

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF DECEMBER 15, 2009

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JEFFREY K. BARTON

Clerk to the Board



December 15, 2009

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

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27th Street, Vero Beach, Florida, on Tuesday, December 15, 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

Chaplain Kenneth Jones, Visiting Nurse Association (VNA) of Indian River County, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman O'Bryan 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:

DELETION: ITEM 13.A. UNCONDITIONAL OFFER FOR TWO PARCELS OF PROPERTY OWNED BY VERO ESTATES, LLC AT THE NORTHEAST CORNER OF 66TH AVENUE AND COUNTY ROAD 510

ADDITION: ITEM 13.D. DISCUSSION ON THE FELLSMERE FIRE HYDRANT APPEAL

MOVED: ITEM 5.B. PRESENTATION ON WINTERFEST 2009, TO BE HEARD PRIOR TO ITEM 5.A

MOVED: ITEM 13.C. STIPULATED ORDER OF TAKE FOR A PARCEL OF LAND ON THE CORNER OF 66TH AVENUE AND 57TH STREET OWNED BY STEVEN, WILLIAM AND EVAN ABAZIS, PARCELS 102 AND 401, TO BE HEARD FOLLOWING ITEM 5.C.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, 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 DESIGNATING DECEMBER 19, 2009 AS "WINTERFEST DAY"

(Clerk's Note: This Item was heard following Item 5.B. and is placed here for continuity.)

Commissioner Flescher read and presented the Proclamation to Pointe West Representatives and the Indian River County Recreation Department.

5.B. PRESENTATION ON WINTERFEST 2009 BY CHUCK MECHLING, POINTE WEST

(Clerk's Note: This Item was heard prior to 5.A. and is placed here for continuity.)

Chuck Mechling, President of Pointe West, Inc., acknowledged the Exchange Club of Indian River for their fundraising efforts for the Prevention of Child Abuse, and assisting with the Winterfest 2009 event. He announced Pointe West's sixth annual Winterfest event hosted by Indian River County Recreation Department and Pointe West, to be held on Saturday, December 19th from 2:00 p.m. to 6:00 p.m. He outlined the various activities planned and invited all to attend.

5.C. 211 ANNUAL SERVICE DELIVERY REPORT: 2008-2009 PERSPECTIVE, BY SUSAN K. BUZA, EXECUTIVE DIRECTOR, 211 PALM BEACH/TREASURE COAST

Susan Buza, Executive Director of 211 Palm Beach and Treasure Coast, provided an overview of their Annual Service Delivery Report (copy on file).

(Clerk's Note: Item 13.C. was heard prior to Item 6 and is placed in chronological order.)

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF OCTOBER 13, 2009

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of October 13, 2009. There were none.

ON MOTION by Commissioner Flescher, SECONDED by Chairman O'Bryan, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Minutes of the Regular Meeting of October 13, 2009, as written.

6.B. JOINT MEETING OCTOBER 15, 2009 – WATER AND SEWER CONSOLIDATION

The Chairman asked if there were any corrections or additions to the Minutes of the Joint Meeting of October 15, 2009, Water and Sewer Consolidation. There were none.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved Minutes of the Joint Meeting of October 15, 2009, Water and Sewer Consolidation, as written.

6.C. REGULAR MEETING OF OCTOBER 20, 2009

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of October 20, 2009. There were none.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Minutes of the Regular Meeting of October 20, 2009, as written.

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

7.A. SCHOOL BOARD APPOINTMENTS TO COUNTY COMMITTEES FOR 2009-2010

(Clerk's Note: The list of newly appointed Board Members, Citizens and Staff appointed to serve on various County committees for 2009-2010 from the School Board is found on pages 3-7 of the backup.)

8. CONSENT AGENDA

Commissioner Wheeler requested to pull Item 8.O. from the Consent Agenda for discussion.

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.

8.A. APPROVAL OF WARRANTS AND WIRES, DECEMBER 1, 2009 TO DECEMBER 3, 2009

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, 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 December 1, 2009 to December 3, 2009, as requested in the memorandum of December 3, 2009.

