

JEFFREY K. BARTON  
Clerk to the Board



INDEX TO MINUTES OF REGULAR MEETING  
OF BOARD OF COUNTY COMMISSIONERS  
OF NOVEMBER 10, 2009

1.	CALL TO ORDER.....	1
2.	INVOCATION.....	1
3.	PLEDGE OF ALLEGIANCE.....	1
4.	ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS - NONE.....	2
5.	PROCLAMATIONS AND PRESENTATIONS.....	2
5.A.	PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 11, 2009 AS VETERANS DAY.....	2
5.B.	PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 15, 2009 AS AMERICA RECYCLES DAY.....	2
5.C.	PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 15 <sup>TH</sup> THRU NOVEMBER 21, 2009 AS NATIONAL HUNGER AND HOMELESSNESS AWARENESS WEEK.....	2
6.	APPROVAL OF MINUTES - NONE.....	2

7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION.....	3
7.A.	RESIGNATION AND APPOINTMENT TO UTILITY ADVISORY COMMITTEE .....	3
7.B.	SURVEY SERVICES: PURCHASE ORDERS PROCESSED AUGUST 11, 2009 THROUGH NOVEMBER 3, 2009 (MEMO NO. 3).....	3
8.	CONSENT AGENDA .....	3
8.A.	APPROVAL OF WARRANTS AND WIRES OCTOBER 23, 2009 TO OCTOBER 29, 2009.....	3
8.B.	318.18(13) FLORIDA STATUTES ASSESSMENT OF ADDITIONAL COURT COSTS QUARTERLY SUMMARY.....	4
8.C.	RESOLUTION CANCELLING TAXES ON PROPERTY ACQUIRED FOR 43 <sup>RD</sup> AVENUE RIGHT-OF-WAY FROM DONALD F. MEEKS AND JANE W. MEEKS .....	4
8.D.	PROCLAMATION AND RETIREMENT AWARD HONORING JENNIE HADSELL ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS AND SANDRIDGE GOLF CLUB .....	5
8.E.	PROCLAMATION AND RETIREMENT AWARD HONORING LEA R. KELLER ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS EFFECTIVE SEPTEMBER 30, 2009 .....	5
8.F.	AUTHORIZATION TO ATTEND GFOA ANNUAL CONFERENCE .....	5
8.G.	AGREEMENT WITH IRC/POINTE WEST/PYROTECNICO FOR FIREWORKS.....	6
8.H.	RIGHT-OF-WAY ACQUISITION, LAWRENCE E. AND CORINE H. TRAPP, 5755 58 <sup>TH</sup> AVENUE, VERO BEACH .....	6
8.I.	FINAL PAY AND RELEASE OF RETAINAGE TO H&D CONSTRUCTION CO., INC. FOR SR60 PHASE 3 IMPROVEMENTS, BID No. 2009027 – UCP#3098 .....	7
8.J.	AMBERSAND BEACH NOURISHMENT – SECTORS 1 AND 2 FDEP GRANT AGREEMENT NO. 07IR3 – AMENDMENT NO. 2.....	7
8.K.	ACCEPTANCE OF PERMANENT EASEMENT FOR DRAINAGE.....	8
8.L.	VERO LAGO PHASES 2, 3 AND 5 CONSENTS TO ASSIGNMENT OF SIDEWALK CONTRACTS BY SUCCESSOR DEVELOPER, CORONA VERO LAGO LLC, A DELAWARE LIMITED LIABILITY COMPANY.....	8
9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES .....	9

