

JEFFREY K. BARTON  
Clerk to the Board



INDEX TO MINUTES OF REGULAR MEETING  
OF BOARD OF COUNTY COMMISSIONERS  
OF DECEMBER 1, 2009

1.	CALL TO ORDER.....	1
2.	INVOCATION.....	1
3.	PLEDGE OF ALLEGIANCE .....	1
4.	ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS .....	2
4.A.	MOVED: ITEM 8.W. PUBLIC NOTICE ITEMS - REQUEST TO SET A PUBLIC HEARING DATE REGARDING AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A CLASS B CERTIFICATE FROM WE CARE OF THE TREASURE COAST TO PROVIDE NON-EMERGENCY BLS AMBULANCE INTERFACILITY TRANSPORTS TO ITEM 10.C .....	2
4.B.	DELETION: ITEM 10.B.1. REQUEST TO SPEAK FROM DETHRICE KYLES / INDIAN RIVER JAGUARS REGARDING REFUND, CIVIL RIGHT TO PUBLIC PROPERTY.....	2
5.	PROCLAMATIONS AND PRESENTATIONS .....	2
5.A.	PRESENTATION OF PROCLAMATION HONORING VERNITA SHEPHARD ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY	

	COMMISSIONERS DEPARTMENT OF HUMAN SERVICES FOR THIRTY-ONE YEARS OF SERVICE .....	2
5.B.	PRESENTATION BY INDIAN RIVER COUNTY CHAMBER OF COMMERCE REGARDING RESOLUTION AFFIRMING THE CHAMBER’S SUPPORT OF BEACH RENOURISHMENT .....	3
6.	APPROVAL OF MINUTES - NONE .....	3
7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION.....	3
7.A.	CITY OF SEBASTIAN APPOINTMENTS TO COUNTY COMMITTEES AND REGIONAL BOARDS FOR 2009-2010.....	3
7.B.	SERVICES AGREEMENT BETWEEN THE COUNTY AND THE SCHOOL DISTRICT REGARDING BACKGROUND CHECKS AND FINGERPRINTING OF VOLUNTEERS .....	3
8.	CONSENT AGENDA .....	3
8.A.	APPROVAL OF WARRANTS AND WIRES – NOVEMBER 5 6, 2009 TO NOVEMBER 12, 2009 .....	4
8.B.	APPROVAL OF WARRANTS AND WIRES – NOVEMBER 13, 2009 TO NOVEMBER 19, 2009 .....	4
8.C.	RESOLUTION SUPPORTING LOCAL LEGISLATION TO ALLOW THE CITY OF VERO BEACH ELECTRIC UTILITY TO BE PLACED UNDER THE PUBLIC SERVICES COMMISSION CONTROLS .....	4
8.D.	RESOLUTION IN SUPPORT OF NAMING A PORTION OF S.R. 60 AS “THE RICHARD RACZKOWSKI MEMORIAL HIGHWAY” .....	5
8.E.	RESOLUTION EXPANDING THE POWERS AND DUTIES OF THE UTILITY ADVISORY COMMITTEE.....	5
8.F.	WOODSIDE TRILLIUM, LLC’S REQUEST FOR A FINAL PLAT APPROVAL FOR A REPLAT OF A PORTION OF TRILLIUM WEST TO BE KNOWN AS DREXEL PARK II RESIDENTIAL SUBDIVISION .....	6
8.G.	M.A.C.E. (MULTI-AGENCY CRIMINAL ENFORCEMENT UNIT) GRANT, PROJECT GENERATED INCOME, MISCELLANEOUS BUDGET AMENDMENT 002 .....	6

8.H.	MISCELLANEOUS BUDGET AMENDMENT 001 .....	6
8.I.	APPROVAL OF BID AWARD FOR IRC BID NO. 2010015 ANNUAL BID FOR ALUMINUM SULFATE, UTILITIES DEPARTMENT/UTILITIES OPERATIONS CENTER .....	7
8.J.	VERO INVESTMENTS 53, LLC’S REQUEST FOR FINAL PLAT APPROVAL FOR A COMMERCIAL SUBDIVISION TO BE KNOWN AS 53 <sup>RD</sup> STREET/US1 COMMERCIAL .....	7
8.K.	FDOT SMALL COUNTY OUTREACH PROGRAM (SCOP) AGREEMENT AND AUTHORIZING RESOLUTION FOR RESURFACING OF OLD DIXIE HIGHWAY FROM U.S. HWY 1 TO 53 <sup>RD</sup> STREET .....	8
8.L.	CHANGE ORDER NO. 1 AND RELEASE OF RETAINAGE, MISENER MARINE CONSTRUCTION, INC. 53 <sup>RD</sup> STREET BRIDGE OVER LATERAL H CANAL, IRC PROJECT NO. 0107B, 56 <sup>TH</sup> PLACE BRIDGE OVER NORTH RELIEF CANAL, IRC PROJECT NO. 9920B, 16 <sup>TH</sup> STREET BRIDGE AT 74 <sup>TH</sup> AVENUE OVER RANGELINE CANAL, IRC PROJECT NO. 0611B .....	8
8.M.	AMENDMENT NO. 5 TO THE CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT FOR INTERSECTION IMPROVEMENTS AT SR 60 AND 43 <sup>RD</sup> AVENUE AND WIDENING OF 43 <sup>RD</sup> AVENUE FROM 18 <sup>TH</sup> STREET TO 26 <sup>TH</sup> STREET .....	9
8.N.	WORK ORDER NO. 14 WITH BRIDGE DESIGN ASSOCIATES, INC., RIGHT OF WAY PERMIT APPLICATION FOR CONSTRUCTION OF BRIDGE ON 89 <sup>TH</sup> STREET OVER SRWCD LATERAL D CANAL (CR510) .....	9
8.O.	AWARD OF BID, LANDSCAPING ON 58 <sup>TH</sup> AVENUE FROM OSLO ROAD (9 <sup>TH</sup> STREET S.W.) TO 16 <sup>TH</sup> STREET, BID 2009053, IRC PROJECT NO. 0916, FDOT LOCAL AGENCY PROGRAM (LAP) AGREEMENT – FPN NO. 426383-1-58-01 .....	10
8.P.	RENEWAL OF PROFESSIONAL BRIDGE DESIGN SERVICES AGREEMENT FOR 2009- 2010.....	10
8.Q.	BID AWARD: IRC #1010016 ANNUAL BID FOR HARRIS FX SOFTWARE SERVICES EMERGENCY SERVICES .....	11
8.R.	OFFICE OF THE MEDICAL EXAMINER, REQUEST TO INCREASE CREMATION APPROVAL FEES .....	11
8.S.	BLUE CYPRESS LAKE PARK .....	12
8.T.	AMENDMENT NO. 4 TO THE CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR INTERSECTION IMPROVEMENTS AT 58 <sup>TH</sup> AVENUE AND SR 60 .....	12