8.B. FP&L Co. GIFFORD SUBSTATION EASEMENT AND RIGHT-OF-WAY

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved both the Right-of-Way Deed and Easement with Florida Power and Light Company, and authorized the Chairman to execute the documents on behalf of the County, as requested in the memorandum of December 7, 2009.

COPIES OF EASEMENT AND RIGHT OF WAY DEED ON FILE
IN THE OFFICE OF THE CLERK TO THE BOARD

8.C. CONSIDERATION OF A FIRST AMENDMENT TO THE MEMORANDUM OF AGREEMENT WITH THE INDIAN RIVER LAND TRUST AND A MODIFIED VERSION OF THE LEASE AGREEMENT WITH THE FLORIDA INLAND NAVIGATION DISTRICT

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved both the First Amendment to the Memorandum of Agreement (MOA) with the Indian River County Land Trust and the revised Lease Agreement with the Florida Inland Navigation District, and authorized the Chairman to execute the Agreements, as recommended in the memorandum of December 8, 2009.

AMENDMENT TO AGREEMENT AND LEASE AGREEMENT ON FILE
IN THE OFFICE OF THE CLERK TO THE BOARD

**8.D. FLORIDA DEPARTMENT OF LAW ENFORCEMENT FY 2009/2010 EDWARD
BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Certificate of Acceptance of Subgrant Award for the Indian River County Multi-Agency Criminal Enforcement Unit in the amount of \$103,917, as recommended in the memorandum of December 7, 2009.

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

8.E. APPROVAL OF APPLICATION FOR DEPARTMENT OF ENERGY GRANT

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Application for the Department of Energy (DOE) Grant under the Recovery and Reinvestment Act of 2009, as recommended in the memorandum of December 4, 2009.

**8.F. FY 2008-2009 RECORDS DISPOSITION COMPLIANCE STATEMENT AND
RECORDS MANAGEMENT LIAISON OFFICER FORM – BOARD OF COUNTY
COMMISSIONERS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board authorized the Chairman to execute the Records Disposition Compliance Statements for the period October 1, 2008 through September 30, 2009, and submit the Record Management Liaison Officer (RMLO) form to the Florida Department of State for the Indian River County Board of County Commissioners, as recommended in the memorandum of December 9, 2009.

**8.G. INTEREST RATE CHANGE ON ALL COUNTY FINANCING (PETITION PAVING,
UTILITY ASSESSMENT PROJECTS, UTILITY IMPACT FEES, ETC.)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the fixed interest rate of 5.75%, which will remain in effect for calendar year 2010 for all County financing with the exception of projects directly affiliated with a bond issue for which the bond covenants dictate a different interest rate, as recommended in the memorandum of December 7, 2009.

**8.H. APPROVAL OF AMENDMENT NO. 2 TO DEP, AGREEMENT NO. G0182 FOR THE
MAIN RELIEF CANAL POLLUTION CONTROL STRUCTURE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved Amendment No. 2 to the Florida Department of Environmental Protection (FDEP) Agreement No. G0182, and authorized the Chairman to execute it on behalf of the County, as recommended in the memorandum of November 30, 2009.

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

**8.I. REQUEST TO ENTER INTO A PUBLIC TRANSPORTATION JOINT PARTICIPATION
AGREEMENT (JPA) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION
(FDOT)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved **Resolution 2009-184**, authorizing the execution of a Public Transportation Joint Participation Agreement with the Florida Department of Transportation.

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

**8.J. REQUEST FOR PROJECT ADMINISTRATION CONSULTANT APPROVAL FOR THE
NEW TRANSIT ADMINISTRATION/BUS PARKING FACILITY**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board: (1) approved the selection of Keith and Schnars, P.A. as the Project Administration Consultant; (2) reviewed the draft Contract for Consultant Services (Attachment No. 1 in the backup); (3) authorized staff to negotiate contract terms with Keith and Schnars; and (4) authorized the Chairman to execute the contract with Keith and Schnars, if the contract can be negotiated at or below the budgeted cost for the project, all as recommended in the memorandum of December 4, 2009.