9.A.	JEFFREY K. BARTON, INDIAN RIVER COUNTY CLERK OF CIRCUIT CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009 .....	9
9.B.	CAROLE JEAN JORDAN, INDIAN RIVER COUNTY TAX COLLECTOR CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009 .....	9
9.C.	DAVID C. NOLTE, INDIAN RIVER COUNTY PROPERTY APPRAISER CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009 .....	10
9.D.	KAY CLEM, INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009 .....	10
9.E.	DERYL LOAR, INDIAN RIVER COUNTY SHERIFF CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009.....	11
10.	PUBLIC ITEMS.....	11
10.A.	PUBLIC HEARING.....	11
10.B.	PUBLIC DISCUSSION ITEMS.....	16
10.C.	PUBLIC NOTICE ITEMS .....	17
11.	COUNTY ADMINISTRATOR’S MATTERS - NONE.....	17
12.	DEPARTMENTAL MATTERS .....	17
12.A.	COMMUNITY DEVELOPMENT - NONE.....	17
12.A.1.	REQUEST FOR BOARD AUTHORIZATION FOR STAFF TO UNDERTAKE A COUNTY INITIATED REZONING TO CHANGE ALL IG PROPERTY IN GIFFORD TO IL.....	17
12.B.	EMERGENCY SERVICES - NONE.....	21
12.C.	GENERAL SERVICES - NONE .....	21
12.D.	HUMAN RESOURCES - NONE.....	22
12.E.	HUMAN SERVICES - NONE .....	22
12.F.	LEISURE SERVICES - NONE.....	22
12.G.	OFFICE OF MANAGEMENT AND BUDGET - NONE.....	22
12.H.	RECREATION - NONE.....	22
12.I.	PUBLIC WORKS.....	22
12.I.1.	STAFF UPDATE – SECTOR 3 BEACH RENOURISHMENT PROJECT.....	22
12.J.	UTILITIES SERVICES.....	23

12.J.1.	CONSULTING ENGINEERING SERVICES WORK ORDER NO. 9 WITH SCHULKE, BITTLE & STODDARD, L.L.C. FOR A MASTER PLAN 12” WATER MAIN EXTENSION ALONG 53 <sup>RD</sup> ST. FROM LATERAL “H” CANAL TO INDIAN RIVER BLVD AND ALONG OLD DIXIE HWY. NORTH AND SOUTH OF 53 <sup>RD</sup> ST. – UCP-4035 .....	23
13.	COUNTY ATTORNEY MATTERS.....	24
13.A.	PROPOSED LETTER " NOTICE OF INTENT TO AWARD" SECTOR 3 BEACH AND DUNE RESTORATION PROJECT .....	24
14.	COMMISSIONER ITEMS.....	25
14.A.	COMMISSIONER WESLEY S. DAVIS, CHAIRMAN - NONE .....	25
14.B.	COMMISSIONER JOSEPH E. FLESCHER - NONE.....	25
14.C.	COMMISSIONER GARY C. WHEELER - NONE .....	25
14.D.	COMMISSIONER PETER D. O’BRYAN - NONE .....	25
14.E.	COMMISSIONER BOB SOLARI - NONE .....	25
15.	SPECIAL DISTRICTS AND BOARDS .....	25
15.A.	EMERGENCY SERVICES DISTRICT - NONE.....	25
15.B.	SOLID WASTE DISPOSAL DISTRICT - NONE .....	25
15.C.	ENVIRONMENTAL CONTROL BOARD - NONE.....	25
16.	ADJOURNMENT.....	26

**JEFFREY K. BARTON**

Clerk to the Board



**November 10, 2009**

**REGULAR MEETING OF THE BOARD OF COUNTY  
COMMISSIONERS**

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, November 10, 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**

Reverend Derrick West, First Baptist Church, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Administrator Baird led the Pledge of Allegiance to the Flag.

**4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS -  
NONE**

ON MOTION by Commissioner O'Bryan, SECONDED  
by Vice Chairman Flescher, the Board unanimously  
approved the Agenda as presented.

**5. PROCLAMATIONS AND PRESENTATIONS**

**5.A. PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 11, 2009 AS VETERANS  
DAY**

Commissioner O'Bryan read the Proclamation into the record.

**5.B. PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 15, 2009 AS AMERICA  
RECYCLES DAY**

Vice Chairman Flescher read and presented the Proclamation to the Solid Waste Disposal  
District staff.

**5.C. PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 15<sup>TH</sup> THRU NOVEMBER  
21, 2009 AS NATIONAL HUNGER AND HOMELESSNESS AWARENESS WEEK**

Commissioner Solari read and presented the Proclamation to Tracy Carroll and Roger  
Sobkowiak, who accepted on behalf of the Homeless Family Center. He thanked the Board and  
provided their website [www.homelessfamilycenter.org](http://www.homelessfamilycenter.org).

