

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF JANUARY 19, 2010

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JEFFREY K. BARTON

Clerk to the Board



January 19, 2010

**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, January 19, 2010. Present were Chairman Peter D. O'Bryan, Vice Chairman Bob Solari, and Commissioners Wesley S. Davis, Joseph E. Flescher, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Maureen Gelfo.

1. CALL TO ORDER

Chairman O'Bryan called the meeting to order at 9:00 a.m.

2. INVOCATION

Stan Boling, Planning Director, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Joseph A. Baird, County Administrator, led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

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

MOVE: ITEM 10.B.2. REQUEST TO SPEAK FROM BRIAN HEADY REGARDING ISSUES RELATED TO VERO BEACH ELECTRIC UTILITY TO ITEM 5.C.

DELETION: ITEM 10.B.3. REQUEST TO SPEAK FROM BRUCE BARKETT, FOR CITY FIRST MORTGAGE CORP., REGARDING MATTER OF LEWIS BARTON CODE ENFORCEMENT

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION DESIGNATING JANUARY 25 – 29, 2010 AS GOLINE/COMMUNITY COACH PUBLIC TRANSIT EMPLOYEE RECOGNITION WEEK

Chairman O'Bryan read and presented the Proclamation to Karen Diegl, Executive Director, and Karen Wood, Transportation Director, of the Senior Resource Association.

**5.B. PUBLIC ANNOUNCEMENT FOR VERO BEACH ELECTRONICS RECYCLING
EVENT ON JANUARY 23, 2010**

Himanshu Mehta, Managing Director SWDD; Elizabeth Pollick, Senior Account Clerk, SWDD; and Kristy Sturdivant, Executive Director KIRB, provided details on the Vero Beach Electronics Recycling Event to be held at the Macy's parking lot on Saturday, January 23, 2010 from 9:00 a.m. to 3:00 p.m.

**5.C. REQUEST TO SPEAK FROM BRIAN HEADY REGARDING ISSUES RELATED
TO VERO BEACH ELECTRIC UTILITY**

(Clerk's Note: This item was moved from 10.B.2. and redesignated as Item 5.C.)

Brian Heady, 406 19th Street, newly elected City of Vero Beach Council Member, spoke about the situation wherein County residents living outside of Vero Beach City Limits are paying higher electric rates to the City of Vero Beach Electric Utility, than other County residents pay to Florida Power and Light (FPL). He recalled that Stephen Faherty and Glenn Heran had initiated action to get the Public Service Commission to take over the Utility, which action has subsequently been discontinued. Mr. Heady discussed the merits of maintaining local control for the Utility and declared that he would work with the Vero Beach City Council towards providing safe, reliable, and affordable electric service for the residents. He thereafter extended an invitation to Board members and the Public to attend the City of Vero Beach Council Meetings, one of which will occur this evening (January 19, 2010) at 6:00 p.m.

Commissioners extended their thanks and avowed their support to Mr. Heady for his efforts in remedying this situation; discussed some of the challenges he might face with the City Council; and advised that they would be monitoring the situation on behalf of the affected residents.

No Board action required or taken

6. APPROVAL OF MINUTES-NONE

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

**7.A. RESIGNATION OF REPRESENTATIVE FROM GIFFORD COMMUNITY TO THE
PARKS AND RECREATION COMMITTEE**

Noted for the record was the resignation on January 4, 2010, of Mr. Bill Wilson, as the Gifford Community representative to the Parks and Recreation Committee. His term would have expired by the end of 2010.

**7.B. 2010 ELECTION OF MPO CITIZENS ADVISORY COMMITTEE (MPOCAC)
CHAIRMAN AND VICE CHAIRMAN**

Noted for the record was the re-election of Ms. Juliana Young as Chairman, and Mr. Robert Johnson as Vice Chairman, of the Metropolitan Planning Organization (MPO) Citizens Advisory Committee (CAC) for the year 2010. As such, Chairman Young and Vice Chairman Johnson would be the MPOCAC appointees to the MPO Regional Advisory Committee.