**8.K. REQUEST FOR BOARD APPROVAL OF A WORK PLAN MODIFICATION, A
BUDGET AMENDMENT AND CLOSEOUT OF THE COUNTY'S NEIGHBORHOOD
REVITALIZATION COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board: (1) approved the Neighborhood Revitalization (NR) Community Development Block Grant (CDBG) Modification No. 3 by authorizing the Chairman to execute the modification forms; (2) approved the NR CDBG closeout document by authorizing the Chairman to execute the closeout documents; and (3) authorized the Chairman to execute and submit any

additional CDBG related documents to allow the County to complete the grant modification and to closeout the Grant, all as recommended in the memorandum of December 7, 2009.

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

8.L. EXTENSION OF LEASE WITH THE ECONOMIC OPPORTUNITIES COUNCIL OF INDIAN RIVER COUNTY, INC., FOR USE OF A PORTION OF DOUGLASS SCHOOL TO OPERATE HEAD START OF INDIAN RIVER COUNTY

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Lease Extension with the Economic Opportunities Council of Indian River County, Inc., as prepared by the County Attorney's office for a term to expire September 30, 2033, as recommended in the memorandum of December 9, 2009.

LEASE EXTENSION ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.M. DECLARE EXCESS EQUIPMENT SURPLUS FOR SALE OR DISPOSAL

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board declared this 10,000 gallon steel fuel tank surplus and authorized its sale as scrap metal to the County contracted scrap metal dealer, Trademark Metals, as recommended in the memorandum of December 3, 2009.

**8.N. CHANGE ORDER NO. 1 – ADDITIONAL UTILITIES, ROADWAY IMPROVEMENTS
TO 16TH STREET FROM 74TH AVENUE TO 66TH AVENUE AND 66TH AVENUE
FROM 16TH STREET TO S.R. 60, BID NUMBER 2009037 – J.W. CHEATHAM,
LLC, IRC PROJECT No. 9920, 9810-A, 0545**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved Change Order No. 1 to J.W. Cheatham, LLC, increasing the contract amount by \$56,483.50. The new contract amount will now be \$4,050,847.34, all as recommended in the memorandum of November 25, 2009.

8.O. STATE LOBBYIST AGREEMENT

Administrator Baird confirmed for Commissioner Wheeler that Mr. Ron Book's representation as a State Lobbyist had been a good investment for the County. He commented on how Mr. Book had helped the County to bring in funding for the Sector 7 Beach Renourishment Program, two Egrett Marsh Grants, and the Main Relief Canal. He also raised the issue that Mr. Book had agreed to have his 2010 Legislative Session fee reduced from \$75,000 to \$60,000.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the Agreement with Ron L. Book for professional services for the 2010 Legislative Session in the amount of \$60,000, as recommended in the memorandum of December 4, 2009.

Commissioners Davis, Wheeler, and O'Bryan spoke favorably of Mr. Book, affirming that he was an effective lobbyist, and well worth the investment.

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

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

9.A. KAY CLEM, INDIAN RIVER COUNTY SUPERVISOR OF ELECTIONS - MEMORANDUM OF AGREEMENT AND CERTIFICATE REGARDING MATCHING FUNDS, FEDERAL ELECTION ACTIVITIES FUNDS

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, by a 4-0 vote (Vice Chairman Solari absent), the Board accepted the Memorandum of Agreement and authorized the Chairman to execute the Certificate Regarding Matching Funds, to certify that the County will match the State funds of \$16,012.79 with a 15% County match, or \$2,401.92, as requested in the letter dated November 19, 2009.

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

9.B. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF - FORFEITURE TRUST FUND

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Davis, to approve the Sheriff's request that \$115,282.00 from the Law

Enforcement Trust Fund be used to purchase equipment, as specified in the Sheriff's letter dated December 9, 2009.