**6. APPROVAL OF MINUTES - NONE**

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

**7.A. RESIGNATION AND APPOINTMENT TO UTILITY ADVISORY COMMITTEE**

Commissioner O'Bryan appointed Charles W. Jenkins as the District 4 Appointee to the Utility Advisory Committee. Mr. Jenkins replaces Robert W. Pickett, who resigned on October 29, 2009.

**7.B. SURVEY SERVICES: PURCHASE ORDERS PROCESSED AUGUST 11, 2009 THROUGH NOVEMBER 3, 2009 (MEMO NO. 3)**

Noted for the record were the Purchase Orders processed for survey requests to consulting firms for \$15,000.00 or less:

- (1) Trans Florida Greenway, DEP Grant Application
- (2) 43<sup>rd</sup> Avenue Improvement Project (8<sup>th</sup> St. to 18<sup>th</sup> St. – ROW Acquisitions)
- (3) Oslo Roadway Improvements Project – Phase 3. 43<sup>rd</sup> Avenue to 58<sup>th</sup> Avenue
- (4) 66<sup>th</sup> Avenue Roadway Improvement Project – 57<sup>th</sup> Street to Barber Street (Kimley-Horn).

**8. CONSENT AGENDA**

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

**8.A. APPROVAL OF WARRANTS AND WIRES OCTOBER 23, 2009 TO OCTOBER 29, 2009**

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

**8.B. 318.18(13) FLORIDA STATUTES ASSESSMENT OF ADDITIONAL COURT COSTS  
QUARTERLY SUMMARY**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously accepted the Assessment of Additional Court Costs Quarterly Summary, as requested in the memorandum of November 2, 2009.

**8.C. RESOLUTION CANCELLING TAXES ON PROPERTY ACQUIRED FOR 43<sup>RD</sup> AVENUE  
RIGHT-OF-WAY FROM DONALD F. MEEKS AND JANE W. MEEKS**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved **Resolution 2009-170**, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (*43<sup>rd</sup> Avenue - Donald F. Meeks and Jane W. Meeks*)



**8.D. PROCLAMATION AND RETIREMENT AWARD HONORING JENNIE HADSELL ON HER  
RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS AND  
SANDRIDGE GOLF CLUB**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved the Proclamation and Retirement Award honoring Jennie Hadsell on her retirement from the Indian River County Board of County Commissioners and Sandridge Golf Club.

**8.E. PROCLAMATION AND RETIREMENT AWARD HONORING LEA R. KELLER ON HER  
RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS  
EFFECTIVE SEPTEMBER 30, 2009**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved the Proclamation and Retirement Award honoring Lea R. Keller on her Retirement from Indian River County Board of County Commissioners, effective September 30, 2009.

**8.F. AUTHORIZATION TO ATTEND GFOA ANNUAL CONFERENCE**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved out of town travel for County Administrator Joe Baird to attend the 104<sup>th</sup> Government Finance Officer's Association (GFOA) Annual Conference and Pre-

Conference Seminars in Atlanta, Georgia, from June 4, 2010 through June 9<sup>th</sup>, 2010, as recommended in the memorandum of November 3, 2009.

**8.G. AGREEMENT WITH IRC/POINTE WEST/PYROTECNICO FOR FIREWORKS**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved the Contract with Pyrotecnico of Florida, LLC, and Point West of Vero Beach for a fireworks display, and authorized the County Administrator or his designee to execute same, along with Pointe West as co-sponsor, as recommended in the memorandum of October 20, 2009.

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

**8.H. RIGHT-OF-WAY ACQUISITION, LAWRENCE E. AND CORINE H. TRAPP, 5755 58<sup>TH</sup> AVENUE, VERO BEACH**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved Alternative No. 1, to purchase required right-of-way from Lawrence E. and Corine H. Trapp, for a purchase price of \$1,980.00, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of October 21, 2009.

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

**8.I. FINAL PAY AND RELEASE OF RETAINAGE TO H&D CONSTRUCTION CO., INC. FOR  
SR60 PHASE 3 IMPROVEMENTS, BID NO. 2009027 – UCP#3098**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved the total amount of \$1,023,746.24 for construction, and Pay Request No. 5 Final for \$76,386.06 to H&D Construction Co., as recommended in the memorandum of October 13, 2009.

