



JEFFREY K. BARTON

Clerk to the Board

INDEX TO MINUTES OF REGULAR MEETING
OF BOARD OF COUNTY COMMISSIONERS
OF SEPTEMBER 22, 2009

1. CALL TO ORDER.....1

2. INVOCATION1

3. PLEDGE OF ALLEGIANCE1

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS2

 MOVED: ITEM 12.I.3. TO BE HEARD BEFORE ITEM 12.I.2. - BID PROTEST – SECTOR 3
 BEACH AND DUNE RESTORATION PROJECT 2

5. PROCLAMATIONS AND PRESENTATIONS2

 5.A. PRESENTATION OF PROCLAMATION HONORING LEON R. WALTON FOR HIS
 SERVICE ON THE CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS..... 2

 5.B. PRESENTATION OF PROCLAMATION IN OBSERVANCE OF THE SPECIAL OLYMPICS
 EVENT FROM OCTOBER 3RD, 2009 TO OCTOBER 4TH, 2009..... 2

5.C.	PRESENTATION OF PROCLAMATION AND RETIREMENT AWARD HONORING JAMES W. DAVIS, P.E. ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS PUBLIC WORKS DEPARTMENT WITH TWENTY-EIGHT YEARS OF SERVICE	3
5.D.	PRESENTATION BY GREGORY VADAY, TREASURE COAST REGIONAL PLANNING COUNCIL, ON BROWNFIELD GRANT OPPORTUNITIES FOR INDIAN RIVER COUNTY	3
5.E.	PRESENTATION BY HIMANSHU MEHTA, SOLID WASTE DISPOSAL DISTRICT OF ANNUAL SUSTAINABILITY REPORT, AND PRESENTATION OF “GREEN FLAG” BY CINDY HALL, FLORIDA GREEN BUILDING COALITION	4
5.F.	PRESENTATION BY DR. RICHARD BAKER, PRESIDENT, PELICAN ISLAND AUDUBON SOCIETY ON AUDUBON HOUSE PROJECT	5
6.	APPROVAL OF MINUTES - NONE	9
7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION	9
7.A.	CITY OF FELLSMERE ORDINANCE 09-16, CONTRACTION OF MUNICIPAL BOUNDARIES FOR TRACT 2125 OF TOWNSHIP 31 SOUTH, A FELLSMERE FARMS SUBDIVISION, AND REDEFINING THE CITY LIMITS, ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD	9
7.B.	APPOINTMENT OF DISTRICT 3 APPOINTEE TO THE BOARD OF ZONING ADJUSTMENT	9
7.C.	2009, DISTRICT 5 APPOINTMENT TO THE BOARD OF ZONING ADJUSTMENT	9
8.	CONSENT AGENDA	9
8.A.	APPROVAL OF WARRANTS AND WIRES SEPTEMBER 4, 2009 THRU SEPTEMBER 10, 2009.....	10
8.B.	CERTIFICATION OF THE 2009 TAX ROLL	10

8.C.	APPOINTMENT OF ELECTRICAL CONTRACTOR APPOINTEE TO THE CONSTRUCTION BOARD OF ADJUSTMENTS & APPEALS.....	11
8.D.	CONSERVATION EASEMENT FOR FIRE STATION NO. 9 IN ROSELAND.....	11
8.E.	VEROLAGO PHASE 1, SIDEWALK EXTENSION AND REDUCTION REQUEST, SUCCESSOR DEVELOPER: CORONA VERO LAGO LLC, A DELAWARE LIMITED LIABILITY COMPANY	12
8.F.	2009/2010 STATE OF FLORIDA DEPARTMENT OF HEALTH CONTRACT.....	12
8.G.	PAVING AND DRAINAGE IMPROVEMENTS TO 17 TH LANE S.W. (27 TH AVENUE TO 20 TH AVENUE) AND 20 TH AVENUE (21 ST STREET S.W. TO 17 TH LANE S.W.), PROJECT #0803, 0837, AND 0838 BID NUMBER 2008073, CHANGE ORDER NO. 2	13
8.H.	AMENDMENT NO. 2 TO WORK ORDER NO. 1, PROFESSIONAL CIVIL ENGINEERING SERVICES AGREEMENT WITH ARCADIS G&M INC. FOR WIDENING 43 RD AVENUE FROM OSLO ROAD TO 8 TH STREET	13
8.I.	WORK ORDER NO. 12, MASTELLER, MOLER, REED AND TAYLOR, INC., 66 TH AVENUE ROADWAY IMPROVEMENTS, RIGHT-OF-WAY ACQUISITIONS, 53 RD STREET, BOUNDARY SURVEY LEWIS PARCEL NO. 168.....	14
8.J.	WORK ORDER NO. 8, CR510 SIDEWALK IMPROVEMENTS WEST OF A1A, DESIGN SURVEY – TOPOGRAPHIC SURVEY, IRC PARCEL – SIDEWALK DESIGN PROJECT.....	15
8.K.	MISCELLANEOUS BUDGET AMENDMENT 024.....	15
8.L.	APPROVAL OF BID AWARD FOR IRC BID NO. 2010006 ANNUAL BID FOR HYDROFLOUSILICIC ACID UTILITIES DEPARTMENT	16
8.M.	CHILDREN’S SERVICES ADVISORY COMMITTEE’S RECOMMENDATION AGENCY FUNDING FOR 2009-10 AND SAMPLE AGENCY CONTRACT TO BE USED.....	17
8.N.	AMENDMENT 1 AND 2 TO WORK ORDER NUMBER 9 TO PROFESSIONAL BRIDGE DESIGN SERVICES AGREEMENT WITH BRIDGE DESIGN ASSOCIATES, INC., OLD DIXIE HIGHWAY BRIDGE OVER SOUTH RELIEF CANAL, INDIAN RIVER COUNTY PROJECT NO. 0205	17

8.O.	APPROVAL OF BID AWARD FOR IRC BID NO. 2010004 ANNUAL BID FOR CATCH BASINS AND STORM WATER INLETS PUBLIC WORKS DEPARTMENT ROAD AND BRIDGE DIVISION.....	18
8.P.	APPROVAL OF BID AWARD FOR IRC BID NO. 2010002 ANNUAL BID FOR ASPHALT PAVING AND RESURFACING PUBLIC WORKS DEPARTMENT ROAD AND BRIDGE DIVISION.....	18
8.Q.	APPROVAL OF BID AWARD FOR IRC BID NO. 2010003 ANNUAL BID FOR CORRUGATED STEEL AND ALUMINUM PIPE PUBLIC WORKS DEPARTMENT ROAD AND BRIDGE DIVISION	19
8.R.	APPROVAL OF BID AWARD FOR IRC BID NO. 2010009 ANNUAL BID FOR CLEANING SERVICES UTILITIES OPERATIONS CENTER DEPARTMENT OF UTILITY SERVICES	20
8.S.	PROCLAMATION AND RETIREMENT AWARD HONORING ELIZABETH G. MARTIN ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS RISK MANAGEMENT DIVISION WITH TWENTY YEARS SERVICE	20
9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE	21
10.	PUBLIC ITEMS	21
10.A.	PUBLIC HEARING	21
10.A.1	MARK MONTGOMERY ET AL'S REQUEST FOR ABANDONMENT OF A PORTION OF 12 TH PLACE SW BETWEEN US HIGHWAY 1 AND 1 ST AVENUE SW (LEGISLATIVE)	21
10.A.2	CONSIDERATION OF ORDINANCE TO AMEND TITLE X, IMPACT FEES, OF THE COUNTY CODE TO REVIEW APPENDIX A, IMPACT FEE RATE SCHEDULE, AND TO EXTEND TEMPORARY SUSPENSION OF IMPACT FEES (LEGISLATIVE).....	23
10.C.	PUBLIC NOTICE ITEMS - NONE	25
11.	COUNTY ADMINISTRATOR MATTERS - NONE.....	25

