

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF FEBRUARY 9, 2010

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JEFFREY K. BARTON

Clerk to the Board



February 9, 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, February 9, 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

~~Pastor Roger Ball, Immanuel Church,~~ Commissioner Davis delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

~~Commissioner Wesley S. Davis~~ Vice Chairman Bob Solari led the Pledge of Allegiance to the Flag.

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION FROM MEMBERS OF FIRST LEGO LEAGUE ON ROUNDABOUTS

Chairman O'Bryan, by review of Commissioner Wheeler's memorandum, provided background information on the First Lego League (FLL). He thereafter invited the FLL Representatives, Evan MacKay, Matt McCoy, Matt Suriano, Jeffrey Lamothe and Jacob Lamothe from Gifford Middle School; Devin Michaels from Sebastian River Middle School; and Sonja Michaels from Sebastian Elementary, to begin their presentation.

Evan McKay began the presentation, and assisted by six other members of his team, "Team Pocket", used a PowerPoint presentation to discuss the benefits of roundabouts, which include enhanced traffic flow, reduced transportation costs, a more environmentally friendly system, and better traffic safety.

Commissioner Wheeler, who had previously met the members of "Team Pocket", commended the young people on their dedication, spirit of cooperation, and the mature thought which went into their project.

6. APPROVAL OF MINUTES-NONE

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

**7.A. 2010 ELECTION OF PROFESSIONAL SERVICES ADVISORY COMMITTEE
CHAIRMAN AND VICE CHAIRMAN**

Noted for the record was the election of Stephen E. Moler as Chairman, and Warren Dill as Vice Chairman of the Professional Services Advisory Committee (PSAC) for the year 2010.

**7.B. CITY OF FELLSMERE APPOINTMENT TO THE PARKS AND RECREATION
COMMITTEE (PRC)**

Noted for the record was the appointment of the City of Fellsmere Council Member Daniel Naranjo to the Indian River County Parks and Recreation Committee.

**7.C. INDIAN RIVER COUNTY HOSPITAL DISTRICT MEETING SCHEDULE ON
FILE IN THE OFFICE OF THE CLERK TO THE BOARD**

8. CONSENT AGENDA

MOTION WAS MADE by Commissioner Flescher,
SECONDED by Commissioner Davis, to approve the
Consent Agenda, as presented.

The Board accepted input from **Caroline Corum** who spoke on Item 8.G. *Chinese Drywall*, cautioning the Board to pass on the expense of mitigating Chinese drywall from the County to the State or Federal Government.

Chairman O'Bryan recalled that he wished to pull for discussion, Item 8.F. *Out of County Travel to Attend the Florida Association of Counties Legislative Conference*, and Commissioner Flescher agreed to amend his Motion accordingly.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Commissioner Davis, to approve the Consent Agenda, as amended.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved the Consent Agenda, as amended.

8.A. APPROVAL OF WARRANTS AND WIRES JANUARY 22, 2010 TO JANUARY 28, 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 January 22, 2010 to January 28, 2010, as requested in the memorandum of January 28, 2010.

**8.B. OTHER POST EMPLOYMENT BENEFITS TRUST REPORT FOR THE PERIOD
10/1/09 THROUGH 12/31/09**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Other Post Employment Benefits (OPEB) Trust Report for the period of October 1, 2009 through December 31, 2009, as recommended in the memorandum of January 29, 2010.

**8.C. INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE QUARTERLY
INVESTMENT REPORT FOR THE QUARTER ENDING 12/31/09**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Investment Advisory Committee Quarterly Investment Report for the period of October 1, 2009 through December 31, 2009, as recommended in the memorandum of January 29, 2010.

8.D. REGIONS BANK LOCKBOX SERVICES AGREEMENT

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute the Lockbox Services Agreement with Regions Bank, as recommended in the memorandum of February 1, 2010.