**8.J. AMBERSAND BEACH NOURISHMENT – SECTORS 1 AND 2 FDEP GRANT AGREEMENT  
No. 07IR3 – AMENDMENT No. 2**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved Amendment No. 2 to FDEP Ambersand Beach Nourishment Project Agreement No. 07IR3, and authorized the Chairman to execute same. Local funding of beach restoration includes a portion of Local Option Tourist Tax Revenue as well as allocation of the One-Cent Sales Tax. The additional \$278,104 local match requirement under Grant Amendment No. 2 is available and budgeted in the Beach Restoration Fund, as recommended in the memorandum of November 2, 2009.

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

**8.K. ACCEPTANCE OF PERMANENT EASEMENT FOR DRAINAGE**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously accepted the Perpetual Drainage Easement from Robert Hamilton, and authorized the Chairman to execute same, as recommended in the memorandum of November 2, 2009. (*Property is adjacent the Realtors Association building at U.S. 1 and Quay Dock Road*).

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

**8.L. VERO LAGO PHASES 2, 3 AND 5 CONSENTS TO ASSIGNMENT OF SIDEWALK CONTRACTS BY SUCCESSOR DEVELOPER, CORONA VERO LAGO LLC, A DELAWARE LIMITED LIABILITY COMPANY**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved the Consent to Assignment of Contract for Construction of Required Sidewalk Improvements for Vero Lago Phases 2, 3, and 5, and authorized the Chairman to execute same, as recommended in the memorandum of November 2, 2009. (*Original developer was Centex Homes*)

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

## **9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

### **9.A. JEFFREY K. BARTON, INDIAN RIVER COUNTY CLERK OF CIRCUIT COURT CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009**

Chief Deputy Clerk Jeff Smith, on behalf of County Clerk of Court Jeffrey Barton, informed the Board of the significant shift in court operations: the change from County to the State, the fiscal year change from September 30<sup>th</sup> to June 30<sup>th</sup>, and the fact that this has created two sets of books. He reported that the fund balance of \$108,520 is due to the State for the period of July through September for court operations, and that there would be no remaining funds to return to the County. He revealed that 18 positions were eliminated and that the obligation to pay unemployment benefits remained.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously accepted the Financial Report of the Indian River County Clerk of the Circuit Court for fiscal year 2008-2009, as submitted under cover of letter dated October 27, 2009.

### **9.B. CAROLE JEAN JORDAN, INDIAN RIVER COUNTY TAX COLLECTOR CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009**

County Tax Collector Carole Jean Jordan introduced her staff, spoke about the recent transitions and changes in her Department, and informed the Board that the Tax Collector Office would be returning to the County \$3,423,461 in unexpended funds. At the request of Chairman Davis, she updated the Board on the status of the new Drivers License Program.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Solari, the Board unanimously accepted the Financial Report of the Indian River County Tax Collector for fiscal year 2008-2009, returning unexpended funds in the amount of \$3,423,461, as submitted under cover of letter dated October 28, 2009.

**9.C. DAVID C. NOLTE, INDIAN RIVER COUNTY PROPERTY APPRAISER  
CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009**

ON MOTION by Commissioner Wheeler, SECONDED by Chairman Davis, the Board unanimously accepted the Financial Report of the Indian River County Property Appraiser for fiscal year 2008-2009 as submitted under cover of letter dated October 28, 2009.

**9.D. KAY CLEM, INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS  
CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously accepted the Financial Report of the Indian River County Supervisor of Elections for fiscal year 2008-2009, returning funds in the amount of \$1,683.99 as submitted under cover of letter dated October 30, 2009.

**9.E. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF**  
**CONSTITUTIONAL OFFICER FINANCIAL REPORT FOR FISCAL YEAR 2008-2009**

Sheriff Deryl Loar provided an overview of his budget, the money his Department saved throughout the year, attrition rates, the money received from state and federal grants, and what he intends to include in his Five-Year Plan. He thereafter presented a check to the County in the amount of \$264,192.01.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously accepted the Financial Report of the Indian River County Sheriff's Office for fiscal year 2008-2009, returned funds in the amount of \$264,192.01, as submitted under cover of letter dated October 28, 2009.