Sheriff Deryl Loar thanked the Board for approving the Certificate of Acceptance of Subgrant Award for the County Multi-Agency Criminal Enforcement (MACE) Unit in the amount of \$103,917 (under Item 8.D. of the Consent Agenda). He emphasized the importance of the operation, how it allows the Department to actively seize items, and how the program will ultimately benefit taxpayers.

The Chairman CALLED THE QUESTION and the Motion carried by a 4-0 vote (Vice Chairman Solari absent). The Board approved the Sheriff's request that \$115,282.00 from the Law Enforcement Trust Fund be used to purchase equipment as specified in the Sheriff's letter dated December 9, 2009.

10. PUBLIC ITEMS

10.A. PUBLIC HEARING

10.A.1. CONSIDERATION OF PROPOSED AMENDMENTS TO THE RS-6, RT-6, RM-6, RM-8, AND RM-10 MAXIMUM BUILDING COVERAGE REGULATIONS CHAPTER 911 (LEGISLATIVE)

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

Chairman O'Bryan announced that the applicant had requested to table this item until January 5, 2010.

The Chairman opened the Public Hearing; there being no 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 DEFERRED this item to the January 5, 2009 Board of County Commission Meeting.

10.A.2. REQUEST FROM WE CARE OF THE TREASURE COAST, INC. FOR A CLASS B CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE BLS INTERFACILITY TRANSPORTS ORIGINATING FROM INDIAN RIVER COUNTY (QUASI-JUDICIAL)

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

Assistant Fire Chief Brian Burkeen recapped his Memorandum dated December 7, 2009, relating that We Care of the Treasure Coast, Inc. had submitted an application for a Class B Certificate of Public Convenience and Necessity, to provide basic life support (BLS) non-emergency interfacility transport service originating within the County. He said that We Care of the Treasure Coast, Inc. currently has a Class E Certificate to provide wheelchair transportation, and that they wanted to add their services to the County. He provided details on the County's transport services over the past year, highlighted portions of Chapter 304.07 of the Indian River County Code of Laws and Ordinances, spoke briefly on the Needs Assessment, and explained why he recommended denial of the application.

Commissioners sought and received clarification to billing costs, competition, and the logic of the Code of Laws and Ordinances which states that the issuance of a Certificate of Public Convenience and Necessity shall be regulated by additional needs of the public.

Commissioner Davis voiced concern over moving forward without supporting staff's recommendation or the Needs Assessment.

Attorney Collins advised the Commissioners that they have the discretion to take public input, balance the issues of need versus competition, and make a decision, or they could consider revising the Code of Laws and Ordinances. He reiterated that if it had been staff's determination, it would not have come before the Board in a Public Hearing setting.

Administrator Baird told the Commissioners that if they did not feel there was a saturation of transport services, they could vote for the additional BLS carrier without there being a violation to the Code of Laws and Ordinances.

The Chairman opened the Public Hearing.

Paula Barakos, Vice President of We Care of the Treasure Coast, Inc., introduced her business, and outlined the statistics, letters of support, opposition letters, and letters of recommendation (on file).

Eddie Simchick, representing All County Ambulance and American Ambulance, felt both of the current ambulance operators provided an excellent service to the County. He voiced concern regarding over-saturation in the County, the possibility of other providers not providing a back-up system, and the loss of revenue. He thereafter answered questions from the Board.

Bob Johnson, Coral Wind Subdivision, believed there was a need for additional ambulance support.

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

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Davis to DENY staff's recommendation, and approve the application from We Care of the Treasure Coast, Inc., to provide non-emergency BLS interfacility ambulance services in Indian River County.

Commissioner Davis viewed competition as a good thing, and wanted to know the logic as to why the Code is in place.

Administrator Baird informed Commissioner Davis that the Code is in place due to medical/safety issues. He indicated that staff had wanted assurance that there would not be so much competition that the people would not receive appropriate medical care, due to cutbacks. He said he would arrange for Emergency Services to bring the Code of Laws and Ordinances back to the Board for discussion and possible options.

