board approval.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Vice Chairman Flescher, to approve  
a local jobs grant of up to \$131,000 for OcuCue LLC.

Chairman Davis wanted to see an evaluation from the individual businesses on how the process could be made easier, what obstructions they encountered, if any, and how they found out about the program.

Commissioner O'Bryan mentioned that the Company Manager, Mr. Stuart Woodard, had provided the EDC with a presentation regarding this issue, and that a Special Call meeting was held to fast-track the recommendation to bring it to the Board.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved a local jobs grant of up to \$131,000 for OcuCue LLC; and authorized the Chairman to execute the Job Grant Agreement, as recommended in the memorandum of September 4, 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. INDIAN RIVER COUNTY UTILITY ADVISORY COMMITTEE (UAC)**

**RECOMMENDATION FOR INDIAN RIVER COUNTY COMMISSION AND CITY**

**WATER AND SEWER SERVICE**

*(Clerk's Note: Chairman Davis's Emergency Item addition, Consolidation of Water and Sewer Services, was addressed under this Item.)*

Utilities Director Erik Olson recapped his Memorandum dated September 8, 2009, pointing out that the two Resolutions are the functional equivalent of an Interlocal Agreement, and that each designates the City of Vero Beach to serve the residents of the South Barrier Island for water and wastewater service. He said that each Agreement is for a period of 30 years (will expire in 2017), that in order for the Agreements to be renewed notice must be given no less than 5 years prior to the expiration, and that each party would be obligated to make their intentions known by 2012. Director Olson recalled that Utility Advisor Dr. Stephen Faherty had

recommended the Utility Advisory Committee (UAC) send an immediate notice to the City of Vero Beach informing them that the County does not intend to renew the current Agreements. He said the UAC Chairman had recommended developing a tri-party meeting between the City of Vero Beach, Town of Indian River Shores, and Commission staff to discuss and review issues, and that if the decision was made to serve either the South Barrier Island or the Town of Indian River Shores, the bill would become an Indian River County bill.

There was a brief discussion pertaining to an agreed joint meeting for discussion of consolidation issues.

Commissioner Solari felt that since this was a complicated matter, it would be best for the Utility Department to visit the City of Vero Beach City Council, and requested the Chairman to send a letter of invitation to this affect.

Commissioner O'Bryan agreed with the direction of the Board, clarified that the Board was not delaying this, and believed that costs and repercussions were necessary in order for the Board to make prudent decisions.

MOTION WAS MADE by Commissioner O'Bryan,  
SECONDED by Vice Chairman Flescher, to hold a  
joint meeting with the County, City of Vero Beach,  
and Town of Indian River Shores.

**Dr. Stephen J. Faherty**, representing the 2,595 properties in the South Beach area, voiced his appreciation to the Board for their leadership and moving forward in a timely manner.

**Bob Johnson**, Coral Wind Subdivision, wanted to know when residents could voice their concerns, since the Board was bypassing the workshop.

Chairman Davis said he runs an open meeting, allows everyone an opportunity to speak, and that his intent for the meeting would be to conduct it in the same manner.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved to hold a Joint Meeting with the County, City of Vero Beach, and Town of Indian River Shores.

### **13. COUNTY ATTORNEY MATTERS**

#### **13.A. SEARCH FOR NEW COUNTY ATTORNEY**

Attorney Collins recapped his Memorandum dated September 8, 2009. He gave an overview of the County Attorney job description (as set by the State), the job description used for the last hire, general and specific tasks, time intensive areas, contract issues, strengths and weaknesses of the current legal team, areas that will need to be addressed by the new attorney, and candidate advertising.

Human Resources Director James Sexton stressed that an in-house search process could equal any outside firm for eligible candidates, especially with an outside firm charging \$21,500.00.

The Board discussed the options and criteria of hiring a new County Attorney.

MOTION WAS MADE by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, to direct staff to perform an in-house search for a new County Attorney candidate.

Commissioners O'Bryan and Solari wanted this brought back during the September 22, 2009 Board of County Commission Meeting, to discuss the terms and provisions of the contract prior to it being sent out for the interview process.