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARING**

**10.A.1. CONSIDERATION OF AN ORDINANCE EXTENDING THE PD**  
**(PLANNED DEVELOPMENT) ZONING REVERTER DEADLINES FOR THE**  
**LIBERTY PARK, MANDALA CLUB, TURTLE CREEK PRESERVE, AND**  
**SUNNYSIDE UP DEVELOPMENTS (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 recapped his memorandum of October 27, 2009. He provided background and an explanation of how this Ordinance would affect the Planned Development (PD) projects. He pointed out the details of extending the PD reverter

deadlines attached to the four projects, and disclosed that the Ordinance would extend the deadlines as follows: **Liberty Park PD** – October 14, 2018; **Mandala Club PD** – May 17, 2011; **Turtle Creek Preserve PD** – April 4, 2014; and **Sunnyside Up PD** – January 20, 2022.

The Chairman opened the Public Hearing.

**Carolyn Corum**, Dolores Street, Sebastian, thought each PD project should be voted on separately since one of the projects would bring approximately 990 homes into the County, creating a negative effect on the economy. She encouraged the Board to consider industrial development within the County to improve the economy.

**Joe Paladin**, President of Black Swan Consulting, felt the quality of the Liberty Park project was excellent, but questioned the timing. He did not feel the project should be singled out.

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

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously adopted **Ordinance 2009-020**, extending the deadline by three years for planned developments to commence construction or have their zoning reverted to the site's original (pre-planned development approval) zoning; and providing for effective date.



**10.A.2. VICTOR MUNOZ'S REQUEST FOR ABANDONMENT OF A  
PORTION OF 59<sup>TH</sup> AVENUE LYING NORTH OF 24<sup>TH</sup> STREET (LEGISLATIVE)**

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

Director Boling outlined his memorandum dated October 23, 2009, presenting Victor Munoz's request to abandon the segment of 59<sup>th</sup> Avenue, north of 24<sup>th</sup> Street. He said the 59<sup>th</sup> Avenue right-of-way was created by Rivera Estates subdivision in 1979, and that it was platted as a stub-out to an adjacent property. Currently the right-of-way is unimproved and stubs out to a vacant property that is approved for development as Sunnyside Up. He thereafter responded to Commissioner O'Bryan's questions and concerns pertaining to Sunnyside Up's vehicular and pedestrian connectivity.

The Chairman opened the Public Hearing. There being no speakers, the Chairman closed the Public Hearing.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Commissioner O'Bryan, to deny staff's  
recommendation to abandon the right-of-way.

Commissioner Wheeler voiced his concerns regarding interconnectivity, and believed this abandonment to be premature due to the current economy and decline in building. He wanted the subject right-of way to remain for future connectivity.

Discussion ensued regarding the applicant reapplying at a later date, and the possibly of waiving the application fee.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board DENIED staff's recommendation to abandon the right-of-way segment of 59<sup>th</sup> Avenue lying north of 24<sup>th</sup> Street.

**10.A.3. COUNTY INITIATED REQUEST TO AMEND THE CAPITAL IMPROVEMENTS ELEMENT OF THE COMPREHENSIVE PLAN (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 summarized the memorandum of November 2, 2009. Through a PowerPoint presentation (copy on file), he provided: (1) background on the Comprehensive Plan; (2) the purpose for the Comprehensive Plan Text Amendment; (3) the Capital Improvements Element (CIE) preparation; (4) the projected revenue sources for the Five Year Capital Improvements Program (CIP) period; (5) the Transportation Capital Improvements Program (CIP); and (6) the Concurrency Links Report for priority Transportation projects. He conveyed that since the County has less revenue to work with in the next five years, compared to the past five years, that some projects are proposed to be deferred, extended, modified or deleted from the Comprehensive Plan. He acknowledged that the County's level of service standards, even with the reduced level of capital improvements, would be met, and that the CIE, as presented, is financially feasible and internally consistent with the other elements in the Comprehensive Plan. He recommended the Board approve this Amendment to the Capital Improvements Element by adopting the proposed Ordinance.

A series of questions was asked pertaining to: the status of the bridges over Lateral A Canal, revenue attributed to Grants, using District revenues for Fire Station 14, adding an additional Courtroom at the Courthouse, and an additional hangar for the Sheriff's Office.