8.U.	FINAL APPROVAL FOR RECORDING CR 512, PHASE 3, FROM WEST OF CR510 TO ROSELAND ROAD RIGHT-OF-WAY MAP .....	14
8.V.	FINAL APPROVAL FOR RECORDING OLD DIXIE HIGHWAY (NORTH) US1 TO 69 <sup>TH</sup> STREET RIGHT-OF-WAY MAP .....	14
8.W.	REQUEST TO SET A PUBLIC HEARING DATE REGARDING AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A CLASS B CERTIFICATE FROM WE CARE OF THE TREASURE COAST TO PROVIDE NON-EMERGENCY BLS AMBULANCE INTERFACILITY TRANSPORTS .....	15
8.X.	APPROVAL OF PROFESSIONAL SERVICES AGREEMENT BETWEEN INDIAN RIVER COUNTY AND THE TREASURE COAST REGIONAL PLANNING COUNCIL FOR CONTINUITY OF OPERATIONS PLAN COMPREHENSIVE UPDATE AND ADDITION OF INDIAN RIVER COUNTY ADMINISTRATION ANNEX .....	15
8.Y.	APPROVAL OF 2009/2010 AWARD LETTER FOR STATE HOMELAND SECURITY GRANT PROGRAM .....	15
9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES .....	16
9.A.	DERYL LOAR, INDIAN RIVER COUNTY SHERIFF - DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP).....	16
9.B.	KAY CLEM, INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS - NEW VOTING EQUIPMENT FOR VOTERS WITH DISABILITIES .....	16
10.	PUBLIC ITEMS .....	18
10.A.	PUBLIC HEARING .....	18
10.A.1.	PUBLIC HEARING ON THE ORDINANCE TO CREATE A NEW “GIFFORD COMMUNITY CENTER MSTU” (LEGISLATIVE) .....	18
10.A.2.	SHELL LANE EAST A PORTION OF SUMMERPLACE PETITION SEWER SERVICE, INDIAN RIVER COUNTY PROJECT NO. UCP 4039, PRELIMINARY ASSESSMENT – RESOLUTION III (ADMINISTRATIVE) .....	23
10.B.	PUBLIC DISCUSSION ITEMS .....	24
10.B.1.	REQUEST TO SPEAK FROM DETHRICE KYLES/INDIAN RIVER JAGUARS REGARDING REFUND, CIVIL RIGHT TO PUBLIC PROPERTY .....	24

10.C.	PUBLIC NOTICE ITEMS - <del>NONE</del> REQUEST TO SET A PUBLIC HEARING DATE REGARDING AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A CLASS B CERTIFICATE FROM WE CARE OF THE TREASURE COAST TO PROVIDE NON-EMERGENCY BLS AMBULANCE INTERFACILITY TRANSPORTS.....	24
11.	COUNTY ADMINISTRATOR MATTERS.....	25
11.A.	MEETINGS OF THE BOARD OF COUNTY COMMISSION - PROPOSED 2010 MEETING DATES .....	25
12.	DEPARTMENTAL MATTERS .....	25
12.A.	COMMUNITY DEVELOPMENT .....	25
12.A.1.	CONSIDERATION OF EMINDFUL INC’S REQUEST FOR A LOCAL JOBS GRANT .....	25
12.B.	EMERGENCY SERVICES - NONE.....	27
12.C.	GENERAL SERVICES - NONE .....	27
12.D.	HUMAN RESOURCES.....	27
12.D.1.	COUNTY ATTORNEY HIRING PROCESS – NARROWING THE FIELD OF CANDIDATES .....	27
12.E.	HUMAN SERVICES - NONE .....	28
12.F.	LEISURE SERVICES - NONE .....	28
12.G.	OFFICE OF MANAGEMENT AND BUDGET - NONE .....	28
12.H.	RECREATION - NONE.....	28
12.I.	PUBLIC WORKS.....	28
12.I.1.	STAFF UPDATE – SECTOR 3 BEACH RENOURISHMENT PROJECT.....	28
12.J.	UTILITIES SERVICES - NONE.....	29
13.	COUNTY ATTORNEY MATTERS.....	29
13.A.	REALIGNMENT OF 101 <sup>ST</sup> AVENUE/102 <sup>ND</sup> TERRACE .....	29
13.B.	RECONSIDERATION OF ACQUISITION OF RIGHT-OF-WAY ALONG 66 <sup>TH</sup> AVENUE BANACK FAMILY LIMITED PARTNERSHIP 66 <sup>TH</sup> AVENUE AND 41 <sup>ST</sup> STREET.....	30
14.	COMMISSIONER ITEMS.....	31

