

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF MARCH 23, 2010

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JEFFREY K. BARTON

Clerk to the Board



March 23, 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, March 23, 2010. Present were Chairman Peter D. O'Bryan, Vice Chairman Bob Solari, Commissioners Wesley S. Davis, Joseph E. Flescher, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., 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

Pastor Roger Ball, Immanuel Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Davis 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 8.C. GIFFORD COMMUNITY CENTER – ARCHITECTURAL SERVICES WORK
ORDER #2GCC**

**DELETION: 8.H. RELEASE OF RETAINAGE AND FINAL PAYMENT OF WORK ORDER NO. MCI-
REVISED WITH PENINSULA HYDROLOGIC DATA SPECIALISTS, INC. FOR WATER
QUALITY TESTING AND SUPPORT SERVICES FOR PC MAIN (MAIN RELIEF CANAL
POLLUTION CONTROL SYSTEM)**

ADDITION: 12.J.1. UPDATE ON UTILITY WATER SERVICE FOR COUNTYSIDE NORTH

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

5. PROCLAMATIONS AND PRESENTATIONS

**5.A. PRESENTATION OF PROCLAMATION CELEBRATING SEBASTIAN CHARTER
JUNIOR HIGH SCHOOL'S TENTH ANNIVERSARY WITH THE APRIL 10, 2010
LATIN FESTIVAL**

Commissioner Flescher read and presented the Proclamation to Principal Dr. Martha McAdams and Chairman of the Board John Rivera, who accepted the Proclamation on behalf of the Sebastian Charter Junior High School. They provided details for the upcoming Latin Music, Film and Food Festival, scheduled for April 10, 2010 from 11:00 a.m. until 10:00 p.m., at the Indian River County Fairgrounds.

5.B. PRESENTATION OF PROCLAMATION GUARDIAN AD LITEM MONTH

Commissioner Wheeler read and presented the Proclamation to Doris Plym, who accepted the Proclamation on behalf of the Guardian Ad Litem Program.

5.C. PRESENTATION OF PROCLAMATION INDIAN RIVER COUNTY CELEBRATING PARENTS AND CHILDREN

Chairman O'Bryan read and presented the Proclamation to Jackie Jackson, Executive Director of the Early Learning Coalition, who accepted the Proclamation on behalf of all Indian River County Parents and Children.

5.D. PRESENTATION OF PROCLAMATION DESIGNATING MARCH 21 – 27, 2010 AS BOYS & GIRLS CLUBS WEEK

Vice Chairman Solari read and presented the Proclamation to Alex Soares, who accepted the Proclamation on behalf of the Boys and Girls Clubs of Indian River County.

5.E. PRESENTATION BY MARK MIDDLEBROOK, EXECUTIVE DIRECTOR, ST. JOHNS RIVER ALLIANCE

Mark Middlebrook provided the Board with a brief update on the St. Johns River Alliance. He urged the Board to support two Resolutions - one would support the creation of the St. Johns River license plate, and the second would convert the American Heritage River Initiative into an American Heritage Federal Program. He also petitioned the Board for County annual dues in the amount of \$2,500.00.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF FEBRUARY 2, 2010

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of February 2, 2010. There were none.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of February 2, 2010, as written.

6.B. REGULAR MEETING OF FEBRUARY 9, 2010

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of February 9, 2010. There were none.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of February 9, 2010, as written.

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

7.A. PUBLIC LIBRARY ADVISORY BOARD

Noted for the record was the election of Milt Thomas as Chairman and Eddie Hudson as Vice Chairman for the year 2010.

7.B. APPOINTMENT OF THE ATTORNEY REPRESENTATIVE TO THE ENVIRONMENTAL CONTROL HEARING BOARD

Noted for the record was the nomination of Cynthia VanDeVoorde Hall as the appointed Attorney Representative to the Environmental Control Hearing Board.