12.	DEPARTMENTAL MATTERS	25
12.A.	COMMUNITY DEVELOPMENT	25
12.A.1.	SPECTORSOFT CORPORATION’S REQUEST FOR A LOCAL JOBS GRANT	25
12.A.2.	REQUEST FOR AUTHORIZATION TO ABATE A PUBLIC NUISANCE ON AN UNMAINTAINED GOLF COURSE WITHIN VISTA GARDENS MULTIFAMILY DEVELOPMENT (LANDOWNER: VISTA GOLF LLC; CODE ENFORCEMENT CASE No. 2009060086).....	26
12.A.3.	CONSIDERATION OF REVIEW SCHEDULE AND PRELIMINARY STATEMENT OF ISSUES FOR THE PROPOSED FPL ENERGY SECURE PIPELINE SITING APPLICATION No. NG09-02.....	27
12.B.	EMERGENCY SERVICES - NONE.....	30
12.C.	GENERAL SERVICES - NONE	30
12.D.	HUMAN RESOURCES.....	30
12.D.1.	DISCUSSION – COUNTY ATTORNEY RECRUITMENT PROCESS.....	30
12.E.	HUMAN SERVICES - NONE.....	31
12.F.	LEISURE SERVICES - NONE	31
12.G.	OFFICE OF MANAGEMENT AND BUDGET - NONE	31
12.H.	RECREATION - NONE	31
12.I.	PUBLIC WORKS	32
12.I.1.	ROADWAY IMPROVEMENTS FOR 20 TH AVENUE (FROM 25 TH STREET S.W. TO 21 ST STREET S.W.) IRC PROJECT NO. 0541	32
12.I.2.	WORK ORDER #7, COASTAL TECHNOLOGY CORPORATION INC., ADDITIONAL UPLAND SAND PERMITTING SERVICES	32
12.I.3.	BID PROTEST – SECTOR 3 BEACH AND DUNE RESTORATION PROJECT	35
12.J.	UTILITIES SERVICES.....	42

12.J.1. SPOONBILL MARSH WETLAND FACILITY – UCP 2785 CHANGE ORDER NO. 3 FOR TIM ROSE CONTRACTING, INC.	42
12.J.2. 16” BRINE FORCE MAIN, BENT PINE TO SPOONBILL MARSH AND 12” REUSE WATER MAIN LATERAL “G” TO U.S. HIGHWAY 1 B&B UNDERGROUND CONTRACTORS, INC., FINAL PAYMENT AND RELEASE OF RETAINAGE – UCP 2785 ..	42
12.J.3. WABASSO BEACH PARK LIFT STATION WET WELL DROP, APPROVAL OF WORK AUTHORIZATION DIRECTIVE NO. 2009-004 BY SHELTRE & SONS CONSTRUCTION Co., Inc. UCP No. 3053	43
13. COUNTY ATTORNEY MATTERS - NONE.....	43
14. COMMISSIONER ITEMS.....	43
14.A. COMMISSIONER WESLEY S. DAVIS, CHAIRMAN - NONE	44
14.B. COMMISSIONER JOSEPH E. FLESCHER, VICE CHAIRMAN - NONE	44
14.C. COMMISSIONER GARY C. WHEELER - NONE	44
14.D. COMMISSIONER PETER D. O’BRYAN	44
14.D.1.RESOLUTION OF SUPPORT	44
14.E. COMMISSIONER BOB SOLARI - NONE	45
15. SPECIAL DISTRICTS AND BOARDS	45
15.A. EMERGENCY SERVICES DISTRICT	45
15.A.1.APPROVAL OF MINUTES MEETING OF JULY 21, 2009	45
15.A.2.FUTURE USE FOR FORMER FIRE-RESCUE STATION 9 (SEBASTIAN)	45
15.B. SOLID WASTE DISPOSAL DISTRICT	45

15.B.1.REQUEST TO INCLUDE THE FORMER SOUTH GIFFORD ROAD LANDFILL SITE INTO
THE BROWNFIELD GRANT APPLICATION BY THE TREASURE COAST REGIONAL
PLANNING COUNCIL..... 46

15.C. ENVIRONMENTAL CONTROL BOARD - NONE 46

16. ADJOURNMENT46

JEFFREY K. BARTON

Clerk to the Board



September 22, 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, September 22, 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

Pastor Roger Ball, Immanuel Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Vice Chairman Flescher led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman Davis requested the following change to the Agenda:

MOVED: ITEM 12.I.3. "BID PROTEST – SECTOR 3 BEACH AND DUNE RESTORATION PROJECT" TO BE HEARD BEFORE ITEM 12.I.2.

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION HONORING LEON R. WALTON FOR HIS SERVICE ON THE CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

Commissioner Wheeler read and presented the Proclamation to Leon R. Walton.

5.B. PRESENTATION OF PROCLAMATION IN OBSERVANCE OF THE SPECIAL OLYMPICS EVENT FROM OCTOBER 3RD, 2009 TO OCTOBER 4TH, 2009

Vice Chairman Flescher read and presented the Proclamation to Recreation Director Clifford Crawford, who accepted the Proclamation on behalf of the athletes, staff, and volunteers. Director Crawford showed a video of the Special Olympic and Aquatic Championship event, and spoke briefly about the opening ceremonies.

**5.C. PRESENTATION OF PROCLAMATION AND RETIREMENT AWARD HONORING
JAMES W. DAVIS, P.E. ON HIS RETIREMENT FROM INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS PUBLIC WORKS DEPARTMENT WITH
TWENTY-EIGHT YEARS OF SERVICE**

Vice Chairman Flescher read the Proclamation and presented the retirement plaque to Director Jim Davis who thanked the Board and staff for 28 years of rewarding experience.

**5.D. PRESENTATION BY GREGORY VADAY, TREASURE COAST REGIONAL
PLANNING COUNCIL, ON BROWNFIELD GRANT OPPORTUNITIES FOR
INDIAN RIVER COUNTY**

Managing Director of the Solid Waste Disposal District Himanshu Mehta introduced the presentation and recalled that in 2002, the old Gifford Road landfill site was designated a Brownfield site. He informed the Board that Julianne Price, Coordinator for the State's Department of Health, had recently initiated the "Protocol for Assessing Community Excellence" (PACE) program in the Gifford community, and that there has recently been an interest in Brownfield opportunities for this area.