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

**8.E. CONTRACT WITH UNIPSYCH FOR MANAGED BEHAVIORAL HEALTH
BENEFITS**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the assignment of rights and benefits from UniPsych Benefits of Florida, Inc., to MHNet of Florida, Inc., and authorized the Chairman to execute same, as recommended in the memorandum of January 28, 2010.

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

**8.F. OUT OF COUNTY TRAVEL TO ATTEND THE FLORIDA ASSOCIATION OF
COUNTIES LEGISLATIVE CONFERENCE**

Chairman O'Bryan wanted to amend this item, so the Commissioners could travel out-of-County to Tallahassee during the 2010 Legislative Session, as well as for the specific purpose of attending the Florida Association of Counties (FAC) Legislative Day on March 24-26, 2010.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Chairman O'Bryan, to approve: (1) out-of-County travel for Commissioners and staff to travel to Tallahassee during the 2010 Legislative Session; and (2) to attend the Florida Association of Counties (FAC) Legislative Day in Tallahassee on March 24-26, 2010.

A brief discussion ensued among Commissioner Davis and Administrator Baird regarding whether the blanket authorization to go to Tallahassee was already in place.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved out-of-County travel: (1) for Commissioners and staff to travel to Tallahassee during the 2010 Legislative Session; and (2) to attend the Florida Association of Counties (FAC) Legislative Day in Tallahassee on March 24-26, 2010.

8.G. CHINESE DRYWALL

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2010-006**, requesting the Governor of Florida, through executive order and/or other powers available under the law, to activate all available State and local emergency and relief resources and mechanisms for the benefit of homeowners impacted by defective or reactive drywall including, but not limited to, requesting immediate federal assistance through FEMA and/or any other agency of the United States Government; directing that a copy of this Resolution be transmitted to the Governor; providing for severability; and providing for an effective date.

**8.H. FDOT LOCAL AGENCY AGREEMENT (LAP) SUPPLEMENTAL AGREEMENT
AND RESOLUTION AUTHORIZING THE CHAIRMAN'S SIGNATURE AOU95
(FM NUMBER 416084-1-58-01) 12TH STREET FOR SIDEWALK
CONSTRUCTION FROM 43RD AVENUE TO 27TH AVENUE IRC PROJECT No.
0604**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2010-007**, authorizing execution of a Supplemental Agreement for Sidewalk Construction for 12th Street from 43rd Avenue to 27th Avenue in Indian River County.

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

8.I. FINAL APPROVAL FOR RECORDING RIGHT-OF-WAY MAP, 43RD AVENUE, 8TH STREET TO 18TH STREET

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Right-of-Way map for 43rd Avenue from 8th Street to 18th Street for recording and authorized the Chairman to approve and execute the map accordingly, as recommended in the memorandum of January 25, 2010.

8.J. INDIAN RIVER COUNTY APPOINTMENTS TO THE ECONOMIC OPPORTUNITIES COUNCIL (EOC)

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the appointment of the following individuals to the Economic Opportunities Council (EOC) as the elected official's designees for a one-year term: Ms. Anjani Cirillo; Ms. Juelanne Perry; Ms. Barbara Coleman; and Mr. Larry Wilson, as requested in the memorandum of January 28, 2010.

8.K. REQUEST FOR APPROVAL OF RESOLUTION CLARIFYING COUNTY'S LOCAL FINANCIAL SUPPORT FOR eMINDFUL, INC.'S QUALIFIED TARGET INDUSTRY PROGRAM APPLICATION

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis the Board unanimously approved **Resolution 2010-008**, clarifying Resolution 2009-180 to specifically identify the County's \$56,000 commitment in local financial support for eMindful, Incorporated's application to the State's Qualified Target Industry (QTI) Tax Refund Program.

8.L. EAGLE TRACE SUBDIVISION-PHASE II, CONTRACT NO. 2008074, TIMOTHY ROSE CONTRACTING, INC., CHANGE ORDER NO. 2

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 2 (for Eagle Trace Subdivision-Phase II) with Timothy Rose Contracting, Inc., increasing the contract amount by \$4,157.75. The new contract amount will now be \$146,559.11, as stated and recommended in the memorandum of January 28, 2010.