8. CONSENT AGENDA

Chairman O'Bryan requested to pull Items 8.E. and 8.J. from the Consent Agenda for discussion.

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

8.A. APPROVAL OF WARRANTS AND WIRES – MARCH 5, 2010 TO MARCH 11, 2010

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of March 5, 2010 to March 11, 2010, as requested in the memorandum of March 11, 2010.

**8.B. APPROVAL OF H.U.D. RENEWAL GRANTS TO INDIAN RIVER COUNTY,
ADMINISTERED THROUGH TREASURE COAST HOMELESS SERVICES
COUNCIL, INC.**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the six new Housing and Urban Development (HUD) Grant Agreements (Alcohope Renewal, Transitional Housing Renewal, HMIS Expansion Renewal, New Chronics (aka Shelter Plus Care Renewal), New Horizons 1, Continuum of Care HMIS Renewal); and authorized the Chairman to execute accordingly, as requested in the memorandum of March 17, 2010.

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

**8.C. GIFFORD COMMUNITY CENTER – ARCHITECTURAL SERVICES WORK
ORDER #2GCC**

Deleted

**8.D. ASSIGNMENT OF AGREEMENT FOR FEDERAL GRANT ADMINISTRATION
SERVICES BETWEEN INDIAN RIVER COUNTY AND KEITH AND SCHNARS,
P.A. TO CIVILSURV DESIGN GROUP, INC.**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized the Chairman to execute the Consent to Assignment form and forward it to CivilSurv Design Group, Inc., as recommended in the memorandum of March 15, 2010.

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

**8.E. FOURTH OF JULY FIREWORKS FUNDING MISCELLANEOUS BUDGET
AMENDMENT 011**

Chairman O'Bryan expressed support for funding the Cities of Sebastian and Vero Beach in the amount of \$2,500 each, for the fireworks event.

Vice Chairman Solari opposed the Motion, stating that he felt liberty should be a celebration from government, not with government, and also because of the budget.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, by a 3-2 vote (Commissioners Solari and Wheeler opposed), the Board denied staff's recommendation and approved funding the firework displays for the Cities of Sebastian and Vero Beach in the amount of \$2,500 each, **Resolution 2010-020**, amending the Fiscal Year 2009-2010 Budget.

**8.F. ACCEPTANCE OF EMERGENCY MANAGEMENT FEDERALLY-FUNDED
SUBGRANT AGREEMENT 10-BG-25-10-40-01-068**

(Clerk's Note: Agreement originally approved at the Board of County Commission Meeting of October 13, 2009.)

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Modification to the Federally Funded Subgrant Agreement No. 10-BG-25-10-40-01-068, with Indian River County Emergency Management, and the State of Florida, Division of Emergency Management, as recommended in the memorandum of March 11, 2010.

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

**8.G. F.D.O.T. LOCAL AGENCY PROGRAM (LAP) SUPPLEMENTAL AGREEMENT
– FPN No. 426383-1-58-01 AND RESOLUTION AUTHORIZING THE
CHAIRMAN'S SIGNATURE LANDSCAPING ON 58TH AVENUE FROM OSLO
ROAD (9TH STREET S.W.) TO 16TH STREET IRC PROJECT No. 0916**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2010-021**, authorizing execution of a Supplemental Agreement for the landscaping on 58th Avenue from Oslo Road (9th Street S.W.) to 16th Street in Indian River County.