Nandra Weeks, GeoSyntec Consultants, Inc., summarized the Brownfield Grant opportunities for Indian River County, specifically the Gifford area and landfill, and made recommendations for the Brownsfields' revitalization process. She outlined the Florida Department of Environmental Protection (FDEP) and the United States Environmental Protection Agency (USEPA) programs, and addressed why the cleanup and redevelopment would benefit the Gifford community. She stressed the urgency of submitting the grant application to the USEPA before October 16th, 2009, and suggested partnering with the Treasure Coast Regional Planning Council (TCRPC).

Gregory Vaday, Economic Development Coordinator of the Treasure Coast Regional Planning Council (TCRPC), explained the goals, key aspects, focus areas, partnerships, and effectiveness of the program.

Commissioner O'Bryan wanted to know what project the application would be for.

Mr. Vaday said the primary focus would be on the South Gifford Road landfill, with the secondary being the Gifford community, and that the end result (after the assessment work) would be a soft development option.

Commissioner Solari noted additional concerns of the Gifford community (other than the landfill site) and how it is causing anxiety and concerns. He believed the assessment grant would allow an opportunity for visioning and discussion, and would also address other concerns throughout the community.

Mr. Vaday pledged to research available funding, and if money is available, inform the community, and provide them with the opportunities that would be available.

5.E. PRESENTATION BY HIMANSHU MEHTA, SOLID WASTE DISPOSAL DISTRICT OF ANNUAL SUSTAINABILITY REPORT, AND PRESENTATION OF "GREEN FLAG" BY CINDY HALL, FLORIDA GREEN BUILDING COALITION

Director Mehta presented the first annual Sustainability Report (on file), highlighting significant achievements, awareness and educational campaigns to promote sustainability, future recommendations, and sustainability progress throughout the County.

Cindy Hall, and **Kyle Abney**, both Florida Green Building Coalition (FGBC) Board of Directors, provided a brief background and mission statement of the FGBC, and presented a “Green” flag to the Board, as a token of appreciation. Mr. Abney acknowledged Indian River County to be the first local government in the southeastern region of Florida to be certified, and the second in the State to have received the “Gold” level certification award for being a “Green County.”

The Commissioners voiced their appreciation to Director Mehta for his accomplishments in making Indian River County a leader in the certification and recycling process.

**5.F. PRESENTATION BY DR. RICHARD BAKER, PRESIDENT, PELICAN ISLAND
AUDUBON SOCIETY ON AUDUBON HOUSE PROJECT**

Doctor Richard Baker, President of the Pelican Island Audubon Society (PIAS), used a Power Point presentation (copy on file), to outline and discuss a proposed joint project between the Audubon Society and the County. This project would include the construction of a 2,800 square foot Audubon House (on disturbed land) that would be comprised of a classroom for students, a covered area that could be used as a picnic pavilion or sheltered classroom, an office for the Pelican Island Audubon Society (PIAS), and an office for the Oslo Riverfront Conservation Area (ORCA) volunteers. The project would also include a nature trail and handicap accessible restrooms. Dr. Baker said PIAS would provide the construction, operation, and maintenance of the building, would supply all property and liability insurance for the building, and provide the engineering for the parking lot and boardwalk. He stated that the University of Florida had sent a letter (copy on file) supporting the 20 foot wide easement from the Florida Medical Entomology Lab (FMEL) property for access purposes. He spoke about the pro bono services for the project and believed the most import aspect of the joint project is that the Audubon House would provide a classroom and meeting area for the volunteers who oversee the County’s fifteen conservation areas.

Dr. Baker asked the Board to approve a one-acre lease around the building for \$1.00 per year, renewable every 10 years, for up to 50 years, and after 50 years it would be renegotiated or turned over to the County. He wanted the County to construct a parking lot across from the existing five space parking lot for visitors, and provide a special needs boardwalk linking the parking lot to the Audubon House, for a cost of about \$86,000.00.

Commissioner Wheeler wanted to know if there was anything in the County Ordinance that would prohibit the Board from taking action on this. Attorney Collins said there was not, but believed the intent of the presentation was to get direction from the Board to move forward with a lease that could come back to the Board at a later date.

MOTION WAS MADE by Vice Chairman Flescher,
SECONDED by Commissioner Wheeler, to direct staff to
evaluate the conceptual plan, identify the cost factors,
locate a funding stream, and bring it back to the Board.

Chairman Davis applauded Dr. Baker's efforts but not the location for the project. He did not believe it would be proper to take property that was set aside for conservation and put a structure on it, even with the best of intentions.

Dr. Baker explained why the Oslo Riverfront Conservation Area site was chosen.

The Commissioners voiced their feelings and concerns over the conservation property, the placement of the building, educational opportunities, and the parking lot.

Commissioner Solari supported the project, the lease, and the location, but had concerns over what was considered a “picnic pavilion” and a “nature trail,” and that this would not fulfill the County’s obligations.

Environmental and Code Enforcement Chief Roland DeBlois affirmed for Commissioner O’Bryan that the Florida Communities Trust (FCT) staff had reviewed the proposal, and that they would be willing to work with the County to ensure this project fulfills County obligations.

Commissioner O’Bryan felt that in the spirit of making this a joint project, which could save money and time, that maybe a multi-parking project could be established (for this project and the boat ramp parking project) by using the pro bono volunteers.

Administrator Baird wanted to know how much money this project would require from the County since it had not been budgeted, and Dr. Baker reiterated that it would cost the County about \$86,000.00 for the driveway and boardwalk. Thereafter, the Administrator wanted clarification regarding the additional parking for the boat ramp and whether it should be incorporated into a recommendation when it returns to the Board. Vice Chairman Flescher suggested it be looked at as “paved” and “unpaved” scenarios.

Vice Chairman Flescher clarified for Administrator Baird that his Motion was for the Administrator to “evaluate” the budget and bring it back to the Board. He felt there were many opportunities for other funding sources and that is why he directed staff to identify the funding sources, not to increase the burden of the taxpayer.

Bob Johnson, Coral Wind Subdivision opposed the proposed joint project.

Commissioner Solari did not feel that Motions should be made under *Proclamations and Presentations* and *Public Discussion* items. He felt that a consensus for staff to move forward was requested, and delivered.

Vice Chairman Flescher AMENDED HIS MOTION, SECONDED by Commissioner Wheeler, to incorporate additional paved and unpaved parking for the boat ramp, into the recommendation.

There were no further discussions.

The Chairman CALLED THE QUESTION, and the motion carried by a 3-2 vote (Commissioners Solari and Davis opposed), to direct staff to evaluate the conceptual plan, identify the cost factors, locate a funding stream, and to incorporate additional paved and unpaved parking for the boat ramp into the recommendation when it returns to the Board.

The Chairman called a break at 10:50 a.m., and reconvened the meeting at 11:01 a.m., with all members present.