14.A.	COMMISSIONER PETER D. O'BRYAN, CHAIRMAN - NONE.....	31
14.B.	COMMISSIONER BOB SOLARI, VICE CHAIRMAN - NONE .....	31
14.C.	COMMISSIONER WESLEY S. DAVIS- NONE.....	31
14.D.	COMMISSIONER JOSEPH E. FLESCHER - NONE .....	31
14.E.	COMMISSIONER GARY C. WHEELER - NONE .....	31
15.	SPECIAL DISTRICTS AND BOARDS .....	31
15.A.	EMERGENCY SERVICES DISTRICT - NONE.....	32
15.B.	SOLID WASTE DISPOSAL DISTRICT - NONE .....	32
15.C.	ENVIRONMENTAL CONTROL BOARD - NONE.....	32
16.	ADJOURNMENT.....	32

**JEFFREY K. BARTON**

Clerk to the Board



**December 1, 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, December 1, 2009. Present were Chairman Peter D. O'Bryan, Commissioners Wesley S. Davis, Joseph E. Flescher, and Gary C. Wheeler. Vice Chairman Bob Solari was absent. 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 O'Bryan called the meeting to order at 9:00 a.m.

**2. INVOCATION**

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

**3. PLEDGE OF ALLEGIANCE**

Commissioner Flescher led the Pledge of Allegiance to the Flag.

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

Chairman O'Bryan requested the following changes to the Agenda:

**4.A. MOVED: ITEM 8.W. PUBLIC NOTICE ITEMS - REQUEST TO SET A PUBLIC HEARING DATE REGARDING AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A CLASS B CERTIFICATE FROM WE CARE OF THE TREASURE COAST TO PROVIDE NON-EMERGENCY BLS AMBULANCE INTERFACILITY TRANSPORTS TO ITEM 10.C**

**4.B. DELETION: ITEM 10.B.1. REQUEST TO SPEAK FROM DETHRICE KYLES / INDIAN RIVER JAGUARS REGARDING REFUND, CIVIL RIGHT TO PUBLIC PROPERTY**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Agenda as amended.

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

**5.A. PRESENTATION OF PROCLAMATION HONORING VERNITA SHEPHARD ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF HUMAN SERVICES FOR THIRTY-ONE YEARS OF SERVICE**

Commissioner O'Bryan read and presented the Proclamation to Vernita Shephard, who thanked the Board and introduced members of her family, Reverend Young, and his wife.



**5.B. PRESENTATION BY INDIAN RIVER COUNTY CHAMBER OF  
COMMERCE REGARDING RESOLUTION AFFIRMING THE CHAMBER'S SUPPORT OF  
BEACH RENOURISHMENT**

Penny Candler, President of the Indian River Chamber of Commerce, read the Resolution (copy on file) affirming the Board of Directors of the Indian River County Chamber of Commerce's long-standing support of the County's Beach Preservation Plan.

**6. APPROVAL OF MINUTES - NONE**

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

**7.A. CITY OF SEBASTIAN APPOINTMENTS TO COUNTY COMMITTEES  
AND REGIONAL BOARDS FOR 2009-2010**

The list of newly appointed Council members and appointments from the City of Sebastian to County Committees and Regional Boards, for the period of November 2009 to November 2010, is on file in the Office of the Clerk to the Board.

**7.B. SERVICES AGREEMENT BETWEEN THE COUNTY AND THE SCHOOL  
DISTRICT REGARDING BACKGROUND CHECKS AND FINGERPRINTING OF  
VOLUNTEERS**

The Services Agreement is on file in the Office of the Clerk to the Board.

**8. CONSENT AGENDA**

Chairman O'Bryan requested to pull Item 8.T. for discussion.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Consent Agenda, as amended.

**8.A. APPROVAL OF WARRANTS AND WIRES – NOVEMBER 5 6, 2009 TO NOVEMBER 12, 2009**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of November 6, 2009 to November 12, 2009, as requested in the memorandum of November 12, 2009.

**8.B. APPROVAL OF WARRANTS AND WIRES – NOVEMBER 13, 2009 TO NOVEMBER 19, 2009**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of November 13, 2009 to November 19, 2009, as requested in the memorandum of November 19, 2009.

**8.C. RESOLUTION SUPPORTING LOCAL LEGISLATION TO ALLOW THE CITY OF VERO BEACH ELECTRIC UTILITY TO BE PLACED UNDER THE PUBLIC SERVICES COMMISSION CONTROLS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved **Resolution 2009-173**, supporting Local Legislation to allow the City of Vero Beach Electric Utility to be placed under the Public Services Commission Controls.

**8.D. RESOLUTION IN SUPPORT OF NAMING A PORTION OF S.R. 60 AS  
“THE RICHARD RACZKOWSKI MEMORIAL HIGHWAY”**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved **Resolution 2009-174**, requesting support of the Indian River County Local Legislative Delegation in naming that portion of S.R. 60 between 43<sup>rd</sup> Avenue in Vero Beach and Interstate 95 “The Richard Raczkowski Memorial Highway”.

**8.E. RESOLUTION EXPANDING THE POWERS AND DUTIES OF THE  
UTILITY ADVISORY COMMITTEE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved **Resolution 2009-175**, assigning additional powers and duties to the Indian River County Utility Advisory Committee.

**8.F. WOODSIDE TRILLIUM, LLC'S REQUEST FOR A FINAL PLAT  
APPROVAL FOR A REPLAT OF A PORTION OF TRILLIUM WEST TO BE KNOWN AS  
DREXEL PARK II RESIDENTIAL SUBDIVISION**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board granted final plat approval for the Drexel Park II Residential Subdivision (a.k.a. Trillium West), as recommended in the memorandum of November 9, 2009.