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

**8.H. RELEASE OF RETAINAGE AND FINAL PAYMENT OF WORK ORDER NO.
MCI-REVISED WITH PENINSULA HYDROLOGIC DATA SPECIALISTS, INC.
FOR WATER QUALITY TESTING AND SUPPORT SERVICES FOR PC MAIN
(MAIN RELIEF CANAL POLLUTION CONTROL SYSTEM)**

Deleted

**8.I. CHANGE ORDER NO. 1 – MICHAEL SCHLITT CONSTRUCTION
CORPORATION LANDSCAPE IMPROVEMENTS TO 58TH AVENUE FROM OSLO
ROAD TO 16TH STREET IRC PROJECT #0916, BID NUMBER 2009053
FDOT LOCAL AGENCY PROGRAM (LAP) AGREEMENT – FPN No.
426383-1-58-01**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 1 decreasing the contract amount by \$630.00 for a new contract total of \$247,270.00; the federal funds appropriated for this Florida Department of Transportation (FDOT) Local Agency Program (LAP) Grant are in the amount of \$300,000.00 with no matching funds required; as recommended in the memorandum of March 3, 2010.

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

8.J. APPROVAL OF REQUEST FOR PROPOSAL (RFP) 2010040

Chairman O'Bryan voiced support for the Children's Services Advisory Committee, and the funding to provide programs for the children in Indian River County.

County Administrator Baird reported that the Children's Services Advisory Committee had received a funding level of \$768,100 for the current year, and that a recommended 20% cut would be proposed for next year.

ON MOTION by Commissioner Davis, SECONDED by Chairman O'Bryan, the Board unanimously authorized the issuance of the proposed Request for Proposal (RFP) as approved by the Children's Services Advisory Committee, as recommended in the memorandum of March 17, 2010.

8.K. MISCELLANEOUS BUDGET AMENDMENT 010

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2010-022**, amending the Fiscal Year 2009-2010 Budget.

8.L. APPROVAL OF BID AWARD FOR IRC BID NO. 2010027 DEMOLITION OF TWO (2) STRUCTURES

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) the bid award to SRD Construction and Development Corporation, in the amount of \$7,990.00 as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the Invitation to Bid; and (2) the issuance of a Purchase Order after receipt of the appropriate Certificate of Insurance, as recommended in the memorandum of March 16, 2010.

8.M. RIGHT-OF-WAY ACQUISITION, 66TH AVENUE PROJECT #0370 6480 41ST STREET, PARCEL I.D. #32-39-29-00001-0190-00002.0 PROJECT PARCEL #301 (LOCATED EAST OF 66TH AVENUE ON 41ST STREET) OWNER: PHILLIP M. AND JOANNE A. SEMENUCK

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the purchase of the needed right-of-way at a price of \$6,394, and authorized the Chairman to execute the Purchase and Sale Agreement, as recommended in the memorandum of March 1, 2010.

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

**8.N. CONSIDERATION BY THE BOARD TO RESCIND RESOLUTION 2003-049
WHICH CLASSIFIED 77TH WAY AS A “LIMITED USE RIGHT-OF-WAY”**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2010-023**, rescinding Resolution No. 2003-049 to remove limited use right-of-way designation for 77th Way (Avenue 5) from Roseland Road to 354 feet, more or less, south of Roseland Road.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL
AGENCIES**

9.A. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF – BUDGET AMENDMENT

Sheriff Deryl Loar requested Board approval to transfer funds from Salaries and Operating Funds into Capital Fund. This would allow for continued operation and strategic planning. He said he would provide a summary report when the money is moved, or as required.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the transfer of funds from the Salaries and Operating Funds to the Capital Fund, as requested in the letter dated March 16, 2010.

10. PUBLIC ITEMS

10.A. PUBLIC HEARING(S)

10.A.1. OFFICE PRODUCT'S REQUEST TO REZONE ± 0.886 ACRES FROM CH TO CG (QUASI-JUDICIAL)

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

Community Development Director Bob Keating reviewed his Memorandum dated March 8, 2010, and through a PowerPoint Presentation (on file) described the proposed request to rezone ±0.886 acres, located at the from Heavy Commercial District (CH) to General Commercial District (CG).

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

MOTION was made by Commissioner Wheeler,
SECONDED by Commissioner Flescher, to approve
staff's recommendation.

Director Keating addressed questions from the Board.