7.C. 2010 ELECTION OF MPO CHAIRMAN AND VICE CHAIRMAN

Noted for the record was the election of Sebastian Mayor Richard Gillmor as Chairman, and County Commissioner Bob Solari as Vice Chairman of the Metropolitan Planning Organization (MPO) for the year 2010. As such, Chairman Gilmore and Vice Chairman Solari would be the MPO appointees to the MPO Regional Advisory Committee.

8. CONSENT AGENDA

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Consent Agenda, as written.

8.A. APPROVAL OF WARRANTS AND WIRES DECEMBER 29, 2009 TO JANUARY 7, 2010

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of December 29, 2009 to January 7, 2010, as requested in the memorandum of January 7, 2010.

8.B. LEASE WITH CUMBERLAND FARMS AT OSLO ROAD AND 27TH AVENUE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute the Lease with Cumberland Farms, Inc., at Oslo Road and 27th Avenue, as requested in the memorandum of January 11, 2010.

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

8.C. PROCLAMATION AND RETIREMENT AWARD FOR ROBERT D. WILLIAMS ON HIS RETIREMENT AFTER TWENTY-EIGHT YEARS SERVICE WITH THE BOARD OF COUNTY COMMISSION DEPARTMENT OF EMERGENCY SERVICES/FIRE RESCUE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Retirement Award and Proclamation honoring Robert D. Williams on his retirement from Indian River County Board of County Commissioners Department of Emergency Services/Fire Rescue.

8.D. AUTHORIZATION FOR THE SUPERVISOR OF ELECTIONS TO USE FORMER STORMWATER OFFICES LOCATED AT THE 43RD AVENUE ADMINISTRATION ANNEX 4375 43RD AVENUE UNIT 102

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the assignment of the office area located in Unit 102, 4375 43rd Avenue to the Supervisor of Elections as a training room with the understanding that when not in use and with the approval of the Supervisor of Elections, the space can be reserved by Board staff for meetings, as recommended in the memorandum of January 13, 2010.

8.E. WABASSO BEACH RESTORATION – SECTORS 3 FDEP GRANT AGREEMENT
No. 071R2 – AMENDMENT No. 1

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute Amendment No. 1 to FDEP No. 071R2, for Wabasso Beach Restoration Sector 3, as recommended in the memorandum of January 7, 2010.

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

8.F. WORK ORDER No. 14 (ENGINEERING/SURVEYING) MASTELLER, MOLER, REED AND TAYLOR, INC. DALE WIMBROW AND DONALD MACDONALD PARKS BOUNDARY – TOPOGRAPHIC – AERIAL PHOTOGRAMMETRIC SURVEY

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute Work Order No. 14 with Masteller, Moler, Reed, and Taylor, Inc., authorizing Project 0957 Dale Wimbrow and Donald MacDonald Parks Boundary, as outlined in the Scope of Services, as recommended in the memorandum of January 4, 2010.

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

**8.G. AMENDMENT AND EXTENSION OF HURRICANE DEBRIS REMOVAL
CONTRACTS FOR OMNI PINNACLE, LLC AND CERES ENVIRONMENTAL
SERVICES, INC.**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the extension of the debris removal agreements with Omni Pinnacle, LLC, and Ceres Environmental Services, Inc., and authorized the County Administrator to execute the extension upon review and approval of the County Attorney and review and approval by all applicable staff, as recommended in the memorandum of January 7, 2010.

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

8.H. TRAFFIC CONTROL DEVICE LEDGER

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2010-003**, approving traffic control devices authorized by the Director of Public Works.

TRAFFIC CONTROL DEVICE LEDGER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**9. CONSTITUTIONAL OFFICERS AND
GOVERNMENTAL AGENCIES**

9.A. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF

RESOLUTION IN SUPPORT OF SENATE BILL 610 AND HOUSE BILL 417

Sheriff Deryl Loar invited James Harpring, General Counsel for the Sheriff's Office, to present the request for a resolution of support for Senate Bill 610 (SB 610) and House Bill 417 (HB 417).