**8.G. M.A.C.E. (MULTI-AGENCY CRIMINAL ENFORCEMENT UNIT)  
GRANT, PROJECT GENERATED INCOME, MISCELLANEOUS BUDGET AMENDMENT  
002**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved: (1) the utilization of Project Generated Income totaling \$35,940.14; and (2) **Resolution 2009-176**, amending the fiscal year 2009-2010 Budget.

**8.H. MISCELLANEOUS BUDGET AMENDMENT 001**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved **Resolution 2009-177**, amending the fiscal year 2009-2010 Budget.

**8.I. APPROVAL OF BID AWARD FOR IRC BID NO. 2010015 ANNUAL  
BID FOR ALUMINUM SULFATE, UTILITIES DEPARTMENT/UTILITIES OPERATIONS  
CENTER**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board: (1) approved the award to Thatcher Chemical of Florida 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 November, 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, Bidder acceptance, and the determination that renewal of this annual Bid is in the best interest of Indian River County, all as recommended in the memorandum of November 13, 2009.

**8.J. VERO INVESTMENTS 53, LLC'S REQUEST FOR FINAL PLAT  
APPROVAL FOR A COMMERCIAL SUBDIVISION TO BE KNOWN AS 53<sup>RD</sup> STREET/US1  
COMMERCIAL**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board granted final plat approval for the 53<sup>rd</sup> Street/US1 commercial subdivision, as recommended in the memorandum of November 3, 2009.

**8.K. FDOT SMALL COUNTY OUTREACH PROGRAM (SCOP)**  
**AGREEMENT AND AUTHORIZING RESOLUTION FOR RESURFACING OF OLD DIXIE**  
**HIGHWAY FROM U.S. HWY 1 TO 53<sup>RD</sup> STREET**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved **Resolution 2009-178**, with the Florida Department of Transportation, authorizing the Chairman's execution of a small County Outreach Program Agreement for Old Dixie Highway resurfacing.

**8.L. CHANGE ORDER NO. 1 AND RELEASE OF RETAINAGE, MISENER**  
**MARINE CONSTRUCTION, INC. 53<sup>RD</sup> STREET BRIDGE OVER LATERAL H CANAL,**  
**IRC PROJECT NO. 0107B, 56<sup>TH</sup> PLACE BRIDGE OVER NORTH RELIEF CANAL, IRC**  
**PROJECT NO. 9920B, 16<sup>TH</sup> STREET BRIDGE AT 74<sup>TH</sup> AVENUE OVER RANGELINE**  
**CANAL, IRC PROJECT NO. 0611B**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved Change Order No. 1 and payment to Misener Marine Construction, Inc., final Payment Application No. 15, dated 07/30/09, in the amount of \$161,419.55, as recommended in the memorandum of November 10, 2009.

**8.M. AMENDMENT NO. 5 TO THE CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT FOR INTERSECTION IMPROVEMENTS AT SR 60 AND 43<sup>RD</sup> AVENUE AND WIDENING OF 43<sup>RD</sup> AVENUE FROM 18<sup>TH</sup> STREET TO 26<sup>TH</sup> STREET**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved Amendment No. 5 to the Professional Engineering/Land Surveying Services Agreement with Arcadis G&M, Inc., as recommended in the memorandum of November 17, 2009.

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

**8.N. WORK ORDER NO. 14 WITH BRIDGE DESIGN ASSOCIATES, INC., RIGHT OF WAY PERMIT APPLICATION FOR CONSTRUCTION OF BRIDGE ON 89<sup>TH</sup> STREET OVER SRWCD LATERAL D CANAL (CR510)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved Work Order No. 14 with Bridge Design Associates, Inc., for a Not to Exceed amount of \$4,500.00; and authorized the Chairman to execute the Work Order, as recommended in the memorandum of November 12, 2009.

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

**8.O. AWARD OF BID, LANDSCAPING ON 58<sup>TH</sup> AVENUE FROM OSLO ROAD  
(9<sup>TH</sup> STREET S.W.) TO 16<sup>TH</sup> STREET, BID 2009053, IRC PROJECT NO. 0916, FDOT  
LOCAL AGENCY PROGRAM (LAP) AGREEMENT – FPN No. 426383-1-58-01**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved: (1) the contract award to Michael Schlitt Construction Corporation in the amount of \$247,900.00, and (2) the federal funds appropriated for this FDOT LAP Grant in the amount of \$300,000.00, with no matching funds required, as recommended in the memorandum of November 19, 2009.

**8.P. RENEWAL OF PROFESSIONAL BRIDGE DESIGN SERVICES  
AGREEMENT FOR 2009-2010**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved and authorized the Chairman to execute the renewal Agreement with Bridge Design Associates, Inc., for annual contractual services for Professional Bridge Design Services for 2009-2010, as recommended in the memorandum of November 12, 2009.

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



**8.O. BID AWARD: IRC #1010016 ANNUAL BID FOR HARRIS FX  
SOFTWARE SERVICES EMERGENCY SERVICES**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board: (1) approved the award to Communications International, Inc. as the lowest, most responsive, and sole bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue a purchase order in the amount of \$74,000.00 for the period of October 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 Indian River County, all as recommended in the memorandum of November 12, 2009.

**8.R. OFFICE OF THE MEDICAL EXAMINER, REQUEST TO INCREASE  
CREMATION APPROVAL FEES**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the increase of Cremation Approval Fees from \$30.00 to \$50.00 for the Officer of the Medical Examiner, District 19, effective January 1, 2010, as recommended in the memorandum of November 18, 2009.

**8.S. BLUE CYPRESS LAKE PARK**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board authorized the Chairman to execute the Third Amendment between the County and Joneal and H. Jeanne Middleton, to provide for the extension of the lease on September 1, 2015, as recommended in the memorandum of November 20, 2009.