Commissioners Flescher, Wheeler and O'Bryan voiced their support for additional competition, and felt that having a third provider would be most appropriate.

The Chairman CALLED THE QUESTION and by a 4-0 vote (Vice Chairman Solari absent), the Board DENIED staff's recommendation, and APPROVED We Care of the Treasure Coast, Inc.'s application for a Class B Certificate of Public Convenience and Necessity for BLS Non-Emergency Interfacility Transportation services originating within Indian River County.

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

**10.A.3. CONTINUATION OF PUBLIC HEARING ON THE ORDINANCE TO CREATE A NEW
“GIFFORD COMMUNITY CENTER M.S.T.U.” (LEGISLATIVE)**

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

Management and Budget Director Jason Brown summarized his Memorandum of December 7, 2009, providing the background and details of the plan that staff had developed to fund the capital needs from a combination of funds that continue to provide \$15,000 from the General Fund for operation of the Gifford Progressive Civic League and the Gifford Community Center. The MSTU proposal would provide about \$30,000 per year, for about six years, to fund facility needs. Director Brown proposed to take care of the immediate needs with current reserves from the One-Cent Sales Tax and the County's Unincorporated Area MSTU fund reserves. This would fund approximately \$174,800 for the immediate needs of updating the air conditioning system and restrooms, with a commitment to fund other needs over the next five years from similar sources, and continue funding operating expenses in the amount of \$15,000 from the General Fund. He also emphasized that this would not have an impact of raising taxes for homeowners or business owners in the area.

Administrator Baird emphasized that the Gifford Community Center was over twenty years old and that it had never been updated or renovated. He felt modernization was needed to make it a better facility. He thereafter clarified for Commissioner Wheeler that the 15% Contingency figures in the backup are estimates to the cost, not actual bids.

Commissioner Davis requested that all Community Centers be added to the website so the public could be made aware of the facilities available to them.

At Commissioner Wheeler's request, Administrator Baird said he would provide the Board with frequent updates on cost assessments.

The Chairman opened the Public Hearing.

Freddie Woolfork, 4590 57th Avenue, President of the Progressive Civic League, was pleased that there was an alternative where taxes would not need to be imposed upon citizens or businesses. He said the facility was built in 1988, and that it definitely needs to be brought up to modern standards.

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

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the proposed funding plan for operating and facility needs at the Gifford Community Center as presented in the Backup; and authorized the necessary Budget Amendment to fund the Priority 1 and 2 facility improvements at an estimated cost of \$174,800, as recommended in the memorandum of December 7, 2009.

Mr. Woolfork expressed his concerns and requested the Board support the purchase of a food warming truck for the Meals on Wheels program, for approximately \$42,000, to deliver hot meals to seniors and shut-ins within the Gifford community.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board directed staff to bring this Item back to the Board with backup and proposal report for a food warming truck for the Meals on Wheels program.

Chairman O'Bryan recognized the need for another truck; however, he also voiced concern over future unknowns, and having just approved \$174,800 from the Budget.

Chairman O'Bryan called a break at 10:25 a.m. and reconvened the meeting at 10:35 a.m. with all members present.

10.B. PUBLIC DISCUSSION ITEMS - NONE

10.C. PUBLIC NOTICE ITEMS - NONE

11. COUNTY ADMINISTRATOR'S MATTERS - NONE

12. DEPARTMENTAL MATTERS - NONE

12.A. COMMUNITY DEVELOPMENT - NONE

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES

12.C.1. CHANGE OF SCHEDULED DAYS OPENED AND CLOSED AT SHOOTING RANGE

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Davis, for discussion, to approve the change in schedule at the Shooting Range, by closing on Wednesdays and opening on Mondays, subject to the continued rental of \$250 per day, at a minimum of 40 days, for \$10,000 for the use of the range.

There was a brief discussion regarding the Shooting Range schedule, and offering certain Wednesdays to the public as a revenue source for the Range. Sheriff Loar said he would provide staff with a 2010 calendar schedule showing the scheduled training days, to implement on the website, which would give individuals an opportunity to use the facility.