6. APPROVAL OF MINUTES - NONE

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

**7.A. CITY OF FELLSMERE ORDINANCE 09-16, CONTRACTION OF MUNICIPAL
BOUNDARIES FOR TRACT 2125 OF TOWNSHIP 31 SOUTH, A FELLSMERE
FARMS SUBDIVISION, AND REDEFINING THE CITY LIMITS, ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD**

**7.B. APPOINTMENT OF DISTRICT 3 APPOINTEE TO THE BOARD OF ZONING
ADJUSTMENT**

Commissioner Wheeler appointed Lewis J. Martin as the District 3 Representative to the Board of Zoning Adjustments. Mr. Martin will replace Fred Plair, who resigned on January 8, 2008.

7.C. 2009, DISTRICT 5 APPOINTMENT TO THE BOARD OF ZONING ADJUSTMENT

Commissioner Solari appointed Thomas Yonge as the District 5 Representative to the Board of Zoning Adjustment. Mr. Yonge will replace Dr. Steven Faherty, who resigned in November 2008, and will serve the regular term of four years or until a successor is appointed.

8. CONSENT AGENDA

Commissioner O'Bryan requested to pull Item 8.H. for discussion

Vice Chairman Flescher requested to pull Item 8.K. for discussion

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

8.A. APPROVAL OF WARRANTS AND WIRES SEPTEMBER 4, 2009 THRU SEPTEMBER 10, 2009

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved the list of Warrants and Wires, issued by the Clerk to the Board for the time period of September 4, 2009 to September 10, 2009, as requested in the memorandum of September 10, 2009.

8.B. CERTIFICATION OF THE 2009 TAX ROLL

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved the tax roll extension prior to the conclusion of the Value Adjustment Board (VAB) hearings, as requested in the memorandum of September 8, 2009.

**8.C. APPOINTMENT OF ELECTRICAL CONTRACTOR APPOINTEE TO THE
CONSTRUCTION BOARD OF ADJUSTMENTS & APPEALS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved the appointment of Donald McCall, Sr. to the Electrical Contractor Appointee position of the Construction Board of Adjustment and Appeals. This position was vacated by Leon Walton on August 18, 2009, and the term will expire in 2010, as recommended in the memorandum of September 11, 2009.

8.D. CONSERVATION EASEMENT FOR FIRE STATION NO. 9 IN ROSELAND

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari Commissioner, the Board unanimously approved the Conservation Easement for Fire Station No. 9 in Roseland, and authorized the Chairman to execute same, as recommended in the memorandum of September 10, 2009.

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

8.E. VEROLAGO PHASE I, SIDEWALK EXTENSION AND REDUCTION REQUEST,
SUCCESSOR DEVELOPER: CORONA VERO LAGO LLC, A DELAWARE
LIMITED LIABILITY COMPANY

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved the Modification to and Assignment of Contract for Construction of Required Sidewalk Improvements No. SD-04-03-11(A)-SIDE (96070055-46699) and Cash Deposit and Escrow Agreement, and authorized the Chairman to execute same; and authorized staff to return the existing letter of credit once the substitute cash has been posted with the County or, in the alternative, call the existing letter of credit posted by Centex Homes should the successor developer not present substitute cash security by October 30, 2009, as recommended in the memorandum of September 15, 2009.

8.F. 2009/2010 STATE OF FLORIDA DEPARTMENT OF HEALTH CONTRACT

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved the 2009/2010 State/County Contract with State of Florida Department of Health, as recommended in the memorandum of September 15, 2009.

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

8.G. PAVING AND DRAINAGE IMPROVEMENTS TO 17TH LANE S.W. (27TH AVENUE TO 20TH AVENUE) AND 20TH AVENUE (21ST STREET S.W. TO 17TH LANE S.W.), PROJECT #0803, 0837, AND 0838 BID NUMBER 2008073, CHANGE ORDER NO. 2

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved Change Order No. 2 with J. W. Cheatham, LLC, for \$16,709, plus 60 additional calendar days added to the contract, which would bring the contract amount to \$1,608,586.25, as recommended in the memorandum of September 9, 2009.

8.H. AMENDMENT NO. 2 TO WORK ORDER NO. 1, PROFESSIONAL CIVIL ENGINEERING SERVICES AGREEMENT WITH ARCADIS G&M INC. FOR WIDENING 43RD AVENUE FROM OSLO ROAD TO 8TH STREET

Commissioner O'Bryan felt this Amendment to Work Order No. 1, for additional engineering and surveying services for widening 43rd Avenue from Oslo Road to 8th Street was premature. He wanted to Table this item until the Metropolitan Planning Organization (MPO) has reviewed the traffic plans, and the Board has received the annual update to the 5-Year Capital Improvement Plan (CIP).

County Engineer Christopher Kafer addressed Chairman Davis's concerns pertaining to the project's permits and extensions.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, the Board unanimously TABLED this item until November 2009, after the Board receives the annual update to the 5-Year Capital Improvement Plan.

Commissioner O'Bryan suggested Mr. Kafer contact the St. Johns River Water Management District to request a 60-day extension. If the extension is denied, Mr. Kafer agreed to bring it back to the October 6, 2009 Board of County Commission meeting.

**8.I. WORK ORDER NO. 12, MASTELLER, MOLER, REED AND TAYLOR, INC.,
66TH AVENUE ROADWAY IMPROVEMENTS, RIGHT-OF-WAY ACQUISITIONS,
53RD STREET, BOUNDARY SURVEY LEWIS PARCEL NO. 168**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved Work Order No. 12 with Masteller, Moler, Reed and Taylor, Inc., in the amount of \$3,215; authorized services as outlined in the Scope of Services; and authorized the Chairman to execute same, as recommended in the memorandum of September 9, 2009.

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

**8.J. WORK ORDER NO. 8, CR510 SIDEWALK IMPROVEMENTS WEST OF A1A,
DESIGN SURVEY – TOPOGRAPHIC SURVEY, IRC PARCEL – SIDEWALK
DESIGN PROJECT**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved and authorized the Chairman to execute Work Order No. 8 in the amount of \$3,680; authorized the Project as outlined in the Scope of Services; as recommended in the memorandum of September 10, 2009.

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

8.K. MISCELLANEOUS BUDGET AMENDMENT 024

Vice Chairman Flescher voiced concern over Item No. 7, Miscellaneous Budget Amendment 024 (page 120 of the backup material), “*Recording Equipment is needed in the Building B Conference room to provide the ability to record various committee meetings. The attached entry appropriates funding in the amount of \$20,000 from General Fund Cash Forward.*” He felt the camera device was a luxury item, not a requirement during these economic times.

Administrator Baird explained the reasons for the endeavor and why he considered it to be a “good use of money.”

Chairman Davis wanted to know if this technology would give the public an opportunity to view the meetings. Management and Budget Director Jason Brown affirmed that the information could be downloaded and made available on the website.