The Chairman CALLED THE QUESTION and the
Motion carried. The Board unanimously adopted
Ordinance 2010-003, amending the zoning Ordinance
and the accompanying Zoning Map for ± 0.886 acres
located at the southwest quadrant of U.S. Highway 1 and
8th Street, from CH, Heavy Commercial District, to CG,

General Commercial District; and providing codification, severability, and effective date.

10.A.2. COUNTY INITIATED REQUEST TO REDESIGNATE ±27.97 ACRES FROM L-1, LOW-DENSITY RESIDENTIAL-1 (UP TO 3 UNITS/ACRE), AND C/I, COMMERCIAL / INDUSTRIAL, TO C-1, CONSERVATION-1 DISTRICT (ZERO DENSITY), AND REZONE THOSE ±27.97 ACRES FROM A-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT /5 ACRES), AND CL, LIMITED COMMERCIAL DISTRICT, TO CON-1, CONSERVATION-1 DISTRICT (ZERO DENSITY); REDESIGNATE ± 37.48 ACRES FROM AG-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT/5 ACRES), AND R, RURAL RESIDENTIAL DISTRICT (UP TO 1 UNIT / 1 ACRE), TO C-1, CONSERVATION-1 DISTRICT (ZERO DENSITY), AND REZONE THOSE ±37.48 ACRES FROM A-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT / 5 ACRES), TO CON-1, CONSERVATION-1 DISTRICT (ZERO DENSITY); AND REDESIGNATE ± 457.86 ACRES FROM AG-2, AGRICULTURAL-2 DISTRICT (UP TO 1 UNIT /10 ACRES), TO CON-1, CONSERVATION-1 DISTRICT (ZERO DENSITY), AND REZONE THOSE ±457.86 ACRES FROM A-2, AGRICULTURAL-2 DISTRICT (UP TO 1 UNIT /10 ACRES), TO CON-1, CONSERVATION-1 DISTRICT (ZERO DENSITY) (LEGISLATIVE)

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

Director Keating, using the Memorandum dated March 8, 2010, and a PowerPoint Presentation (on file), summarized the County-initiated request to redesignate and rezone three

separate parcels of property to Conservation-1 (C-1), zero density. He reviewed the Comprehensive Plan Amendment process, provided history and description of each property, and supplied the recommendations of staff and the Planning and Zoning Commission.

The Chairman opened the Public Hearing.

Carolyn Corum, Dolores Street, Sebastian, supported the redesignation and rezoning.

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

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Vice Chairman Solari, to approve the proposed future land use Amendment and rezoning request by adopting the Ordinances and directing staff to submit the Amendment to the Department of Community Affairs (DCA) for compliance review.

Director Keating addressed Commissioner Davis's concerns regarding the management and public access to the Corrigan 460 Tract.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board adopted:

(1) **Ordinance 2010-004**, amending the Future Land Use Map by changing the land use designation for: (a) approximately \pm 27.97 acres, located at 9700 Water Vliet Avenue Sebastian, from L-1, Low-Density Residential-1 District (up to 3 units/acre), and C/1 Commercial / Industrial District, to C-1, Conservation-1 District (0 units/acre); and (b) approximately \pm 37.48 acres, located

at 7775 and 7780 85th Street Vero Beach, from AG-1, Agricultural-1 District (up to 1 unit/5 acres), and R, Rural Residential District (up to 1 unit/acre), to C-1, Conservation-1 District (0 units/acre); and (c) approximately \pm 457.86 acres, located approximately 2 miles west of Interstate 95 and approximately 1.5 miles north of SR-60, from AG-2, Agricultural-2 District (up to 1 unit/10 acres), to C-1, Conservation-1 District (0 units/acre); and providing codification, severability, and effective date; and