Attorney Harpring recalled that during the impasse hearings between the Coastal Police Benevolent Association (CFPBA) and the Sheriff's Office (heard by the Board in September 2009), the Board had articulated the desire to not be required to resolve a collective bargaining impasse by any Constitutional Officer. He explained that Senate Bill 610 and House Bill 417 would amend the relevant provision of Florida Statute 447.403 "Resolution of Impasses", to articulate that the respective Constitutional Officers of a particular County would be the Legislative Body of their respective employees for purposes of resolving a collective bargaining impasse.

Commissioner Wheeler was concerned that the definition presented in HB 417 (page 103 and 104), wherein the "Legislative Body" is described as "...having authority to appropriate funds..." could be construed to mean the Constitutional Officers could appropriate funds. He wanted clarified that the proposed resolution or legislation could not be interpreted in that manner, or open the door for the appropriation of funds by the Constitutional Officers.

Attorney Harpring explained that because of the language and rules of statutory construction, the proposed legislation does not amend or authorize the authority of a Constitutional Officer to appropriate funds. He emphasized that the language specifically refers only for the purposes of Section 447.403, which deals with the resolutions of collective bargaining impasses.

Discussion continued between Commissioners, staff, and Attorney Harpring on the language in the Resolution and in House Bill 417, with Attorney Collins suggesting that this item be brought back to the Commissioners after his review.

Commissioner Wheeler wanted time to get an opinion from the Florida Association of Counties (FAC), and requested that the Sheriff return with this item to the Board on February 2, 2010.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Flescher, to TABLE the Sheriff's request for a resolution in support of Senate Bill 610 and House Bill 417 to a time certain of Tuesday, February 2, 2010.

Under discussion, Vice Chairman Solari remarked that the Sheriff had likely wanted to get the resolution of support to present at the upcoming legislative meeting, and wondered if the Board could relay some verbal support to the Legislative Delegation, with the understanding that the legislation clearly has nothing to do with appropriations by the Constitutional Officers.

Board members continued to discuss their support for the intent of the proposed legislation, and considered whether the language in the Bills should be amended for clarity.

Commissioner Flescher wondered, since the County Commission was one of three options available to resolve impasse issues, whether the Board should be supporting the proposed legislation, and advocated a thorough review of the proposed legislation by the County Attorney.

Chairman O'Bryan inquired whether Commissioner Wheeler would amend his Motion to Table the item by including verbiage authorizing the Chairman to convey to the Indian River County Legislative Delegation the Board's support for designating the Constitutional Officers as

the Legislative Body for collective bargaining impasses. Commissioner Wheeler agreed; however, Commissioner Davis requested the action be accomplished in two separate Motions.

Joe Failla, Staff Representative of the Coastal Florida Police Benevolent Association (CFPBA), supported the Board's decision to take additional time to review the proposed legislation.

Commissioner Wheeler reiterated that he had no objections to the intent of the legislation, but he wants to discuss it with FAC.

Attorney Harpring offered to provide Commissioners with any additional information, and Commissioner Wheeler said he would meet with Attorney Harpring to discuss this matter.

The Chairman CALLED THE QUESTION, and by a 3-2 vote (Commissioners Davis and Solari opposed), the Motion carried. The Board TABLED the Sheriff's request for a resolution in support of Senate Bill 610 and House Bill 417 to a time certain of Tuesday, February 2, 2010.

Responding to Chairman O'Bryan's earlier request for authorization to convey the Board's support of the proposed legislation to the Legislative Delegation, the Board took the following action:

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to convey to the Indian River County Legislative Delegation, the Board's support for SB 610 and HB 417, designating the Constitutional Officers as the Legislative Body for the purposes of Collective

Bargaining, with the understanding that this in no way impacts appropriations.

10. PUBLIC ITEMS

10.A. PUBLIC HEARING-NONE

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

10.B. PUBLIC DISCUSSION ITEMS

**10.B.1. REQUEST TO SPEAK FROM FRANK ZORC REGARDING COMMUNICATIONS
BETWEEN COUNTY AND PIPER, UNAVAILABILITY OF COMMUNICATIONS,
APPEARANCE OF SUNSHINE LAW VIOLATION**

Mr. Zorc was absent.