8.M. SOCCER FIELD ENTRANCE AND PARKING IMPROVEMENTS
MISCELLANEOUS BUDGET AMENDMENT 005

ON MOTION by Commissioner Flescher, SECONDED
by Commissioner Davis, the Board unanimously approved
Resolution 2010-009 amending the fiscal year 2009-2010
budget.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL
AGENCIES-NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS-NONE

10.B. PUBLIC DISCUSSION ITEMS-NONE

10.C. PUBLIC NOTICE ITEMS-NONE

11. COUNTY ADMINISTRATOR MATTERS-NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. REQUEST FOR AUTHORIZATION FOR THE COMMUNITY DEVELOPMENT

DIRECTOR TO MAKE APPLICATION FOR AN ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG)

Community Development Director Robert Keating recapped the memorandum of January 28, 2010 to provide description and conditions of staff's request to submit the Energy Efficiency and Conservation Block Grant (EECBG) application to the Florida Energy and Climate Commission. He pointed out a change to the Grant amount request, from \$491,314.00 to \$565,314.00, with the County's match to be \$507,047. The money will be used for the following three projects: (1) Installing a solar hot water system at the IRC Jail; (2) Gifford Community Center lighting and HVAC energy efficient improvements; and (3) Incandescent traffic light replacement with Light Emitting Diodes (LEDs). Director Keating explained that Bullet Point 1 of staff's recommendation should read "application" instead of "resolution", and thereafter asked the Board to approve the application and authorize staff to make any minor changes and submit the application.

Commissioner Davis requested that staff keep any changes minimal, to which Director Keating acquiesced. He thereafter responded to Commissioners' questions about the Grant.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute the proposed Energy Efficiency and Conservation Block Grant application; (2) authorized the Community Development Director to make any necessary minor modifications to the Grant Application; and (3) authorized County staff to

submit the Application to the Florida Energy and Climate Commission.

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

12.A.2 . CONSIDERATION OF EXTENSION OF TEMPORARY SUSPENSION OF IMPACT FEES

Community Development Director Robert Keating reviewed the memorandum of February 1, 2010, to provide background conditions and analysis of the County-initiated request to consider extending the temporary suspension of impact fees for Emergency Services Facilities, Correctional Facilities, Public Buildings, Law Enforcement, and Solid Waste Facilities. He recalled the Board's adoption on March 24, 2009, of Ordinance No. 2009-003, which had effected a six-month temporary suspension of the aforementioned impact fees to September 30, 2009, and the Board's adoption on September 22, 2009 of Ordinance 2009-015, which extended the temporary suspension for another six months to March 31, 2010. He relayed that staff would advise extending the suspension for a one-year (rather than a six-month period), and presented staff's recommendation for the Board to authorize staff to advertise for a Public hearing on March 16, 2010 to consider extending the temporary suspension of the five impact fees for a one-year period.

Commissioner Davis cited the East Coast Animal Medical Center (an animal clinic with an equine surgery center), being built by Dr. Valerie Biehl on 69th Street, as a positive example of a new business which has benefited from the temporary suspension of impact fees. He noted that it is not the time to raise taxes or fees, and observed that extending the impact fee suspension is the proper course of action.

Commissioner Wheeler voiced that residential development creates the largest drain on the system, but commercial development pays the largest portion of the fees. He requested that

staff provide some financial data comparing residential with commercial development before the March 16, 2010 Public Hearing.

Vice Chairman Solari outlined his objections to using impact fees as a growth management tool, although he agreed that commercial impact fees are too high and would support a reduction in that area.

Commissioner Flescher endorsed the temporary suspension of impact fees extension as a mechanism to make it more viable for businesses to come into the community. He agreed with Commissioners Wheeler and Solari that commercial fees were too high; however, he recalled that County Attorney William Collins had advised the Board it could not be selective as to who gets the reductions.

County Attorney Collins, when questioned by Vice Chairman Solari on whether he had changed his opinion, explained why his stance remained unchanged.