(2) **Ordinance 2010-005**, amending the Zoning Ordinance and the accompanying Zoning Map for: (a) approximately \pm 27.97 acres, located at 9700 Water Vliet Avenue Sebastian, from A-1, Agricultural-1 District (up to 1 unit/5 acres), and CL, Limited Commercial District, to CON-1, Conservation-1 District (0 units/acre); and (b) approximately \pm 37.48 acres, located at 7775 and 7780 85th Street Vero Beach, from A-1, Agricultural-1 District (up to 1 unit/5 acres), to CON-1, Conservation-1 District (0 units/acre); and (c) approximately \pm 457.86 acres, located approximately 2 miles west of Interstate 95 and approximately 1.5 miles north of SR-60, from A-2, Agricultural-2 District (up to 1 unit/10 acres), to CON-1, Conservation-1 District (0 units/acre); and providing codification, severability, and effective date.

10.A.3. 510, LLC'S REQUEST TO AMEND THE COMPREHENSIVE PLAN TO REDESIGNATE ± 6.4 ACRES FROM L-2, LOW-DENSITY RESIDENTIAL-2 (UP TO 6 UNITS/ACRE), TO C/I, COMMERCIAL/ INDUSTRIAL, AND TO REZONE THOSE ± 6.4 ACRES FROM RM-6, MULTI-FAMILY RESIDENTIAL DISTRICT (UP TO 6 UNITS / 1 ACRE), TO CG, COMMERCIAL GENERAL; AND UNITED INDIAN RIVER PACKERS, LLC'S REQUEST TO AMEND THE COMPREHENSIVE PLAN TO REDESIGNATE ± 6.4 ACRES FROM C/I, COMMERCIAL/ INDUSTRIAL, TO L-2, RESIDENTIAL-2 DISTRICT (UP TO 6 UNITS / 1 ACRE), AND TO REZONE THOSE ± 6.4 ACRES FROM IL, LIGHT INDUSTRIAL, TO RM-6, MULTI FAMILY RESIDENTIAL DISTRICT (UP TO 6 UNITS / 1 ACRE) (LEGISLATIVE)

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

Director Keating detailed his Memorandum dated March 8, 2010, and through a PowerPoint Presentation (on file) requested the Board approve the two separate requests that were made by 510, LLC and United Indian River Packers, LLC, by simultaneously swapping the land use and zoning designations of the two properties to make the land use more efficient. He provided history, described the parcels, and spoke about the criteria used in staff's analysis.

Discussion ensued regarding prior Motions that dealt with 86th Street right-of-way and easements, and the criteria for expanding a commercial node, and contract zoning.

The Chairman opened the Public Hearing.

Bruce Barkett, 756 Beachland Boulevard, confirmed there was a temporary access easement granted for 86th Street and that it is good for ten years, or until a land development permit is issued.

William Wells, 8800 44th Avenue, complained about the trash and poor drainage on the parcel of property surrounded by 44th Avenue, CR510, and 87th Avenue. He opposed the proposed future Land Use Amendment and rezoning request.

Pat Mills, 4655 87th Street, Wabasso, voiced concerns over the flooding/drainage on her property caused by a nearby project site; the impacts to her property, should the proposed concrete wall on the south side of her property be erected; and traffic safety.

Chairman O'Bryan addressed Mrs. Mills' concerns and indicated that he would ask staff to research the situation.

Mrs. Corum commented on the importance of good drainage.

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

MOTION WAS MADE by Commissioner Wheeler to deny staff's recommendation. There was no Second and the Motion died.