**10.B.2. REQUEST TO SPEAK FROM BRIAN HEADY REGARDING ISSUES RELATED
TO VERO BEACH ELECTRIC UTILITY**

This item was redesignated as Item 5.C. and discussion has been placed there for continuity.

**10.B.3. REQUEST TO SPEAK FROM BRUCE BARKETT, FOR CITY FIRST
MORTGAGE CORP., REGARDING MATTER OF LEWIS BARTON CODE
ENFORCEMENT**

Deleted

10.C. PUBLIC NOTICE ITEMS-NONE

11. COUNTY ADMINISTRATOR MATTERS-NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

**12.A.1. APPROVAL OF CONTRACT AWARD FOR THE REHABILITATION OF
EIGHT HOMES APPROVED UNDER THE HURRICANE WILMA
COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY
INITIATIVE**

Community Development Director Robert Keating explained that this was the proposed Contract Award for the fourth group of recipients of the Hurricane Wilma Community Development Block Grant (CDBG) Disaster Recovery Initiative. He confirmed staff's recommendation of the Contract Award, providing there are no conflicts of interest between the Board Members and the contractors performing the rehabilitation work.

Commissioners Flescher, Davis, O'Bryan, Solari, and Wheeler, respectively, attested there were no known conflicts of interest.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the following contractors and total awards for each of the following applicants: (1) Bell, Audrey (4540 43rd Ct.) to A. Thomas Construction Co., Ft. Pierce, Florida, for the total amount of \$6,630.00; (2) Bell, Lena (4440 35th Avenue) to A. Thomas Construction Company, Ft. Pierce,

Florida for the total amount of \$7,170.00; (3) Rue, Jacque (4409 35th Avenue) to McAlhany Construction Company, Vero Beach, Florida for the total amount of \$8,196.00; (4) Butler, Sharon (4800 1st Street S.W.) to McAlhany Construction Company, Vero Beach, Florida for the total amount of \$6,732.00; (5) Johnson, Sally (4826 33rd Avenue) to McAlhany Construction Company, Vero Beach, Florida for the total amount of \$2,514.00; (6) Hinglebine, Richard (8615 97th Court) to McAlhany Construction Company, Vero Beach, Florida for the total amount of \$7,200.00; (7) Raulerson, Eddina (1326 23rd Avenue SW) to A. Thomas Construction Company, Ft. Pierce, Florida, for the total amount of \$1,176,000; and (8) McKinney, Candace (6000 8th Street) to McAlhany Construction Company, Vero Beach, Florida, for the total amount of \$6,270.00, as recommended in the memorandum of January 8, 2010.

12.B. EMERGENCY SERVICES-NONE

12.C. GENERAL SERVICES-NONE

12.D. HUMAN RESOURCES

12.D.1. APPROVAL OF COUNTY ATTORNEY EMPLOYMENT CONTRACT

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Flescher, for discussion, to approve the employment contract with Alan S. Polackwich, for the position of County Attorney, as

recommended in the memorandum of January 11, 2010.

Commissioners Wheeler and Flescher expressed their support for the way the contract was written.

Chairman O'Bryan noted how easy it had been to work with Attorney Polackwich on the contract, and Commissioner Davis felt that was indicative of his experience in the real world.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved the employment contract with Alan S. Polackwich, for the position of County Attorney (replacing current County Attorney William Collins II upon his retirement), for employment commencing February 23, 2010, as recommended in the memorandum of January 11, 2010.

Vice Chairman Solari expressed a desire for the County Attorney not to enter into any new contracts with the Assistant or Deputy County Attorneys prior to Attorney Polackwich coming on board.

Discussion ensued as Commissioners and staff discussed some of the provisions provided by the existing contracts for the Assistant and Deputy County Attorneys. Board members expressed the desire for the new County Attorney, working in conjunction with current Attorney William Collins, to come back to the Board with recommendations for structuring the contracts.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Wheeler, to direct the County Attorney to enter into no new contracts with the Deputy County Attorney, Assistant County Attorney, or other legal staff, until after the incoming County Attorney,

Alan S. Polackwich, has the opportunity to review and make recommendations on those contracts, and to come before the Board of County Commissioners with any proposed new contracts.