General Services Director Tom Frame requested the change be effective with a 30-day notice so the notices can be posted.

MOTION WAS AMENDED by Commissioner Wheeler, SECONDED by Commissioner Davis, to ensure staff receives a 30-day notice of the schedule changes.

The Chairman CALLED THE QUESTION and by a vote of 4-0 (Vice Chairman Solari absent), the Motion carried. The Board approved: (1) the change in schedule at the Shooting Range, by closing on Wednesdays and opening on Mondays, subject to the continued rental of \$250 per day, at a minimum of 40 days, for \$10,000 for the use of the range, and (2) that staff receives a 30-day notice of the schedule changes.

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 latest update on the progress of the Sector 3 Beach Renourishment Project. He spoke about the Workshop and Public Hearing regarding the erosion control line for the project, expecting the State's Hearing Officer to make his recommendation to the Department of Environmental Protection (DEP) Bureau of State by December 21, 2009, and obtaining a temporary construction easement from the oceanfront property owners. He said that a meeting was going to be held with the Sebastian Inlet District for an update on the progress and discussion of the Interlocal Agreement (ILA) with the District before they fund the project. Dr. Gorham provided cost estimates of the project, and the details of the District's contribution preference. He felt the ILA was written to adequately cover the arrangement, and wondered if the District Board would consider an Amendment to the Agreement that would identify the contractor, unit price, volume, and schedule. He said Ranger Construction was asked to provide a revised cost and schedule that reflects the intention to phase the project, and additional requirements that have come down from the State. He was hoping to get the revised cost proposals from Ranger and bring it back to the Board by the January 12, 2010 Board of County Commission Meeting.

Chairman O'Bryan mentioned that the Sector 3 informational website could be viewed at www.ircgov.com. This website provides information, Dr. Gorham's e-mail link, frequently asked questions, updates, progress, and the construction schedule.

12.J. UTILITIES SERVICES

12.J.1. SOUTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANT

**CONCENTRATE DISPOSAL OPTIONS CAMP DRESSER & MCKEE, INC. (CDM) –
WORK ORDER NO. 17**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved Work Order No. 17 with Camp Dresser and McKee, Inc. (CDM) in the amount not-to-exceed \$45,550.00, and authorized the Chairman to execute same, as recommended in the memorandum of October 29, 2009.

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

**12.J.2. INDIAN RIVER FARMS WATER CONTROL DISTRICT FIVE-YEAR LEASE
AGREEMENTS FOR CALENDAR YEAR 2009**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board approved to renew the Interlocal Agreements with the Indian River Farms Water Control District, and authorized the Chairman to execute the same, as recommended in the memorandum of December 7, 2009.

PERMIT AND INTERLOCAL AGREEMENTS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

**12.J.3. WEST REGIONAL WASTEWATER TREATMENT PLANT EXPANSION FROM 2 MGD
TO 6 MGD – CHANGE ORDER NO. 4 FOR ADDITIONAL WORK – UCP-2621**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the change to the contract price to \$13,691,786.21; authorized the Chairman to execute the Forth Change Order to contract documents with Wharton-Smith, Inc., as presented; and authorized a contract extension of 90 days; as recommended in the memorandum of December 7, 2009.

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

**12.J.4. SAN SEBASTIAN SPRINGS SUBDIVISION PETITION WATER SERVICE INDIAN
RIVER COUNTY PROJECT NO. UCP-3014, RESOLUTION IV – FINAL
ASSESSMENT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board adopted **Resolution 2009-185**, certifying “as-built” costs for installation of water service to San Sebastian Springs Subdivision in Indian River County, Florida, and such other construction necessitated by such project; providing for formal completion date, and date for payment without penalty and interest.

Chairman O'Bryan commented on this project coming in about 26% below the initial assessment, and acknowledged this to be a job well done.