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

**8.T. AMENDMENT NO. 4 TO THE CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR INTERSECTION IMPROVEMENTS AT 58<sup>TH</sup> AVENUE AND SR 60**

Commissioner O'Bryan recalled that according to Resolution 2008-139, once a segment of a project has reached 60% design completion, the right-of-way purchases need to begin. Since 60% of the design plans have been completed on the SR 60/58<sup>th</sup> Avenue improvement project, he requested staff bring the Board a detailed report showing the financial impacts of construction, the cost of moving utility lines, and the financial feasibility of the intersection improvements, before moving forward.

Public Works Director Chris Mora provided status and details of the project, and thereafter addressed the Board's questions and concerns.

There was a brief discussion among the Commissioners and Administrator Baird on whether to rescind Resolution 2008-139.

Commissioner Wheeler suggested staff bring the Resolution to the Board for review and evaluation.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Davis, to direct staff to bring Resolution 2008-139 to the Board for reconsideration.

Administrator Baird said staff would bring the Board a cash flow analysis for review, showing the projected costs for pending projects.

MOTION WAS AMENDED by Commissioner Wheeler, and ACCEPTED by Commissioner Davis, to direct staff to bring Resolution 2008-139, and a cash flow analysis to the Board for review and reconsideration.

The Chairman CALLED THE QUESTION and by a vote of 4-0 (Vice Chairman Solari absent), the Motion carried. The Board directed staff to bring Resolution 2008-139 and a cash flow analysis to the Board for review and reconsideration.

ON MOTION by Commissioner Davis, SECONDED by Chairman O'Bryan, by a 4-0 vote (Vice Chairman Solari absent), the Board approved Amendment No. 4 to the Professional Civil Engineering/Land Surveying Services Agreement with Kimley-Horn and Associates, Inc., for professional engineering and surveying services for

intersection improvements at 58<sup>th</sup> Avenue and SR 60, as recommended in the memorandum of November 19, 2009.

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

**8.U. FINAL APPROVAL FOR RECORDING CR 512, PHASE 3, FROM WEST OF CR510 TO ROSELAND ROAD RIGHT-OF-WAY MAP**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Right-of-Way Map for CR 512, Phase 3, west of CR 510 to Roseland Road for recording, and authorized the Chairman to execute same, as recommended in the memorandum of November 17, 2009.

**8.V. FINAL APPROVAL FOR RECORDING OLD DIXIE HIGHWAY (NORTH) US1 TO 69<sup>TH</sup> STREET RIGHT-OF-WAY MAP**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Right-of-Way Map for Old Dixie Highway, US1 to 69<sup>th</sup> Street for recording, and authorized the Chairman to execute same, as recommended in the memorandum of November 17, 2009.

**8.W. REQUEST TO SET A PUBLIC HEARING DATE REGARDING AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A CLASS B CERTIFICATE FROM WE CARE OF THE TREASURE COAST TO PROVIDE NON-EMERGENCY BLS AMBULANCE INTERFACILITY TRANSPORTS**

*(Clerk's Note: This Item was moved to Item 10.C. Public Notice Items.)*

**8.X. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT BETWEEN INDIAN RIVER COUNTY AND THE TREASURE COAST REGIONAL PLANNING COUNCIL FOR CONTINUITY OF OPERATIONS PLAN COMPREHENSIVE UPDATE AND ADDITION OF INDIAN RIVER COUNTY ADMINISTRATION ANNEX**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved: (1) the contract with the Treasure Coast Regional Planning Council, in the amount of \$25,000.00, for planning and exercises for preparation efforts; and (2) to expend grant funds, as recommended in the memorandum of November 20, 2009.

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

**8.Y. APPROVAL OF 2009/2010 AWARD LETTER FOR STATE HOMELAND SECURITY GRANT PROGRAM**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board accepted the State Homeland Security Grant in the amount of \$53,000.00, and

authorized the Chairman to execute the Grant Agreement, as recommended in the memorandum of November 20, 2009.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

**9.A. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF - DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP)**

Sheriff Deryl Loar announced that the service fee relative to the State Criminal Alien Assistance Program (SCAAP) had been negotiated down from 22% to 18%.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved that \$149,656.00 be amended into the Corrections Operating Expenses, to pay consulting firm Justice Benefits, Inc. (JBI), and to augment funds needed for inmate care, as requested in the letter dated November 16, 2009.

**9.B. KAY CLEM, INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS - NEW VOTING EQUIPMENT FOR VOTERS WITH DISABILITIES**

Supervisor of Elections Kay Clem reviewed her letter dated November 23, 2009. She explained how the County is now faced with purchasing new equipment for voters with disabilities, in order to comply with the Help America Vote Act (HAVA), and reported that all states are required to comply by 2016; however, the Florida Legislature had moved back the date to 2012. For this reason, she requested the Board approve the Resolution as presented on page

194 of the backup, urging the Legislature to change the deadline back to 2016. Additionally, Ms. Clem requested the Board grant permission to set up a training room in the vacated office space of where the Solid Waste Unit had been located.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Commissioner Davis, for discussion, to  
approve the Resolution concept.

Administrator Joseph Baird asked Ms. Clem to hold off on moving to the vacated area, as he currently had other needs for that space.

There was a brief discussion regarding training for the electronic voter registration system machines, and other possible venues.

Chairman O'Bryan suggested the County Attorney take the wording from the proposed Resolution, put it into proper County format, and bring it back to the December 8, 2009 Board of County Commission Meeting for approval.

After confirming that Ms. Clem would be taking this before the Legislative Delegation, Commissioner Davis asked Administrator Baird to put this under *Commissioner Issues* for Legislative Delegation topics.

MOTION WAS AMENDED by Commissioner Wheeler,  
SECONDED by Commissioner Davis, to approve the  
Resolution concept, direct the County Attorney to edit the  
Resolution to proper County format, and bring it back at  
the December 8, 2009 Board of County Commission  
Meeting, under *Consent Agenda*.