Commissioner Wheeler supported bringing this back to the next meeting for discussion, and he felt that one question on the questionnaire should be, "Would you work without a contract?" He reiterated that he does not support contracts, and believed there would be individuals who would be willing to work with one.

Likewise, Vice Chairman Flescher did not support a contract for the County Attorney position.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously directed Human Resources staff to perform an in-house search for a new County Attorney candidate, and to report back on the process at the September 22, 2009 Board of County Commission Meeting.

**13.B. STIPULATION CONCERNING EXTENDED POSSESSION FOR 65<sup>TH</sup> AVENUE**  
**PROPERTY OWNERS WILLIAM BETHEL, CHARLENE BROWN, RUTH AND**  
**WILLIAM STANBRIDGE**

Deputy County Attorney Bill DeBraal recapped his Memorandum of September 10, 2009, explaining that the five parcels (7.9 acres including a pond site) of property needed for right-of-way for the 66<sup>th</sup> Avenue Improvement Project were in negotiation, and that the landowners had agreed to stipulate to an Order of Taking in exchange for a period of extended possession. He said that by stipulating to the Order of Taking, the County would obtain title to the property but allow the owners to use it until the time of road construction. The lease would provide them with a rent-free residence for a period of one year, and renewable at 6-month intervals. He recalled that Ms. Brown has a Murphy Reservation on her property, and that she requested the Board to continue to give full value to the Murphy Reservation, essentially ignoring it throughout the duration of the trial.

ON MOTION by Commissioner O'Bryan,  
SECONDED by Vice Chairman Flescher, the Board  
unanimously approved the terms of the stipulation;  
authorized deposit of the appraised value of the  
needed property into the registry of the Clerk for each  
of the landowners; and authorized the Chairman to  
execute the Lease for each property owner, as  
recommended in the memorandum of September 10,  
2009.

**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**

**14.C.1. DISCUSSION ON COUNTY-WIDE POLICY FOR DEALING WITH EMPLOYEES  
CHARGED WITH A DUI**

*(Clerk's Note: Items 14.C.1. and 14.E.1. were discussed as one item, see Item 14.E.1. below for discussion.)*

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

**14.E. COMMISSIONER BOB SOLARI**

**14.E.1. DRIVING UNDER THE INFLUENCE**

Commissioner Wheeler pointed out that he brought this item back to the Board because of a commitment he had made to the people who wanted to speak at the June 9, 2009 Board of County Commission Meeting regarding the May 16<sup>th</sup> DUI arrest of the County Administrator, and also because he felt the necessity to evaluate the current policy.

Commissioner Solari wanted the Board to discuss the matter of policy for going forward, to allow the public to speak, and to decide whether "Terms of Employment" should be part of future contracts for the County Officers (County Administrator and County Attorney).

Attorney Collins pointed out that if the Board wants a uniform policy, they should keep in mind that they are dealing with a diverse workforce, and that a one-size-fits-all policy would not work due to the different situations and requirements.

There was a brief discussion pertaining to a draft policy and whether it would apply to only County Officers or if it would expand to all contract employees, and whether the policy should mirror the union/non-union employees.

Commissioner Solari wanted the County Administrator and County Attorney to be held to the highest standards of any employees, and voiced concern that there was little or no direction for the Commissioners when situations like this occur.

Commissioner Wheeler believed consistency was important due to the diversity of the workforce, and felt that everyone should be held to the same standards.

Director Sexton clarified that the policy language used in the proposed policy (page 250 of the Backup) came from the Union Agreements, with the exception that the reassignment option was eliminated.

Assistant County Attorney Mike Zito spoke about “safety sensitive positions,” reminding the Commissioners that they have absolute discretion and authority over the two Officer positions, and defined the drafted policy that the Board could adopt for guidelines.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Wheeler, to adopt an unlawful conduct/arrest policy (see backup material on page 250), going forward, to hold the County Administrator and County Attorney to the same standards as general and union employees.

Attorney Collins offered suggestions for provisions that could be included in the policy/contract.

Commissioner Solari reiterated that he did not want to renegotiate the officer contracts at this time, but felt there should be guidance for the Board.