General Services Director Tom Frame updated the Board, saying that he had just received the latest estimates yesterday, and that there were two prices: for \$20,000 the County could purchase a system with broadcast quality, or for \$12,000 the County could purchase an audio system and fixed camera that could stream live or recorded meetings over the network.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board, by a 4-1 vote (Vice Chairman Flescher opposed), approved **Resolution 2009-157**, amending the fiscal year 2008-2009 Budget; *the purchase of one camera for approximately \$12,000; and to stream live and recorded meetings on the website.*

8.L. APPROVAL OF BID AWARD FOR IRC BID NO. 2010006 ANNUAL BID FOR HYDROFLOUSILIC ACID UTILITIES DEPARTMENT

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously: (1) approved the Bid Award to Harcros Chemicals, Inc., as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2009 through September 30, 2010 with the recommended bidder; and (3) authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, zero cost increase, vendor acceptance and the determination that renewal of this

annual bid is in the best interest of the County, as recommended in the memorandum of September 10, 2009.

8.M. CHILDREN'S SERVICES ADVISORY COMMITTEE'S RECOMMENDATION
AGENCY FUNDING FOR 2009-10 AND SAMPLE AGENCY CONTRACT TO BE
USED

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved the funding levels (total of \$768,100) for 2009-2010, with the Children's Services Advisory Committee; the contract as submitted; and authorized the Chairman to execute the individual contracts; all as recommended in the memorandum of September 22, 2009.

8.N. AMENDMENT 1 AND 2 TO WORK ORDER NUMBER 9 TO PROFESSIONAL
BRIDGE DESIGN SERVICES AGREEMENT WITH BRIDGE DESIGN
ASSOCIATES, INC., OLD DIXIE HIGHWAY BRIDGE OVER SOUTH RELIEF
CANAL, INDIAN RIVER COUNTY PROJECT No. 0205

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved: Amendment No. 1 for \$11,402; Amendment No. 2 for \$8,315; and authorized the Chairman to execute same, as recommended in the memorandum of September 8, 2009.

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

**8.O. APPROVAL OF BID AWARD FOR IRC BID NO. 2010004 ANNUAL BID FOR
CATCH BASINS AND STORM WATER INLETS PUBLIC WORKS DEPARTMENT
ROAD AND BRIDGE DIVISION**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously: (1) approved Bid Award to Dura-Stress Underground, Inc. as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2009 through September 30, 2010 with the recommended bidder; and (3) authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of the County, as recommended in the memorandum of September 16, 2009.

**8.P. APPROVAL OF BID AWARD FOR IRC BID NO. 2010002 ANNUAL BID FOR
ASPHALT PAVING AND RESURFACING PUBLIC WORKS DEPARTMENT ROAD
AND BRIDGE DIVISION**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously: (1) approved Bid Award to Community Asphalt Corp. as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to bid;

(2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2009 through September 30, 2010 with the recommended bidder; and (3) authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of the County, as recommended in the memorandum of September 16, 2009.

8.O. APPROVAL OF BID AWARD FOR IRC BID NO. 2010003 ANNUAL BID FOR CORRUGATED STEEL AND ALUMINUM PIPE PUBLIC WORKS DEPARTMENT ROAD AND BRIDGE DIVISION

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously: (1) approved Bid Award to Contech Construction Products, Inc. as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2009 through September 30, 2010 with the recommended bidder; and (3) authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of the County, as recommended in the memorandum of September 15, 2009.

**8.R. APPROVAL OF BID AWARD FOR IRC BID NO. 2010009 ANNUAL BID FOR
CLEANING SERVICES UTILITIES OPERATIONS CENTER DEPARTMENT OF
UTILITY SERVICES**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously: (1) approved Bid Award to Cindi's Cleaning Service, Inc. as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2009 through September 30, 2010 with the recommended bidder; and (3) authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of the County, as recommended in the memorandum of September 16, 2009.

**8.S. PROCLAMATION AND RETIREMENT AWARD HONORING ELIZABETH G.
MARTIN ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF
COUNTY COMMISSIONERS RISK MANAGEMENT DIVISION WITH TWENTY
YEARS SERVICE**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously approved the Proclamation honoring Elizabeth G. Martin on her retirement from the Risk Management Division.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARING

10.A.1 MARK MONTGOMERY ET AL'S REQUEST FOR ABANDONMENT OF A PORTION OF 12TH PLACE SW BETWEEN US HIGHWAY 1 AND 1ST AVENUE SW (LEGISLATIVE)

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

Community Planning Director Stan Boling stated that this request is for a right-of-way abandonment that is located on the east side of US1, and used an aerial slide to show the details of the property.

Commissioner O'Bryan wanted to know what the applicant had proposed to put on the commercial site, and Director Boling acknowledged that staff expects a retail office or restaurant.

There was a brief discussion regarding buffering from US1 and the railroad tracks.

The Chairman opened the Public Hearing.

Bob Johnson, Coral Wind Subdivision, questioned why Mark Montgomery is not paying the County for the right-of-way.

Attorney Collins explained how the County acquires property, and why the County cannot recover the funds.

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

Commissioner Wheeler noted that there is a fee to process the abandonment.

ON MOTION by Commissioner Wheeler, SECONDED by Chairman Davis, the Board unanimously approved **Resolution 2009-158**, providing for the closing, abandonment, vacation and discontinuance of a segment of 12th Place SW between US Highway 1 and 1st Avenue SW, said land lying in Indian River County, Florida.

**10.A.2 CONSIDERATION OF ORDINANCE TO AMEND TITLE X, IMPACT FEES, OF
THE COUNTY CODE TO REVIEW APPENDIX A, IMPACT FEE RATE
SCHEDULE, AND TO EXTEND TEMPORARY SUSPENSION OF IMPACT FEES
(LEGISLATIVE)**

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

Community Development Director Bob Keating, reported that this Agenda Item would address two separate issues: (1) to amend the Impact Fee Schedule, making it consistent with the recent Impact Fee Update Report, and (2) to extend the temporary suspension of five impact fees for an additional six months. He recapped his Memorandum dated September 11, 2009, and noted that the only change from the August 18, 2009 Board of County Commission Meeting Staff Report was the revised Impact Fee Rate Schedule (copy on file) for banks without a drive-thru. He recommended the Board approve the above items in two separate motions.

Director Keating explained the three factors of the impact fee formula.

The Chairman opened the Public Hearing.

Nancy Offut, representing the Treasure Coast Builders Association, supported the amendment and suspension. She asked for an explanation on the differences in Administrative Fees.

Director Brown reported that the total administrative fee is 2.5%, with the Cities collecting 2% and the County collecting .5%.

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

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously adopted **Ordinance 2009-015**, 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 exception temporarily suspending for six months the imposition of Impact Fees for Emergency Services Facilities, Correctional Facilities, Public Buildings, Law Enforcement, and Solid Waste Facilities; and providing for codification; severability; and effective date.

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board, by a 4-1 vote (Commissioner Solari opposed) approved the temporary suspension of five impact fees from October 1, 2009 to March 31, 2010.

Commissioner Solari conveyed his reasons for opposing the temporary suspension. He believed impact fees were designed to pay for development, and should not be used to promote or delay development.