Chairman Davis asked staff to send a letter to the Districts informing them of the sales tax for Emergency Services.

Commissioner Wheeler thought the Board should consider purchasing property in the vicinity of the Courthouse for future expansion, now that the economy is down. He felt the new hangar should be built at the Sheriff's Complex, not on City property, because in the future it reverts back to the City.

Staff responded to Commissioner Solari's inquiries regarding the commitment of the six-cent sales tax for the five-year plan; when the State would start making the quarterly payments for the 66<sup>th</sup> Avenue and 82<sup>nd</sup> Avenue segment; building future greenway systems that would enhance communities; and the lack of operating/replacement costs for rolling stock in the Budget (for Emergency Services). Thereafter, he mentioned on the level of service that the recycling was increased by 16% and that the garbage was reduced by 12%. He said if we could have more years of increased recycling, which would decrease the garbage pickup, then the level of service of 2.2 tons per capita could be reduced, which should be a goal of the Solid Waste Project. He also felt that if we could push water usage down in the household then the capital portion of the plan decreases significantly.

Commissioner Wheeler thought it would be good if the building codes could be reviewed regarding the amount of water wasted due to hot water tanks being installed at the opposite end of the building's bathroom.

The Chairman opened the Public Hearing. There being no speakers, the Chairman closed the Public Hearing.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously adopted **Ordinance 2009-021**, amending the text of the Comprehensive Plan's Capital Improvements Element, and providing severability and effective date.

The Chairman called a break at 10:22 a.m. and reconvened the meeting at 10: 38 a.m., with all members present.

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM WILLIAM M. WELLS REGARDING RE-REVIEW AFTER THE FACT PERMITS AND SETBACK REQUIREMENTS**

**William Wells**, 8800 44<sup>th</sup> Avenue, Sebastian, provided handouts to Vice Chairman Flescher and the Clerk (on file), and outlined his objections to the rules and setback requirements of a neighboring property regarding a dock extension, front wall, side fence, seawall, and pool house.

Chairman Davis shared with Mr. Wells, what he believed to be the most productive procedure/approach for handling his concerns.

**Mr. Wells** described his objective and felt the rules should be consistent for everyone.

Commissioner Wheeler said that in order for the Board to make a decision, they would need to understand his objective, receive staff's input, and hear the facts regarding both sides. He suggested Mr. Wells work with Vice Chairman Flescher, so this can be directed to staff, and brought back to the Board at a later date.

**10.C. PUBLIC NOTICE ITEMS**

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

**NOVEMBER 17, 2009: REQUIRING REGISTERED SEX OFFENDERS TO IDENTIFY THEMSELVES AS REGISTERED SEX OFFENDERS UPON ENTRY INTO AN EMERGENCY SHELTER (LEGISLATIVE)**

Attorney William Collins II, read the Notice into the record.

**11. COUNTY ADMINISTRATOR'S MATTERS - NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT - NONE**

**12.A.1. REQUEST FOR BOARD AUTHORIZATION FOR STAFF TO UNDERTAKE A COUNTY INITIATED REZONING TO CHANGE ALL IG PROPERTY IN GIFFORD TO IL**

Community Development Director Bob Keating, using a PowerPoint Presentation, recapped his Memorandum dated October 29, 2009. He explained the conditions of how this item would rezone all the General Industrial (IG) property in Gifford to Light Industrial (IL). He provided property history, spoke about the Prestige Concrete site plan which is currently zoned as IG, meetings that were held between staff and community representatives, rezoning issues, and the alternatives for going forward. Director Keating addressed the situation where residents of the Gifford community were not aware of the concrete plant site plan, provided the Board with the rezoning process, alternatives, and recommended that staff work closely with the Gifford community to identify the IG uses that are a concern to the community, and to change those uses from permitted to conditional uses, with specific land use criteria that will minimize the impacts.

Director Keating responded to the Commissioners' questions and concerns regarding rezoning, and the notification of surrounding property owners.

Attorney Collins clarified that the Bert Harris Act would apply to an Ordinance Amendment, such as rezoning, and that it does not get implicated when someone applies for a site plan that is either approved or denied because it does not meet the existing criteria. He further advised that there is a cause of action for each property owner if they feel the action of the government, through adoption of an Ordinance, had diminished the value of their property.