Commissioner O'Bryan suggested adding an *Ethics Policy* to the current contract, but Attorney Collins felt that it would change the terms of the contract.

Commissioner O'Bryan felt the verbiage, “**...without severance or compensation**” after “...may be terminated from employment.” should be added to future contracts.

Commissioner Solari AMENDED HIS MOTION, SECONDED by Commissioner O'Bryan, to adopt an unlawful conduct/arrest policy (see backup material on page 250), going forward, to hold the County Administrator and County Attorney to the same standards as general and union employees, and to

include the following verbiage in future contracts:  
**“...without severance or compensation.”**

Chairman Davis opened the floor to public comment.

**Rene Renzi**, Waverly Place, believed that all violators should be treated exactly the same for like violations.

**Doris Tropf**, 1236 30<sup>th</sup> Avenue, voiced concern for the liability of the County, based on the County Administrator’s vertigo.

**Joe Wiggins**, 895 11<sup>th</sup> Street, wanted to see everyone treated equally.

The Chairman closed the public comments session.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board adopted the following policy, going forward, for the County Administrator *and the County Attorney*:

**Board of County Commissioners: Unlawful conduct/arrest policy as applied to County Officers**

County Officer shall immediately notify the County Commission within 3 days of contact when information has been filed by a prosecuting official against him/her, when indicted by a Grand Jury, or when arrested, for any offense or violation of law. The Commission shall determine if it is in the best interests of the County to:

- (1) Retain the Officer in his/her regular position pending court disposition; and/or
- (2) Place the employee on leave without pay until such time as any charges are disposed of by trial, acquittal, dismissal, conviction, or other judicial action; and/or
- (3) Initiate disciplinary action up to and including termination.

In the event that the Officer is retained pending the resolution of the charges, and pleads nolo contendere or guilty, or is found guilty of any job related offense or any offense that would adversely impact the County or the employment status of the Officer, or which would cause the County to be held in disrepute, the Officer may be terminated from employment *without severance or compensation.*

A brief discussion ensued among the Commissioners regarding the pros and cons of adding additional public Mock DUIs to the ones that are currently being staged by the Fire Rescue Service.

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

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

The Chairman announced that immediately upon adjournment, the Board would reconvene as the Board of Commissioners of the Emergency Services District. Those Minutes are being prepared separately.

#### **15.A.1. INVITATION FROM JOHN'S ISLAND GOLF CLUB FOR STAFF TO PARTICIPATE IN A "PUBLIC SAFETY DAY" GOLF OUTING**

#### **15.A.2. EMERGENCY SERVICES STATION 9 DEDUCTIVE CHANGE ORDER NO. 2**

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

The Chairman announced that immediately upon adjournment of the Emergency Services District Meeting, the Board would reconvene as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are being prepared separately.

#### **15.B.1. APPROVAL OF MINUTES SWDD BUDGET – PUBLIC HEARING OF JULY 23, 2009**

**15.B.2. AUTHORIZATION TO FLORIDA POWER & LIGHT TO CONVERT OVERHEAD LINES TO UNDERGROUND LINES AT THE ENTRANCE TO THE YARD WASTE FACILITY ON THE LANDFILL PROPERTY**

**15.B.3. WORK ORDER No. 12 – FINAL PAY TO GEOSYNTEC CONSULTANTS, INC. FOR REMEDIAL ACTION PLAN MODIFICATION IMPLEMENTATION FOR THE FORMER SOUTH GIFFORD ROAD LANDFILL**

**15.B.4. CHANGE ORDER No. 1 TO BARTH CONSTRUCTION, INC. RELATED TO THE EXPANSION OF THE FELLSMERE CUSTOMER CONVENIENCE CENTER**

**15.B.5. AMENDMENT No. 2 TO WORK ORDER No. 1 TO BROWN AND CALDWELL FOR ENGINEERING SERVICES RELATED TO THE EXPANSION OF THE FELLSMERE CUSTOMER CONVENIENCE CENTER**

**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 10:40 a.m.

ATTEST:

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Jeffrey K. Barton, Clerk

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Wesley S. Davis, Chairman

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

BCC/LAA/2009Minutes