Commissioner Flescher wished to see staff bring back to the Board in March, a comparative analysis of the commercial and residential impact fees at the inception of the temporary impact fee suspension and currently. He also wanted information on the County's standing relative to returning any unused impact fees.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board authorized staff to advertise for a Public Hearing to amend the Temporary Suspension of Impact Fees Ordinance to extend the current suspension of five impact fees from April 1, 2010 to March 31, 2011, as recommended in the memorandum of February 1, 2010.

12.B. EMERGENCY SERVICES-NONE

12.C. GENERAL SERVICES

12.C.1. INDIAN RIVER COUNTY JUDICIAL CENTER HVAC

RE-COMMISSIONING

General Services Director Thomas Frame recapped the memorandum and supporting data (pages 123-276 of backup) to provide background and a detailed review and analysis of an investigation undertaken by staff in conjunction with industrial hygienists Banks Clark of Environment Safety and Health (ESH), and Dr. Phil Morey of Environ, to detect the source/s of odors reported by certain occupants of the Judicial Center at the County Courthouse. He provided an overview of the action plan (pages 127 & 128) developed by staff to implement Dr. Morey's recommendations, and divulged that an infrared camera survey of the exterior and interior building performed by Mr. Clark showed no increased elevations of moisture (which would indicate significant mold issues) inside the building. Director Frame conveyed his desire to continue taking a pro-active position, and since one more odor complaint had been received after the studies were done, he presented staff's recommendation to hire a commissioning agent/engineer, The Phoenix Agency (who performed the original commissioning of the Courthouse building), to evaluate the mechanical system at the Courthouse for problems.

Facilities Manager Lynn Williams, responding to Chairman O'Bryan's inquiry, confirmed that another odor complaint had been received on January 11, 2010, and conveyed his belief that the air pressurization system at the Courthouse building was allowing odors, such as flavored coffee and chemical deodorizers, to migrate from one space to another. He pointed out that no moisture presence was found to suggest a mold colony or water intrusion, nor have there been further complaints of odor.

Additional conversation ensued, as staff provided further details and responded to the Board's questions regarding the HVAC (Heating Ventilation and Air Conditioning) system at the Courthouse and the proposed re-commissioning of the Courthouse building.

Vice Chairman Solari commended staff on their diligence and professional and upstanding handling of the odor investigation, and believed that, with the help of the consultants, they have done everything reasonably possible to find the problem. He pointed out there are some individuals who have more sensitivities than others, and he did not feel it logical to continue spending money searching for a problem which staff has no reasonable expectation of finding.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Wheeler, for discussion, to continue with the great maintenance being done to the Courthouse and other County buildings, and to deny staff's recommendation to re-commission the County Courthouse building.

Chairman O'Bryan and Commissioners Flescher and Wheeler voiced support for Vice Chairman Solari's Motion.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner Davis opposed), the Motion carried. The Board approved to continue with the great maintenance being done to the Courthouse and other County buildings, and denied staff's recommendation to re-commission the County Courthouse building.

12.D. HUMAN RESOURCES-NONE

12.E. HUMAN SERVICES-NONE

12.F. LEISURE SERVICES-NONE

12.G. OFFICE OF MANAGEMENT AND BUDGET

**12.G.1. SENIOR RESOURCE ASSOCIATION (SRA) PURCHASE OF MEALS ON
WHEELS VEHICLE**

Management and Budget Director Jason Brown presented this request from the Senior Resource Association (SRA) for the Board to provide matching funds in the amount of \$21,635, in conjunction with United Way of Indian River County Foundation's commitment of up to a 50% match, for the purchase of a food warming truck, anticipated to cost around \$42,000, for the Meals on Wheels Program serving the Gifford community. He thereafter presented staff's recommendation for the Board to approve the necessary Budget Amendment to fund the aforementioned amount from the General Fund Contingency, with the amount to be matched by the United Way of Indian River County Foundation.