Under discussion, Commissioner Davis suggested that the incoming Attorney also review the contracts of the County Administrator and Assistant County Administrator.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board directed the County Attorney to enter into no new contracts with the Deputy County Attorney, Assistant County Attorney, or other legal staff, until after the incoming County Attorney, Alan S. Polackwich, has the opportunity to review and make recommendations on those contracts, and to come before the Board of County Commissioners with any proposed new contracts.

Commissioner Davis commended the Human Resources Department on a great job during the selection process for the new County Attorney.

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

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. RIGHT-OF-WAY RECONSIDERATION OF RESOLUTIONS 2007-027, 2008-116 AND 2008-139 REGARDING ACQUISITION OF RIGHT-OF-WAY FOR COUNTY ROAD PROJECTS

Michael Zito, Assistant County Administrator and Acting Assistant Land Acquisition Director, introduced this item, which pertains to the re-evaluation of the effects of Resolutions 2007-027, 2008-116, and 2008-139 on right-of-way acquisitions for County road projects. He reported that under the Resolutions, the pace of right-of-way acquisitions appears to be accelerated, and the ratio of funds spent on construction to funds expended on land acquisition has inverted over the past 18 months.

Public Works Director Christopher Mora used a PowerPoint presentation (copy on file), to review the timelines for the right-of-way acquisition process. He explained that the County has had to move forward with the right-of-way acquisition process for road projects that have reached the 60% plan design level, thus restricting staff's ability to focus on critical road segments which are close to full acquisition, and resulting in a scattered pattern of acquisitions.

Budget and Management Director Jason Brown, continuing the PowerPoint presentation, presented supporting data to portray the financial impact that the Resolutions have had on right-of-way acquisitions and road projects. He explained that there was an increase in monies needed for right-of-way, and in light of decreasing revenues, a resulting decrease in funds available for construction expenses.

Concluding staff's presentation, Director Mora presented staff's recommendation for Board approval of the Resolution presented on page 147 and 148 of the backup, which would amend previous Resolutions 2007-027, 2008-116, and 2008-139, to implement a more focused

approach to right-of-way acquisition, targeting only those projects that are close to full acquisition status and which are fully funded/scheduled for construction within the first three years of the County five-year Capital Improvement Program. These roadways include:

1. 66th Avenue between 4th Street and 16th Street
2. Oslo Road between 58th Avenue and 27th Avenue
3. 53rd Street between 58th Avenue and US1
4. 26th Street between 82nd Avenue and 74th Avenue
5. 26th Street between 43rd Avenue and US1
6. 66th Avenue between SR60 and 41st Street
7. 43rd Avenue between 18th Street and 26th Street

An in-depth discussion ensued as Commissioners sought further details from staff on the right-of-way vs. construction expenditures; the cost to complete the seven (7) road projects delineated in staff's recommendation; and the five-year transportation plan.

Commissioner Davis requested that Director Brown work up a three-year transportation plan.

The Chairman called a break at 10:45 and reconvened the meeting at 10:57 a.m., with all members present.

The Chairman opened the floor to public comments.

Joseph Paladin, Black Swan Consulting, observed that there were many issues to be decided and priorities to be determined, and requested that the Board hold a public workshop once Attorney Polackwich assumes his job as the new County Attorney.

Ruth Stanbridge, 4835 66th Avenue, outlined the safeguards that had been incorporated for home and property owners into Resolution 2008-139, which she did not believe were being carried over into the proposed resolution. She emphasized the importance of giving the property and homeowners their rights through the “Notice to Owner” letters, and providing a reasonable timeline, and recommended that the Board deny staff’s recommendation and give direction to defer construction projects if necessary, so funds can be used to acquire right-of-way.

Chairman O’Bryan requested from staff a detailed report on the status and costs of the proposed seven road projects.

A lengthy discussion ensued as Board Members reviewed the reasons for implementing Resolution 2008-139 (the most current Resolution governing right-of-way acquisitions), and made observations on whether it would be more financially prudent to put available monies in right-of-way or in road-building. During conversation, several Commissioners emphasized the importance of having Attorney Polackwich, when he assumes his post as County Attorney, work on developing a better right-of-way acquisition process, which will take into account the concerns of both the citizens and the County.