The Chairman CALLED THE QUESTION and by a 4-0 vote (Commissioner Solari absent), the Motion carried. The Board approved the Resolution concept, directed the County Attorney to edit the Resolution to proper County format, and bring it back to the December 8, 2009 Board of County Commission Meeting, under *Consent Agenda*.

## **10. PUBLIC ITEMS**

### **10.A. PUBLIC HEARING**

#### **10.A.1. PUBLIC HEARING ON THE ORDINANCE TO CREATE A NEW “GIFFORD COMMUNITY CENTER MSTU” (LEGISLATIVE)**

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

County Attorney William G. Collins recapped his Memorandum dated November 17, 2009, providing the background of the Gifford Community Center, and recalling that a year ago the Board had initiated a process to create a Municipal Service Benefit Unit (MSBU) co-terminous with the Gifford Street Lighting District. He pointed out the boundaries of the district and the cost of reprogramming the Property Appraiser’s computers, which would be more than the benefit would generate. Attorney Collins mentioned that he had reviewed certain Florida cases, and found that community centers were not proper uses for benefit units. He conveyed that after meeting with the Progressive Civic League, the determination was made to request the Board to authorize by Ordinance, the creation of a Municipal Service Taxing Unit (MSTU), to generate funds to support the Community Center’s upkeep and operations. He felt this would allow the boundaries of the Gifford Community Center to be a taxing unit, to be co-terminous with the Street Lighting District, and not require substantial reprogramming of the computers.



He clarified that the MSTU has to be in place before the end of 2009 to go on the tax rolls for collection in 2010.

Chairman O'Bryan stated that the Public Hearing would be opened today and continued at the December 15, 2009 Board of County Commission Meeting, to allow for community awareness and comment.

County Budget Director Jason Brown provided the Board with the funding analysis of the proposed Gifford Community Center MSTU, what the estimated millage rate would be, and the challenges of separating residential and commercial properties.

A lengthy discussion ensued pertaining to MSTUs versus MSBUs, Gifford Community Center improvements and funding, and other Community Centers within the County.

Director Brown explained funding details regarding commercial and residential properties, and Administrator Baird clarified the proposed budget funds/sales tax options.

Chairman O'Bryan wanted to know if commercial properties could be legally exempted from a MSTU. Attorney Collins responded, saying that the Board could create the boundaries of the district any way they felt appropriate; however, he did not think the Board could draw the boundaries, get the legal descriptions, and have it completed by the end of the year.

Chairman O'Bryan reiterated that there would not be an official vote on this Item today, and that it would be tabled until the December 15<sup>th</sup>, 2009 Board of County Commission Meeting.

The Chairman opened the Public Hearing.

Chairman O'Bryan noted for the record that three e-mails (on file) had been received opposing the additional tax on commercial property. They were from: **Jeff Brewster** with Total Golf Construction, **Bill Mills** who owns 130,000 feet of commercial property, and **William Shelly**.

**Godfrey Gibson**, 4136 57<sup>th</sup> Court, Executive Director of the Gifford Community Center, said the Gifford Community Center is used by all citizens in Indian River County, and that it benefits not only the Gifford community, but the entire County. He stated that there had never been intentions of adding an additional tax burden on the commercial property owners nor the citizens. He emphasized that the Community Center was 22 years old and that it only shows signs of wear and tear, not abuse. Mr. Gibson told the Board that the Gifford community had raised excess money, but due to hurricane repairs, there were no longer additional funds for expenses or insurance premiums. He asked the Board to support improvements to the Gifford Community Center.

There was a brief discussion regarding the high cost of insurance, and possibly insuring the facility as a rider on the County Insurance Policy.

**Freddie Woolfork**, 4590 57<sup>th</sup> Avenue, President of the Progressive Civic League, conveyed that the Progressive Civic League did not want to create a hardship on the residents or commercial property owners with additional taxes. He felt that Gifford should be considered as a City or Township, not a separate subdivision. He believed the Gifford Community Center was another opportunity to obtain and maintain pride in the community, and he wanted long term support.

Administrator Baird reiterated that this project should be treated as a renovation project, covered under the Optional Sales Tax, and brought back to the Board in a couple weeks with a funding source.

Commissioners Wheeler and Davis believed the project would qualify for the One-Cent Optional Sales Tax for Capital Improvements, as well as the Five-Year Life Limit.

**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 additional taxes for the Gifford community.

**Victor Hart, Sr.** wanted assurance that information would be disseminated to everyone in the Gifford community.

**Jeff Thompson**, 2307 Seville Avenue, Vero Beach, voiced concern over the taxes on his business, and applauded Administrator Baird for suggesting ideas to not increase the taxes on residents or businesses.

**Art Krieger**, 7625 58<sup>th</sup> Court, Contractor of the Gifford Community Center, felt the Community Center was vital to the community, and supported Administrator Baird's proposal.

Attorney Collins felt there was consensus among the Board that the Ordinance should not be adopted to create a new taxing unit, but recommended continuing the meeting to review the issues brought up.

Administrator Baird assured the Board that he and Director Brown had a solution, and requested to bring this back to the December 15, 2009 Board of County Commission Meeting with specific details.

Attorney Collins said he did not hear support for going forward with the Ordinance; therefore, he did not consider it necessary to continue the Public Hearing. He suggested this return at the December 15, 2009 Board of County Commission Meeting under *County Administrator Matters*.

Chairman O'Bryan announced that the meeting would be continued to a time certain of December 15, 2009.

**Crystal Bujol** wanted Board confirmation that information would be supplied to the Gifford community before December 15<sup>th</sup>, 2009.

Administrator Baird reported that he would be meeting with the Progressive Civic League to present the proposed plan.