12.J.5. ADVANCE UTILITY SYSTEMS SOFTWARE LICENSE, IMPLEMENTATION AND SUPPORT AND MAINTENANCE AGREEMENT

Assistant Director of Utilities Cindy Corrente updated the Board on the new utility system software and how it would facilitate better customer service. Commissioners offered comments and asked questions about rental concerns, credit card fees, and whether there would be an opportunity to utilize this program for curbside pickup.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the requests of the Software License, Implementation and Support and Maintenance Agreement with Advanced Utility Systems, and authorized the Chairman to execute same, as recommended in the memorandum of December 4, 2009.

LICENSE, IMPLEMENTATION, AND AGREEMENT ON FILE
IN THE OFFICE OF THE CLERK TO THE BOARD

13. COUNTY ATTORNEY MATTERS

13.A. UNCONDITIONAL OFFER FOR TWO PARCELS OF PROPERTY OWNED BY VERO ESTATES, LLC AT THE NORTHEAST CORNER OF 66TH AVENUE AND COUNTY ROAD 510

Deleted

13.B. INTERVENER INTO FELLSMERE DEPARTMENT OF COMMUNITY AFFAIRS
DEPARTMENT OF ADMINISTRATIVE HEARINGS REGARDING FELLSMERE'S
LARGE SCALE COMPREHENSIVE LAND USE CHANGES

Assistant County Attorney George Glenn proposed for Board consideration, whether the County would want to be an intervener into the Department of Administrative Hearings (DOAH) proceedings between the City of Fellsmere and the Department of Community Affairs (DCA), regarding the proposed Comprehensive Land Use Amendments. He said if the County does not take advantage of the opportunity to intervene, then there would be no chance to comment or protest the outcomes from the hearings. The hearings are scheduled for January 26 - 29, 2010, and State Law requires that any interested party file their notice at least 20 days prior to the first hearing. He noted that the City of Fellsmere and DCA were in mediation settlement, and that DCA had indicated that the City of Fellsmere would be submitting an updated version or minor modification of their Comprehensive plan that would incorporate the ideas that were discussed.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, by a 4-0 vote (Vice Chairman Solari absent), the Board authorized the County Attorney's Office to file its Intent to Intervene in the Administrative Hearings, as recommended in the memorandum of December 8, 2009.

13.C. STIPULATED ORDER OF TAKE FOR A PARCEL OF LAND ON THE CORNER OF
66TH AVENUE AND 57TH STREET OWNED BY STEVEN, WILLIAM AND EVAN
ABAZIS, PARCELS 102 AND 401

(Clerk's Note: This Item was heard following Item 5.C. and is placed here for continuity.)

Anthony Policastro, Esquire, outside counsel, conveyed the details of the parcels that the County requires for right-of-way for the 66th Avenue improvement project and the Interlocal Agreement with the School District for the temporary turn lane onto 57th Street. He said the property owners, Steve, William, and Evan Abazis had agreed to stipulate to the Order of Taking under the following conditions: (1) the County take the entire parcel of 9.803 acres; (2) the County deposit into the Court Registry, the unconditional offer of \$560,740, which was approved by the Board on August 18, 2009; and (3) in addition to the deposit, the property owners would, as a minimum, recover same if the matter proceeds to trial. He mentioned that the property was appraised at \$487,600 in June 2009, and listed the reasons why this transaction would benefit the County.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Vice Chairman Solari absent), the Board approved the terms of the Stipulated Order of Take for the entire 9.803 acre parcel and directed outside Counsel to have the Stipulation signed by all parties and presented to the Court for approval, as recommended in the memorandum of December 8, 2009.