Further discussion ensued, during which Commissioners questioned staff on the right-of-way purchases on 66th Avenue, and the status of the 170 files that were turned over to the County Attorney subsequent to the Notice-to-Owner letters which were sent. During conversation, Board members emphasized the importance of treating the citizens fairly.

Vice Chairman Solari suggested that staff prioritize the proposed road projects and return to the Commission with the list, with recommendations on implementing the projects while maintaining consistency with the spirit of Resolution 2008-139.

MOTION WAS MADE by Vice Chairman Solari,
SECONDED by Commissioner Wheeler, to direct staff to:
(1) prioritize the seven (7) road projects presented in

staff's report; (2) proceed consistently with following Resolution 2008-139, and bring any other interpretation of the aforementioned Resolution before the Board of County Commission for approval; and (3) bring a progress report on the specifically prioritized road projects, with more details on the expected costs of road completion, back to the Board in three (3) months.

Commissioner Davis sought and received confirmation from the Chairman that the above Motion was NOT changing anything about Resolution 2008-139.

Bob Johnson, Coral Wind Subdivision, asked staff whether the proposed road projects were in priority order, and whether approval of the seven projects would trigger a bond issue.

Chairman O'Bryan recapped the Motion, after which the following action was taken:

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board directed staff to: (1) prioritize the seven (7) road projects presented in staff's report; (2) proceed consistently with following Resolution 2008-139, and bring any other interpretation of the aforementioned Resolution before the Board of County Commission for approval; and (3) bring a progress report on the specifically prioritized road projects, with more details on the expected costs of road completion, back to the Board in three (3) months.

**12.I.2. 43RD AVENUE STORMWATER RETENTION AREA, RIGHT-OF-WAY,
MARGARET B. DURWIN, 585 43RD AVENUE, VERO BEACH, FLORIDA**

Public Works Director Christopher Mora updated the Board on this request to purchase from Margaret B. Durwin a 1.76 acre parcel of land located at 585 43rd Avenue, for a stormwater retention pond site which will be needed for the 43rd Avenue Road Improvement Project. He presented staff's recommendation for Board approval of the Purchase and Sale Agreement in the amount of \$200,000, which includes a temporary construction easement which Ms. Durwin has granted to the County.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the \$200,000 purchase of right-of-way at 585 43rd Avenue, and authorized the Chairman to execute the Agreement to Purchase and Sell Real Estate with Margaret B. Durwin, as recommended in the memorandum of January 11, 2010.

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

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

Public Works Director Christopher Mora, through a review of Coastal Engineering staff's "Beach Sector 3 Design and Permitting Update" dated January 18, 2010 (copy on file), apprised the Board of the latest developments in the permitting and design process for the Sector 3 Beach Restoration Project. Due to a change where the project is being split into two phases, Ranger Construction is requesting an increase of \$984,502 to their contract amount, and Coastal Technology, Inc. and staff has been evaluating the Contract and Change Order to determine whether it is an equitable amount, and will return with those agreements for Board direction on February 2, 2010. Director Mora estimated that construction on the Sector 3 Project would begin

on February 9, 2010, providing enough time to complete the project prior to sea turtle nesting season on May 1st.

Vice Chairman Solari did not see why Ranger Construction would require an additional \$984,502 to construct the project in two phases, and asked Director Mora to provide more details on the Contract Award and Change Order to Ranger, when he returns to the Board with this item on February 2, 2010.

12.J. UTILITIES SERVICES-NONE

13. COUNTY ATTORNEY MATTERS-NONE

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

(Clerk's Note: Commissioner Wheeler exited the meeting at 12:07 p.m.)

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT

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

15.A.1. APPROVAL OF FY 2009/10 EMS COUNTY AWARDS GRANT: PURCHASE OF CAPITAL/OPERATING EQUIPMENT USING NON-MATCHING EMS GRANT FUNDS AND GRANT RESOLUTION

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 12:07 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Peter D. O'Bryan, Chairman

Minutes Approved: _____

BCC/MG/2010Minutes