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. SPECTORSOFT CORPORATION'S REQUEST FOR A LOCAL JOBS GRANT

Director Keating recapped the memorandum dated September 15, 2009, and requested the Board approve the proposed Local Jobs Grant in the amount of \$208,000 to SpectorSoft Corporation. He reported that the Corporation had proposed to create 34 new jobs over the next few years and that it qualifies for the County's Local Job Grant Program. The money will be paid over a three-year period from the General Fund, and will start when the jobs are created.

Larry Thompson, on behalf of SpectorSoft Corporation, described SpectorSoft as a technology software development company that is excited about partnering with the County to help defray the cost to find, source, and/or bring in the talent and skills that will help his company grow.

Commissioner O'Bryan felt this to be a prime example of the companies and businesses County wants to attract. He talked about SpectorSoft's sales and their involvement with high school students.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved a local Jobs Grant of up to \$208,000 for Spector Soft Corporation; and authorized the Chairman to execute same after approval of the Agreement by County staff and the County Attorney's office, as recommended in the memorandum of September 15, 2009.

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

12.A.2. REQUEST FOR AUTHORIZATION TO ABATE A PUBLIC NUISANCE ON AN UNMAINTAINED GOLF COURSE WITHIN VISTA GARDENS MULTIFAMILY DEVELOPMENT (LANDOWNER: VISTA GOLF LLC; CODE ENFORCEMENT CASE No. 2009060086)

Chief DeBlois recapped his Memorandum of September 10, 2009, and displayed photographs of the Vista Golf, LLC property in Vista Gardens. He spoke about the overgrown grasses/weeds violation, gave a chronological background of the situation, and provided the Board with two alternatives -- to do nothing or to abate the nuisance by mowing (costs to be recorded against the property), and the Board chose the second alternative.

MOTION WAS MADE by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, to approve Alternative 2 – Proceed with directing staff (or County contractors) to enter onto the subject property and mow the overgrown weeds.

There was consensus from the Board that the grass be double-mowed, and left in a pristine condition.

The Chairman CALLED THE QUESTION. The Board unanimously approved Alternative 2, authorizing the County's employees, servants, agents, or contractors to enter upon the Vista Golf, LLC property within Vista Gardens at all reasonable times, and to take whatever action is necessary to abate the nuisance as described, with costs of the abatement to be recorded as a lien against the subject property, as recommended in the memorandum of September 10, 2009.

**12.A.3. CONSIDERATION OF REVIEW SCHEDULE AND PRELIMINARY STATEMENT
OF ISSUES FOR THE PROPOSED FPL ENERGY SECURE PIPELINE SITING
APPLICATION No. NG09-02**

Director Boling recapped his memorandum of September 11, 2009. He used an aerial map to identify the location and the minimal impacts of the natural gas pipeline project as

proposed by Florida Power and Light (FPL). To date, staff has reviewed FPL's application and coordinated with the Department of Environmental Protection (DEP), FPL, and other local agencies and provided sufficiency comments to DEP. Recently DEP issued a schedule for the pipeline review process, and based on that schedule, there are application review decisions that the Board needs to make. His presentation included the County's decision points, the preliminary statement of issues, and staff's recommendation.

Commissioner O'Bryan wanted to know if staff had received concerns from the community. Director Boling responded that a few property owners were concerned about the uncertainty of the corridor, and that site-by-site specifics would address further impacts.

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Flescher, to approve staff's recommendation to: (1) determine there is no need for a certification hearing or optional information meeting to be held in Indian River County; (2) concur with staff's draft preliminary statement of issues and recommended conditions of certification; and (3) set January 19, 2010 as the date the Board will consider a draft issues report on project impacts at its regular meeting.

Bob Johnson, Coral Wind Subdivision, felt FPL should consider putting a one-year moratorium on any potential increase in electric rates, as a condition of the County for the pipeline project.

Rene Renzi, Waverly Place, questioned whether this pipeline would increase the availability of natural gas for private residences.

Rachael Scott, Florida Power and Light Environmental Services Department, told Ms. Renzi that the project is intended to serve as their plant generation of electricity, and that it would not offer residential distribution.

Commissioner Solari supported this project, stating that it would bring another natural gas line down the State making FPL more competitive, that natural gas is cleaner than the City's alternative of coal; and that once this project is in place it would bring in about \$1,000,000 per year in taxes for the County.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously: (1) determined there was no need for a certification hearing or optional information meeting to be held in Indian River County; (2) concurred with staff's draft preliminary statement of issues and recommended conditions of certification; and (3) set January 19, 2010 as the date the Board will consider a draft issues report on project impacts at its regular meeting, as recommended in the memorandum of September 11, 2009.

The Chairman called a break at 12:04 p.m., and reconvened the meeting at 12:35 p.m., with all members present.

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES - NONE

12.D. HUMAN RESOURCES

12.D.1. DISCUSSION – COUNTY ATTORNEY RECRUITMENT PROCESS

Director of Human Resources James Sexton, discussed the recruitment and hiring process for the County Attorney position. He referenced pages 296 – 301 of the back up for recommended documents that the Board could consider for the hiring process.

Director Sexton informed the Board that when he composed the documents in the backup, he used the verbiage from several postings of agencies that were recruiting for County Attorneys or Assistant County Attorneys. He said he had also pulled information from the document which Attorney Collins had provided at the September 15, 2009 Board of County Commission meeting.

A lengthy discussion ensued regarding a recruiting/hiring timeline, using a compensation package range, drawing on the resources of another County's application package, the applicant possessing experience under Florida law and strong management skills, and whether a contract or severance package should be offered.

Director Sexton mentioned that without a contract, it would need to be made perfectly clear that the new attorney would be coming on board "at will" of the commission, and without property rights. He pointed out that if the Board wants to offer a Compensation package that

would include dependent coverage, deferred compensation, and/or long term disability, a contract might be considered when outlining the benefits.

Fred Mensing, 7580 129th Street, Sebastian, suggested the Board not be able to fire either the Attorney or Administrator without a super majority (4-5 vote).

Reactions varied but the majority of the Commissioners supported Mr. Mensing's suggestion.

Attorney Collins pointed out that under the Florida Retirement System, County Administrators can have multi-year contracts, and County Attorneys can only have annual contracts.

After discussion, the Board directed staff to use the total compensation package range of \$125,000 to \$175,000, and bring this back to the October 6, 2009 Board of County Commission Meeting, before posting the position.

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. ROADWAY IMPROVEMENTS FOR 20TH AVENUE (FROM 25TH STREET S.W. TO 21ST STREET S.W.) IRC PROJECT No. 0541

Assistant Public Works Director Christopher Mora updated the Board on the current paving, widening, and drainage improvements to 20th Avenue, the half-mile segment between 25th Street S.W. and 21st Street S.W. He used an aerial slide to show the Board a portion of 20th Avenue that was not included in the previously approved project. He recommended the Board approve the 20th Avenue Roadway Improvement Project, and to direct staff to move ahead for advertising construction bids.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously directed staff to proceed with the bidding process for the 20th Avenue (25th Street SW to 21st Street SW) construction project, as recommended in the memorandum of September 11, 2009.