Commissioner Solari commented on Gifford's IG zoned land, the affordable housing, and the necessity for Gifford to have the middle and upper-middle classes to build the type of community that the people want to live in. He justified that building a better community increases all land values, and that the Treasure Coast Brownsfields Program might be the right project for reshaping Gifford.

Commissioner O'Bryan felt there should be opportunities for better jobs in the community, and was not in favor of a "blanket change." He felt the zoning on industrial areas needs to be held, and voiced concerns over losing businesses due to increased restrictions.

The Chairman opened the floor to public comments.

**Joe Idlette, III**, 4570 57<sup>th</sup> Avenue, President of the Progressive Civic League, voiced disappointment with the lack of notification on the concrete plant site plan, and expressed concerns over safety issues associated with the plant.

Commissioner Wheeler questioned staff regarding the notification of individuals for rezoning and special exception uses. Director Keating clarified that staff notifies individuals and Property Owner Associations that are within the radius of 300 feet from a particular site.

**Freddie Woolfork**, 4590 57<sup>th</sup> Avenue, conveyed that he is pro-jobs, and emphasized concern over rezoning and putting a concrete plant in the middle of the Gifford neighborhood. He supported the plant but not the location, and gave his reasons why.

There was a brief discussion regarding staff's recommended alternative, and the amount of IG zoned property in Gifford.

**Tony Brown**, 4159 57<sup>th</sup> Court, President of the Indian River County National Association for the Advancement of Colored People (NAACP), spoke in opposition to rezoning 163 acres of IG zoned property in Gifford to IL. He thereafter voiced concerns over the concrete plant emitting air and ground contaminants, and asked the Board to do the right thing by protecting the community. Mr. Brown provided the Clerk with *Indian River County NAACP Gifford Progressive Civic League Resident Petitions* (on file), opposing the construction of the proposed Prestige AB Ready Mix Concrete Plant.

Commissioner Wheeler believed that the negatives of innocence from the past have since become positives, and that even though Gifford is not an incorporated city, he felt they had excellent representation, and that it would be advantageous to treat them as a Municipality. He supported the recommendation for staff to work with the Gifford community, particularly the Progressive Civic League, and the NAACP, to work out the details, and bring the negotiation package back to the Board for discussion.

Chairman Davis felt that it was an educational process to learn the appeals process, and suggested Administrator Baird attend monthly Progressive Civic League meetings to explain what and why things happen, and the appeal process.

**Althea McKenzie** questioned the process and comments made earlier by staff. She spoke about contamination issues with the concrete plant, the Land Use Element designating Gifford as a residential area, the lack of resident notification, and provided details of the Gifford

Neighborhood Plan. She asked the Board to give a commitment to the people of Gifford, and to do the right thing for the welfare and reputation of the County.

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Flescher, for discussion, to: (1) work with the Gifford community and the major civic groups (i.e. Progressive Civic League, NAACP, PACE, Front Porch Association, etc.); (2) develop a series of recommendations for IG uses and other ancillary issues; and (3) bring the recommendations back to the Board.

Commissioner Solari did not want the process rushed since it deals with a series of difficult issues. He wanted this shaped as the beginning of a dialog to build a better Gifford community, and to be part of our opening commitment to help with the community.

Vice Chairman Flescher wanted to add to the motion that staff clearly analyzes the differences between IG and IL uses, and the financial impacts on the Gifford community.

Commissioner Solari AMENDED HIS MOTION to include that staff analyze the differences between IG and IL uses and identify the impacts to the Gifford community.

**Thomas Lang**, Development Manager from Prestige AB Ready Mix Concrete, conveyed that his company was not coming to Vero Beach to be a detriment to any community, and encouraged opening a dialogue between Gifford and the County.



**Andy Bowler**, President/CEO Indian River Habitat for Humanity, stated that his organization owns property north of the Gifford community, and that his organization had not received notice of the concrete project. He requested staff to add his name to the mailing list, and include him in future discussions.

**Crystal Bujol** supported Commissioner Wheeler's comment that Gifford should be a Municipality. She asked the Board to put it into a motion with a time certain.