13.D. ADDED: DISCUSSION ON THE FELLSMERE FIRE HYDRANT APPEAL

County Attorney William Collins recalled discussion from a prior meeting, pertaining to the City of Fellsmere's fire hydrant bill. He explained the reasons why he had said not to pay the bill, and wanted to propose to Fellsmere City Attorney Warren Dill that the charges they found the County to be in violation of, be placed into an escrow account. Attorney Collins said if the County prevails, the funds would be returned, and if the Court determines the City of Fellsmere to be correct, then they would be paid out of the escrow account. He explained how the

additional funds would accrue in an escrow account, and requested the Board authorize the money to be placed into escrow, with the approval of the City of Fellsmere.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, by a 4-0 vote (Vice Chairman Solari absent), the Board authorized the County Attorney to place the payments into an Escrow account, pending the approval of the City of Fellsmere.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER PETER D. O'BRYAN, CHAIRMAN

14.A.1. POLICY ON PROHIBITING THE USE OF ELECTRONIC COMMUNICATIONS DURING COUNTY COMMISSION MEETINGS

Chairman O'Bryan provided his reasons and concerns as to why he felt text messages and electronic communications should be prohibited during County Commission Meetings. He referred briefly to the policy that Escambia County currently has in place (copy on file), and emphasized that he did not bring this to the Board because he felt anyone had done anything wrong, he just wanted protection from possible issues.

Due to family concerns, other work related concerns, and/or possible emergencies, the Commissioners voiced negative feelings over the suggestion of limiting electronic communications during the Board of Commission Meetings.

In view of the concerns, Attorney Collins reminded the Board that anything that is of private nature is not considered a public record; however, if a Commissioner receives a telephone call relating to County business, then it becomes public record, which needs to be disclosed. He said this would be a proposed policy, not an ordinance, and focused on Item 2 of

Escambia County's Technology Policy. He felt Escambia's policy was more limiting than what Commissioner O'Bryan was proposing, and he acknowledged, for the Board, that there would not be a penalty if a Board member refused to abide by the policy.

No action required or taken.

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

14.C. COMMISSIONER WESLEY S. DAVIS

14.C.1. REQUEST FOR DISCUSSION – CONTRACT/NON-CONTRACT EMPLOYEES

Commissioner Davis stated that the reduction of staff in the County Attorney's office made him realize that there were contracts for Assistant Administrators, as well as Assistant Attorneys. He felt there were advantages and disadvantages for having contract employees in these positions, and he voiced concern over those that have the opportunity for a 12-month severance. He felt there needed to be a policy to regulate this.

A brief discussion ensued regarding contracts.

Attorney Collins spoke about the additional backup ordinance (on file) as it exists with strike throughs and underlines, how it would change the current wording that all attorneys (hired after a certain date) would be "at will" contract employees, and how employees (hired after a different date) would be non-contract employees that would be subject to dismissal in accordance with the personnel rules of the County. After a brief discussion, Attorney Collins said he would bring this back to the Board in January for direction.

Commissioner Davis felt it would be best to bring this back to the Board for direction after the Board interviews the attorneys next week.

14.D. COMMISSIONER JOSEPH E. FLESCHER - NONE

14.E. COMMISSIONER GARY C. WHEELER - 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. AUTHORIZATION FOR FINAL PAYMENT AND RELEASE OF RETAINAGE TO BARTH CONSTRUCTION, INC. FOR THE CONSTRUCTION OF FIRE RESCUE STATION #12

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

15.A.2. FY 2008-2009 RECORDS DISPOSITION COMPLIANCE STATEMENT AND RECORDS MANAGEMENT LIAISON OFFICER FORM – EMERGENCY SERVICES DISTRICT

15.B. SOLID WASTE DISPOSAL DISTRICT

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

15.B.1. APPROVAL OF MINUTES – REGULAR MEETING OF OCTOBER 13, 2009

15.B.2. APPROVAL OF MINUTES – REGULAR MEETING OF OCTOBER 20, 2009

15.B.3. APPROVAL OF MINUTES – REGULAR MEETING OF NOVEMBER 3, 2009

**15.B.4. FY 2008-2009 RECORDS DISPOSITION COMPLIANCE STATEMENT AND
RECORDS MANAGEMENT LIAISON OFFICER FORM – SOLID WASTE DISPOSAL
DISTRICT**

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
11:26 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Peter D. O’Bryan, Chairman

Minutes Approved: _____

BCC/LA/2009Minutes