Chairman O'Bryan asked Administrator Baird to ensure that all the other organizations be notified.

Commissioner Davis clarified that the issue of December 15, 2009 Board of County Commission Meeting would be for the MSTU, not for a newly proposed program.

**Dan Richie**, representing five local fresh fruit packing industries, said they were all advocates and supporters of the Gifford Civic Center, both financially and as personal supporters, and that they opposed a Special Taxing District. He requested the Board find an alternative funding mechanism for the Community Center, and not approve a Special Taxing District to achieve the objective.

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board postponed this Item until the December 15, 2009 Board of County Commission Meeting.

The Chairman called a break at 10:35 a.m. and reconvened the meeting at 10:45 a.m., with all members present.

**10.A.2. SHELL LANE EAST A PORTION OF SUMMERPLACE PETITION**  
**SEWER SERVICE, INDIAN RIVER COUNTY PROJECT NO. UCP 4039, PRELIMINARY**  
**ASSESSMENT – RESOLUTION III (ADMINISTRATIVE)**

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

Manager of Assessment Projects Dan Chastain said that staff was seeking Board approval of Resolution III, and the preliminary assessment in connection with sewer main expansion on the ten properties located on Shell Lane East. He affirmed that all property owners had been notified of the assessment project and that there was no opposition.

The Chairman opened the Public Hearing.

**Bill Glenn**, 1802 East Barefoot Place, President of the Homeowners Association, wanted to know what the County would be doing to repair the roads; if staff had looked into obtaining a grant for the work; and if there were funds available through Tallahassee to help defray the expense.

Mr. Chastain told Mr. Glenn that grant money had not been pursued, and he believed that seeking grant money could significantly delay the project.

Commissioner Davis did not think there was a need to delay the project.

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved **Resolution 2009-180**, confirming the special assessments in connection with sewer main expansion to Shell Lane East (a portion of Summerplace) in Indian River County, Florida; and providing for special assessment liens to be made of record.

**10.B. PUBLIC DISCUSSION ITEMS**

**10.B.1. REQUEST TO SPEAK FROM DETHRICE KYLES/INDIAN RIVER JAGUARS REGARDING REFUND, CIVIL RIGHT TO PUBLIC PROPERTY**

This Item was deleted, as requested by Attorney Collins.

**10.C. PUBLIC NOTICE ITEMS - ~~NONE~~ REQUEST TO SET A PUBLIC HEARING DATE REGARDING AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A CLASS B CERTIFICATE FROM WE CARE OF THE TREASURE COAST TO PROVIDE NON-EMERGENCY BLS AMBULANCE INTERFACILITY TRANSPORTS**

*(Clerk's Note: This Item was moved from 8.W. at the request of Administrator Baird.)*

Attorney Collins read the Notice into the record, and acknowledged that the Public Hearing would be held on December 15, 2009, if the advertising requirement is met.

## **11. COUNTY ADMINISTRATOR MATTERS**

### **11.A. MEETINGS OF THE BOARD OF COUNTY COMMISSION - PROPOSED**

#### **2010 MEETING DATES**

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Davis, to approve the proposed 2010 meeting schedule.

The Board discussed the proposed dates. Chairman O'Bryan requested the meeting of November 23, 2010 be removed from the meeting schedule.

MOTION WAS AMENDED by Commissioner Wheeler, SECONDED by Commissioner Davis, to remove November 23, 2010 from the proposed meeting schedule.

The Chairman CALLED THE QUESTION. The Board by a 4-0 vote (Vice Chairman Solari absent) approved the proposed 2010 meeting schedule as amended, with the deletion of the November 23, 2010 meeting.

## **12. DEPARTMENTAL MATTERS**

### **12.A. COMMUNITY DEVELOPMENT**

#### **12.A.1. CONSIDERATION OF EMINDFUL INC'S REQUEST FOR A LOCAL**

##### **JOBS GRANT**

Community Development Director Bob Keating recapped the memorandum of November 18, 2009, pointing out that eMindful Incorporated, an internet based integrated health care provider, was applying for the State Qualified Target Industry (QTI) Tax Refund Program

funds, as well as the County's Local Jobs Grant Program. He said that if the QTI funds are received, the local Jobs Grant funds could be used as the County's required 10% match for the QTI program. He conveyed that staff had reviewed the application and found it to meet all the local Jobs Grant requirements. He recommended approval of the local Jobs Grant for up to \$550,000 if they locate in the City of Vero Beach/Indian River County Enterprise Zone, or \$500,000 if they locate in Indian River County but not in the City of Vero Beach/Indian River County Enterprise Zone.

**Helene Caseltine**, Director of Economic Development for the Chamber of Commerce, expressed her delight that eMindful was considering Indian River County as their Corporate Headquarters, and found eMindful to be eligible for both programs.

**Kelly McCabe Ruff**, CEO of eMindful Incorporated, used a PowerPoint Presentation (on file) to provide the Board with an overview of her company. She also highlighted their direction and anticipated growth. Thereafter, she addressed questions from the Board.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board: (1) approved a local Jobs Grant of up to \$550,000 for eMindful, Incorporated, if eMindful locates in the City of Vero Beach/Indian River County Enterprise Zone or \$500,000 if eMindful locates in Indian River County but outside of the City of Vero Beach/Indian River County Enterprise Zone; (2) approved **Resolution 2009-181**, recommending to Enterprise Florida that eMindful, Inc. be approved as a qualified target industry pursuant to s.288.106, Florida Statutes; and providing an appropriation of up to \$550,000 as part of a local Jobs Grant Program for local participation in the Qualified



Target Industry Tax Refund Program, and providing for an effective date; and (3) authorized the Chairman to execute the Jobs Grant Agreement with eMindful, Inc., after approval of the Agreement by appropriate County staff and the County Attorney's office, as recommended in the memorandum of November 18, 2009.