ON MOTION BY Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved to provide a match in the amount of \$21,635 to funds provided by the United Way of Indian River County Foundation, for the Meals on Wheels Program food warming truck, and authorized the Budget Office to prepare a Budget Amendment to appropriate the aforementioned funds, as recommended in the memorandum of February 3, 2010.

12.H. RECREATION-NONE

12.I. PUBLIC WORKS

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

Public Works Director Christopher Mora, through a review of staff's report (copy on file), updated the Board on the Sector 3 Beach Renourishment Project. He reported that Ranger Construction Industries, Inc. has today begun constructing the Project, and anticipates needing a 70-day time frame to fulfill all the sand requirements for Phase I of the Project. Director Mora also advised Commissioners that staff was still in discussion with Ranger regarding the proposed increase of \$984,502 to Change Order No. 1.

Discussion ensued as Commissioners reinforced with staff the importance of providing informational signage for the public, signage regulating the use of Jake Brakes by the haul trucks, and some fencing or barricades to block access by pedestrians and bicyclists into the beachfront park entrances.

Responding to Commissioner Wheeler's inquiry, Director Mora provided background information and more details on the Change Order, conveying that staff's goal was to come to an agreement with Ranger.

Chairman O'Bryan congratulated staff and Ranger Construction on working hard to make the forthcoming Project a success.

Concluding discussion on this matter, the Board and staff elaborated about the role of the Sheriff's office in helping to monitor and control any traffic bottlenecks resulting from truck traffic.

12.J. UTILITIES SERVICES

12.J.1. CONTINUING CONSULTING SERVICES WORK ORDER NO. 2 WITH CARTER ASSOC., INC. FOR SURVEY, DESIGN, AND CONSTRUCTION SERVICES FOR 66TH AVENUE PHASE 2 ROADWAY IMPROVEMENTS CONFLICT RESOLUTION BETWEEN ADDITIONAL DRAINAGE AND EXISTING WATER MAIN – UCP 4040, WIP NO. 47123536-044699-10506

ON MOTION BY Vice Chairman Solari, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute Work Order No. 2 with Carter Associates, Inc., in the amount of \$24,700.00 for engineering design, construction plans, and construction services, as recommended in the memorandum of January 20, 2010.

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

12.J.2. AMENDMENT NO. 6 TO WORK ORDER NO. 2 TO POST, BUCKLEY, SCHUH & JERNIGAN – OBTAIN ENVIRONMENTAL SURVEY FROM ENTRIX FOR EVALUATION OF GOPHER TORTOISE HABITAT DISTURBANCE AT THE NORTH COUNTY WELL SITE

MOTION WAS MADE by Commissioner Flescher, SECONDED by Vice Chairman Solari, to approve staff's recommendation for additional design fees to Post, Buckley, Schuh & Jernigan for a lump sum amount of \$1,575.00.

Commissioner Davis's question on whether the survey could be done in-house sparked discussion between Commissioners and staff regarding the possibility of having staff, rather than the outside contractor, undertake the environmental survey.

Commissioners Davis and Flescher expressed support for having staff to look into this and return with more information at the February 16, 2010 Board of County Commission meeting.

Chairman O'Bryan sought and received confirmation from Commissioner Flescher that he wished to AMEND his Motion to TABLE this item until the time certain of February 16, 2010.

MOTION WAS AMENDED by Commissioner Flescher,
SECONDED by Vice Chairman Solari, to TABLE this
item until the time certain of February 16, 2010.

No further observations were made, and the Board took the following action:

The Chairman CALLED THE QUESTION, and the
Motion carried unanimously. The Board TABLED this
item until the time certain of February 16, 2010.

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

14.C.1. REQUEST FOR RESOLUTION

Commissioner Davis presented his request for a Resolution in support of protecting the “Vero Man” Archaeological Site. He noted that the action would not require any expenditure of funds.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved **Resolution 2010-010**, supporting efforts by the City of Vero Beach to protect the “Vero Man” Archaeological Site.

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 10:33
a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Peter D. O'Bryan, Chairman

Minutes Approved: _____

BCC/MG/2010Minutes