**12.I.2. WORK ORDER #7, COASTAL TECHNOLOGY CORPORATION INC.,
ADDITIONAL UPLAND SAND PERMITTING SERVICES**

(Clerk's Note: This Item was heard following Item 12.I.3., and is placed here for continuity. The Chairman passed the gavel to Vice Chairman Flescher, who assumed the Chairman position, due to a declared voting conflict - Form 8B, Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers is on file.)

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Solari, to approve Work Order No. 7 to the Agreement with Coastal Technology Corporation, Inc. (CTC).

Commissioner O'Bryan stressed the urgency of this project to Mr. Walther, President of Coastal Technology Corporation, Inc. (CTC).

Director Mora announced that this was to be an additional Work Order to Coastal Technology Corporation, Inc. (CTC) to include Stormwater and Underground, LLC (SUI), aka the Brian Davis mine, in the application as an alternate source. He said staff had requested a cost estimate from Coastal Technology to include the additional source at the time when they thought there was a chance that the SUI mine could be used.

Michael Walther, President of Coastal Technology Corporation, Inc. (CTC), acknowledged the high priority of the project and divulged that CTC is presently and actively working on it. He revealed that CTC had already gone through the initial pass on the design alternatives, using the sand mine sources as proposed by Ranger Construction Industries, Inc.

Attorney Collins reported that the proposal submitted by Ranger Construction did not include the SUI sand mine as a source.

Following a brief discussion regarding the addition of another sand source, and the cost of additional fees (\$21,030) to add this source to the permit modification, Commissioner

O'Bryan announced that he thought Work Order No. 7 was for the permit modification for the Ranger Construction bid.

Jonathan Gorham, Ph.D., Coastal Resource Manager, announced that the Work Order was prepared as a contingency, in case the Board wanted to include SUI as a source. He felt it would entail extra work to prepare a permit modification, but that it should not significantly delay the date at which the modification would arrive at Tallahassee.

Mr. Walther felt that adding the SUI mine to the DEP permit modification might delay the process up to, but not more than one week.

Commissioner Wheeler withdrew his motion.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Commissioner O'Bryan, to NOT fund
Work Order No. 7.

Brian Davis reminded the Board that the County is still in the middle of hurricane season, and should the County need more sand to complete the project on time, they might want to reconsider.

The Vice Chairman CALLED THE QUESTION and the Motion carried. The Board by a 4-0 vote (Chairman Davis recused himself), denied approval of Work Order No. 7 to the Agreement with CTC.

(Clerk's Note: Vice Chairman Flescher returned the gavel to Chairman Davis.)

12.I.3. BID PROTEST – SECTOR 3 BEACH AND DUNE RESTORATION PROJECT

(Clerk's Note: This Item was heard prior to Item 12.I. 2. and placed here for continuity. The Chairman passed the gavel to Vice Chairman Flescher, who assumed the Chairman position, due to a declared voting conflict - Form 8B, Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers, is on file in the Office of the Clerk to the Board.)

Attorney Collins provided the Board with opening remarks, background information, and guidance on the bid protest from Stormwater and Underground, LLC (SUI), aka the Brian Davis Mine.

Due to the Quasi Judicial nature of this item, the Deputy Clerk swore in all persons intending to speak.

Director Mora updated the Board on the chronological order of events that led up to the bid protest (bid protest binder on file), and recommended the Board: (1) review the decision of

the County Purchasing Manager, (2) hear the bid protest from SUI, and (3) make the decision to uphold or deny the bid protest.

Kurt Thalwitzer, Esquire, Mateer & Harbert P.A., representing SUI, summarized the protest facts of SUI, regarding the Sector 3 Beach and Dune Restoration Project, as he viewed them through: (1) the examination of the Invitations to Bid; (2) the September 8, 2009 Board of County Commission meeting video; and (3) bid packages. He highlighted issues of fill, permits, traffic and equipment, and provided the Board with a “Bid Protest” binder (copy on file). Attorney Thalwitzer asked the following individuals to speak:

Kaylene Wheeler, owner of B&S Control Solutions, an Environmental Consulting Company, confirmed that the SUI permits are all in compliance, and that Mr. Davis never received a non-compliance letter from the State. She also highlighted portions of an e-mail letter that was sent to Mr. Davis from Leslie Church, a PE Hydrologist.

Brad Faucett, Regional Engineer with Universal Engineering Sciences, Inc., gave the details and conclusions of the geotechnical work he had performed for Mr. Davis in support of the Sector 3 Beach Restoration Project. He explained the testing process for boring samples, and was confident that the sand sample results were consistent and accurate to the project specifications.

Michael Walther, President of Coastal Technology and Engineer of Record for the Sector 3 Beach Restoration Project, acknowledged Attorney Thalwitzer’s accounts of what had been said in the September 8, 2009 Board of County Commission meeting to be a “fair characterization.”

A brief question and answer period ensued regarding the sand boring samples tested, the definition of “best sand”, and the “fluff” factor.

Charles Rowan, Rowan Construction, spoke about his experience with dredging mines, construction, equipment, and sand boring samples.

Donald Dansby emphasized that truck drivers usually take the fastest, shortest and easiest route to get to their destinations, and felt it would be the same situation with Ranger’s trucks when transporting the sand. He also believed the SUI mine had the best sand per the County’s consultant evaluation.

Brian Davis, owner of the SUI mine, calculated the different routes which the transport trucks could/would use, and the total mileage for each. He did not understand the logic for awarding Ranger Construction the bid award when their travel routes would add an additional 520,104 additional miles of truck traffic to the local roads.

The Vice Chairman called a break at 2:28 p.m., and reconvened the meeting at 2:37 p.m., with all members present.

Attorney Thalwitzer listed the reasons why he believed the competitive bid process was violated, and asked the Board to reconsider their decision and award the contract to SUI.

Ed Lombard, Esquire, Vezina, Lawrence, and Piscitelli, P.A., on behalf of Ranger Construction Industries, Inc., outlined the competitive bid process, the burden/standard that SUI is required to meet, and why it has not been met. He said that after watching the video of the September 8, 2009 Board of County Commission meeting, he found the Board to be “engaged,” that everything the Commissioners considered was rational and logical, and not abusing their discretion. Attorney Lombard stressed that the Board had made its decision based on the information it had at the time the bids were submitted, and that in bid protest proceedings, the bid cannot be changed after the fact. He said the Courts would not step in and overturn the Board’s decision as long as the Commissioners did not abuse their discretion, acted honestly, and did not act arbitrarily in making their decision. He asked the Board to uphold their decision, and move forward with the project award to Ranger Construction Industries, Inc.

Vice Chairman Flescher opened the floor for public comments.

Sumner Sharman, Sebastian, felt the Board should reject both bids, and voiced concern over the sand being hauled from south to north County via A1A and the bridges.