**12.B. EMERGENCY SERVICES - NONE**

**12.C. GENERAL SERVICES - NONE**

**12.D. HUMAN RESOURCES**

**12.D.1. COUNTY ATTORNEY HIRING PROCESS – NARROWING THE FIELD OF CANDIDATES**

Human Resources Director Jim Sexton provided an update on the status of the County Attorney position. He reported that there were 23 candidates who met the stated requirements of the Board, and he wanted to narrow the field of candidates to a manageable number.

Under discussion, each Commissioner stated his selection of candidates. Commissioner Solari, in his absence, had e-mailed his selection to Director Sexton.

After tallying the votes, Director Sexton divulged that Michael Zito, Alan Polackwich, Sr., and Thomas Spencer, who obtained the majority of votes, would move to the next process.

The Board debated their options in moving forward and the consensus of the Board was to evaluate the top three candidates in a face-to-face interview.

There was a brief discussion regarding the interview process.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, by a 3-1 vote (Vice Chairman Solari absent and Commissioner Flescher opposed), the Board approved to proceed with interviews of the top three candidates: Alan Polackwich, Sr., and Thomas Spencer, and Michael Zito.

There was a brief discussion regarding the coordination and scheduling of interviews, and a debate regarding the format in which the questions should be asked.

The Board directed Director Sexton to schedule the individual/private meetings in conjunction with the Commissioners' schedules.

**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, gave an update on the progress of the Sector 3 Beach Renourishment Project. He said the project was on schedule for permit issuance, and that he was currently waiting to hear from the Regulatory Agencies. He stated that the latest submittal to the Department of Environmental Protection (DEP) had started the 30-day

regulatory clock for the issuance of a draft permit, and was hopeful that it could be issued before the time period expires. He conveyed that the draft Biological Opinion from the U.S. Fish and Wildlife Service was received on November 25, 2009, and that his staff's comments had been sent directly back to the Service. Dr. Gorham stressed the importance of the Biological Opinion for the Federal and State permitting. He conveyed that staff was seeking a commitment from the Service as to when they could expect the Biological Opinion to be signed by the director. He disclosed that Michael Walther, President of Coastal Technology Corporation, Inc., had scheduled a meeting with DEP staff for December 3, 2009, to seek a commitment for the issuance of the draft permit.

Dr. Gorham acknowledged that he was preparing a webpage for the County's website that would provide updates on the progress of the project, as well as a forum for answering questions.

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

**13. COUNTY ATTORNEY MATTERS**

**13.A. REALIGNMENT OF 101<sup>ST</sup> AVENUE/102<sup>ND</sup> TERRACE**

Deputy County Attorney Bill DeBaal reviewed his Memorandum of November 5, 2009, recalling the details involved with the first phase of the recent property exchange with the Board of Trustees of the Internal Improvement Fund of the State of Florida, and outlined the Exchange Agreement of the second phase. He highlighted the four proposed options on page 262 of the backup, and recommended the Board direct staff to proceed accordingly.

A lengthy discussion ensued among the Board pertaining to the different options, the traffic on 102<sup>nd</sup> Terrace and whether to add a second traffic signal, requirements of the Exchange Agreement, and setting aside funds for the restoration of 102<sup>nd</sup> Avenue.

Commissioner Davis did not want to lose the efforts that had already been put forth on this project, and requested Attorney DeBraul to research what the State's minimum requirements are, to keep the Exchange Agreement in place regardless of timeframe, so that a decision could be made.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board directed the Deputy County Attorney to contact the Department of Environmental Protection (DEP) for a definitive answer as to what can be done to keep the options open, and to bring the information to the Board for a final decision.

**13.B. RECONSIDERATION OF ACQUISITION OF RIGHT-OF-WAY ALONG  
66<sup>TH</sup> AVENUE BANACK FAMILY LIMITED PARTNERSHIP 66<sup>TH</sup> AVENUE AND 41<sup>ST</sup>  
STREET**

Attorney DeBraul recapped his memorandum of November 23, 2009. He recalled that the Board had declined a prior purchase of the Banack parcel, due to the uncertainty of the palm trees that are situated on the property. He used an aerial map to identify the 3.838 acre strip of property located on 66<sup>th</sup> Avenue, south of 41<sup>st</sup> Street, and the 565 palm trees that would be affected in the area of take. He thereafter provided the details of the negotiation agreement with the Banack Family Limited Partnership.

**Rusty Banack**, Bancak Family Limited Partnership, addressed the Board's questions relating to the palm tree warranty and discount.

Attorney DeBraal acknowledged that under this proposal, all the palm trees would be purchased as a lump sum, and that there would be no effort by the Banacks to sell-down the trees before the final closing. He believed the acquisition of trees could be planted around the golf course, in parks, and on County owned lands.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the grand total and acquisition costs in the amount of \$295,450.32, and directed staff to return with these figures and terms reduced to writing together with an Agreement for annual maintenance costs, as recommended in the memorandum of November 23, 2009.

#### **14. COMMISSIONER ITEMS**

**14.A. COMMISSIONER PETER D. O'BRYAN, CHAIRMAN - NONE**

**14.B. COMMISSIONER BOB SOLARI, VICE CHAIRMAN - NONE**

**14.C. COMMISSIONER WESLEY S. DAVIS - NONE**

**14.D. COMMISSIONER JOSEPH E. FLESCHER - NONE**

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

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

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

**15.B. SOLID WASTE DISPOSAL DISTRICT - NONE**

**15.C. ENVIRONMENTAL CONTROL BOARD - NONE**

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

**16. ADJOURNMENT**

There being no further business, the Chairman declared the meeting adjourned at 12:04 p.m.

ATTEST:

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

\_\_\_\_\_  
Peter D. O'Bryan, Chairman

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

BCC/LA/2009Minutes