Commissioner Wheeler said he would contact the Legal Office to obtain direction, and bring this back to the Board for discussion.

The Chairman closed the floor to public comment.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board directed staff to:

- (1) work with the Gifford community and the major civic groups (i.e. Progressive Civic League of Gifford, NAACP, PACE, Front Porch Association, etc.);
- (2) develop a series of recommendations for IG uses and other ancillary issues;
- (3) bring the recommendations back to the Board; and
- (4) analyze the differences between IG and IL uses and identify the impacts to the Gifford community.

The Chairman called a break at 12:30 p.m. and reconvened the meeting at 12:46 p.m., with all members present.

**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**

**12.I.1. STAFF UPDATE – SECTOR 3 BEACH RENOURISHMENT PROJECT**

Jonathan Gorham, Coastal Resource Manager, provided the Board with an update on the permanent modification process, the purpose and focus of the meetings held with Federal and State agencies, and the issues of uncertainty regarding how the proposed upland sand material would perform on the beach with sea turtle nesting and reproduction. He reported that the agencies were reluctant to place untested material on the Archie Carr National Wildlife Refuge, and would feel more comfortable with a “phased” approach to the Sector 3 Beach Renourishment Project, where a portion of the project could be built this year using the upland sand material, and sea turtle nesting success could be monitored following the construction. Under the phased approach, the southern portion of the project (south of Golden Sands Park) would start the first phase. Dr. Gorham said the Florida Department of Environmental Protection (FDEP) had indicated that they would support a phased approach if the Federal Agencies and County agrees to it. He recommended the Board proceed with permitting, use the original offshore sand source, and use a phased approach, which would allow the County to proceed without delay, as well as allow the opportunity to address and demonstrate that the upland sand

material is good for sea turtle nesting, before it is placed in the critical nesting areas of the Archie Carr Refuge.

There was a brief discussion regarding the comparative nesting data for the Archie Carr Refuge, the recommendation and process, turtle research data, and truck traffic.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board by a 4-0 vote (Chairman Davis recused himself) approved staff’s recommendation to move forward with the Sector 3 Beach Renourishment Project using the Phased approach.

*(Clerk’s Note: Form 8B, Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers, for Chairman Davis, is on file in the office of the Clerk to the Board.)*

**12.J. UTILITIES SERVICES**

**12.J.1. CONSULTING ENGINEERING SERVICES WORK ORDER NO. 9 WITH SCHULKE, BITTLE & STODDARD, L.L.C. FOR A MASTER PLAN 12” WATER MAIN EXTENSION ALONG 53<sup>RD</sup> ST. FROM LATERAL “H” CANAL TO INDIAN RIVER BLVD AND ALONG OLD DIXIE HWY. NORTH AND SOUTH OF 53<sup>RD</sup> ST. – UCP-4035**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Wheeler, the Board unanimously approved Work Order No. 9 with Schulke, Bittle & Stoddard, LLC in the amount of \$59,470,000 for construction management and inspection services associated with the 53<sup>rd</sup> Street 12” Master Plan Water Main Project and road improvement utility conflict

relocations, and authorized the Chairman to execute same, as recommended in the memorandum of October 23, 2009.

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

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

#### **13.A. PROPOSED LETTER "NOTICE OF INTENT TO AWARD" SECTOR 3 BEACH AND DUNE RESTORATION PROJECT**

Attorney Collins recalled that the Board had directed his office to prepare a proposed "Notice of Intent to Award" letter for review regarding the award of the Beach Renourishment Contract for Sector 3 to Ranger Construction Industries, Inc., and recommended the Board approve the letter as presented in the backup.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Chairman Davis recused himself) approved issuance of the Notice of Intent to Award letter to Ranger Construction Industries, Inc., as recommended in the memorandum of November 5, 2009.

*(Clerk's Note: Form 8B, Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers, for Chairman Davis, is on file in the office of the Clerk to the Board.)*

**Bob Schafer**, Vice President of Ranger Construction Industries, Inc. confirmed that he had reviewed the letter and found it to be appropriate.

## **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 - 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

This area was intentionally left blank.

**16. ADJOURNMENT**

There being no further business, the Chairman declared the meeting adjourned at 1:05 p.m.

ATTEST:

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

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

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

BCC/LAA/2009Minutes