Bill Glenn, 1802 E. Barefoot Place, Vero Beach, said he travels over the bridge every day without delay. He voiced concern over the urgency of the project, the quality of the grains, and the availability of the sand. He asked the Board to support their earlier decision to Ranger Construction.

Fred Mensing, thanked the Board for keeping the money in the County.

Discussion ensued regarding the permitting status, sand boring sampling, and adding aggregate to the sand to bring up the coarse grain size.

Steve Smith, owner of the Ranch Road Lakes SandMine, informed the Board that he did not hand mix or supply a bag of sand for the sampling, the engineers pulled their own.

Mr. Davis stated that his samples were pulled from their existing stock pile.

Chuck Cramer, 10729 US 1, Sebastian, reported that his people pulled their own core samples for testing.

Nick Stewart, Stewart Mining, informed the Board that his company has their own geologists, and that they pulled samples from cross-sections, then had it re-verified by another geologist.

There was a brief discussion pertaining to bore samplings and mining code violations.

Chuck Cramer, defined “sand sample,” “boring,” and “submitted samples.”

Kaylene Wheeler testified that a modification to the St. Johns River Water Management permit was not needed at this time.

Mr. Davis drew attention to the e-mail from Leslie Church (St. Johns River Water Management District), dated Friday, September 18, 2009 at 5:15 p.m. (copy on file) regarding the larger hydraulic dredge pump, justified that his company has enough allocation to run the pump from now through April 12th and emphasized that there was no issue to modify the permit.

Attorney Thalwitzer provided his closing remarks and the reasons why he believed SUI to be the lowest, most responsible, and responsive bidder. He asked the Board to reconsider their decision and award the bid to SUI.

Mr. Rowan provided the specifics and rate of the hydraulic dredge pump. He also spoke about the dredging process, the stockpile of fill, and sand grain sizes.

Vice Chairman Flescher closed the floor to public comments.

Attorney Collins summarized the general statutory rule on competitive bidding. He did not believe the Courts would hold the Board to a literal lowest dollar bidder requirement, that they would allow the Board to consider other factors which include the facilities for carrying out the contract, the previous conduct under other contracts, and the quality of their previous work. He said the rule allows the Board the discretion to not take the low bidder when there are reasons not to, and he told the Board that they have the discretion to approve the appeal and award to the low bidder, or reject the appeal. His advice was to avoid any appearance of arbitrarily rejecting the low bidder, or to reject the appeal.

Commissioner O'Bryan reiterated that SUI was not staff's recommended low bidder for the project, and that staff also recommended that if timing was a priority, to award the bid to the

offshore dredging company. He recalled the Board made a motion and voted to proceed with none of staff's alternatives; instead, the Board had made the decision to move the project forward to be completed this year, and to use an upland sand source. Commissioner O'Bryan summarized the history of the SUI mine and commented on their code enforcement violations. He supported his original decision of awarding the bid to Ranger Construction.

Vice Chairman Flescher clarified to the public that Commissioner Wheeler was not related to the speaker, Kaylene Wheeler.

MOTION WAS MADE by Commissioner O'Bryan,
SECONDED by Commissioner Solari, to deny the appeal
by Stormwater and Underground, LLC (SUI).

The Commissioners provided their comments and articulated their reasons for why they would continue to uphold their original decisions from the September 8, 2009 Board of County Commission Meeting (awarding the bid for the Sector 3 Beach and Restoration Project to Ranger Construction Industries, Inc.).

The Vice Chairman CALLED THE QUESTION, and by a 4-0 vote (Chairman Davis recused himself), the Motion carried. The Board denied the appeal by Stormwater and Underground, LLC (SUI).

(Clerk's Note: Form 8B, Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers is on file.)

Vice Chairman Flescher called a break at 4:15 p.m., and reconvened the meeting at 4:23 p.m., with all members present.

12.J. UTILITIES SERVICES

12.J.1. SPOONBILL MARSH WETLAND FACILITY – UCP 2785 CHANGE ORDER NO. 3 FOR TIM ROSE CONTRACTING, INC.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board unanimously approved Change Order No. 3 to Tim Rose Contracting, Inc., in the amount of \$23,916.65; and authorized the Chairman to execute same, as recommended in the memorandum of September 8, 2009.

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

12.J.2. 16" BRINE FORCE MAIN, BENT PINE TO SPOONBILL MARSH AND 12" REUSE WATER MAIN LATERAL "G" TO U.S. HIGHWAY 1 B&B UNDERGROUND CONTRACTORS, INC., FINAL PAYMENT AND RELEASE OF RETAINAGE – UCP 2785

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Davis, the Board unanimously approved Final Payment Application to B&B Underground Contractors, Inc., in the amount of \$401,738, as recommended in the memorandum of September 8, 2009.

12.J.3. WABASSO BEACH PARK LIFT STATION WET WELL DROP, APPROVAL OF WORK AUTHORIZATION DIRECTIVE NO. 2009-004 BY SHELTRA & SONS CONSTRUCTION Co., INC. UCP No. 3053

ON MOTION by Commissioner Solari, SECONDED by Vice Chairman Flescher, the Board unanimously approved the project at a total estimated cost of \$1,240.32; and authorized the Chairman to execute Work Authorization Directive No. 2009-004 to the Utilities Department Labor Contractor, Sheltra & Sons Construction Co., Inc., for \$1,049.47, as recommended in the memorandum of September 11, 2009.

WORK AUTHORIZATION DIRECTIVE 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, VICE CHAIRMAN -
NONE**

14.C. COMMISSIONER GARY C. WHEELER - NONE

14.D. COMMISSIONER PETER D. O'BRYAN

14.D.1. RESOLUTION OF SUPPORT

Commissioner O'Bryan recalled that several months ago, the Board had voted unanimously to bring a Tax Abatement Program to a Referendum for the County, but due to the cost of the election, they voted to bring it to the November 2010 ballot. Since that time, the City of Sebastian added to their City Election ballot a Tax Abatement Program that will be forthcoming on the November 2009 ballot. Since the Board had already voted to move forward with the Countywide Tax Abatement Program, he hoped the Board would consider approving the Resolution of Support for the City, moving their Tax Abatement Initiative forward, and offer help, advise, or support on an individual basis.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, the Board unanimously approved a Resolution of Support for the City of Sebastian's Tax Abatement Initiative, and directed staff to prepare and bring the Resolution of Support to a future

Board of County Commission meeting for final approval,
as requested in the memorandum of September 16, 2009.

14.E. COMMISSIONER BOB SOLARI - NONE

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. APPROVAL OF MINUTES MEETING OF JULY 21, 2009

15.A.2. FUTURE USE FOR FORMER FIRE-RESCUE STATION 9 (SEBASTIAN)

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. REQUEST TO INCLUDE THE FORMER SOUTH GIFFORD ROAD LANDFILL
SITE INTO THE BROWNFIELD GRANT APPLICATION BY THE TREASURE
COAST REGIONAL PLANNING COUNCIL**

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
4:37 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Wesley S. Davis, Chairman

Minutes Approved: _____

BCC/LAA/2009Minutes