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Solari, by a 4-1 vote (Commissioner Wheeler opposed), the Board adopted:

(1) **Ordinance 2010-006**, amending the Future Land Use Map by changing the Land Use Designation for: (a) approximately ± 6.4 acres located at 4650 85th Street,

Sebastian from L-2, Low Density Residential-2 District (up to 6 units/acre), to C/I, Commercial/ Industrial District; and (b) approximately ± 6.4 acres located at 4310 77th Street, Vero Beach from C/I, Commercial/ Industrial District, to L-2 Low Density Residential-2 District (up to 6 units/acre); and providing codification, severability, and effective date;

(2) **Ordinance 2010-007**, amending the Zoning Ordinance and the accompanying Zoning Map for: (a) approximately ± 6.4 acres located at 4650 85th Street, Sebastian from RM-6, Multi-Family Residential District (up to 6 units/acre), to CG, General Commercial District; and (b) approximately ± 6.4 acres located at 4310 77th Street, Vero Beach from IL, Light Industrial District, to RM-6 Multi-Family Residential District (up to 6 units/acre); and providing codification, severability, and effective date.

The Chairman called a Break at 10:42 a.m. and reconvened the meeting at 10:55 a.m. with all members present.

10.A.4. CONSIDERATION OF PROPOSED AMENDMENTS TO LDR CHAPTERS 911, 926, AND 927 FOR LANDSCAPING AND TREE MITIGATION REGULATIONS (LEGISLATIVE)

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

Community Planning Director Stan Boling, using a PowerPoint Presentation (on file), recapped his Memorandum dated March 1, 2010. He provided the background and history of the County landscape regulations, approved changes, and problems/solutions that would be addressed by the Ordinance Amendment. He acknowledged the unanimous recommendations of the Professional Services Advisory Committee (PSAC) and the Planning and Zoning Commission (PZC).

In response to Commissioner Davis's query, Director Boling explained the details of the current and proposed Ordinances as they pertain to existing vegetation on a site.

The Chairman opened the Public Hearing.

Jens Tripson, 2525 14th Street, supported the proposed Amendments.

Danny Delisle, Vero Beach, Landscape Contractor, thanked staff for their efforts on the proposed Amendments.

The Chairman closed the Public Hearing.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2010-008**, concerning an amendment to its Land Development Regulations (LDR); providing for amendments to Chapter 911, Zoning; Chapter 926, Landscape and Buffer Regulations; and Chapter 927, Tree Protection and Land Clearing; by revising foundation planting Regulations for the Wabasso Corridor Section 911.18(3)(j); by revising Foundation Planting Regulations for the SR 60 Corridor Section 911.19(6)(f); by revising

Foundation Planting Regulations for the North Barrier Island Corridor Section 911.20(3)(j); by revising foundation planting regulations for the Roseland Corridor Section 911.21(3)(l); by revising foundation planting Regulations for the other Corridors Section 911.22(5)(e); by revising the material standards requirements in Section 926.06(1) and (3); by revising the wall landscaping requirements in Section 926.06(9); by revising the tree preservation credits in Section 926.07(2); by revising required landscaping requirements adjacent to rights-of-way in Section 926.09; by revising installation and maintenance pruning standards in Section 926.12, and by revising application procedure and fees in Section 927.11(1)(d)3; providing for repeal of conflicting provisions; codification; severability; and effective date.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM DONALD PERRIN, VETERAN, REGARDING BAN ON AIR BLOWER HAND DRIER, REQUIRE HEALTH CARDS FOR FOOD HANDLERS, ENFORCE ENGLISH AS LANGUAGE OF U.S. CITIZENS, AND ENFORCE IMMIGRATION LAWS

Donald Perrin, 7930 129th Street, voiced health concerns over blow driers in public bathrooms and how airborne viruses are spread by using them, and the spread of diseases due to the lack of health cards for food handlers in public restaurants. He also spoke about individuals working and living in America that do not attempt to speak the English language, and illegal aliens receiving free health care. He felt that Washington should stop those who hire and rent to illegal aliens, and he asked the Board to take the lead in making changes.

NO BOARD ACTION REQUIRED OR TAKEN

**10.B.2. REQUEST TO SPEAK FROM WILLIAM M. WELLS REGARDING CODE
ENFORCEMENT DRAINAGE ON 44TH AVENUE**

William Wells, 8800 44th Avenue, Sebastian, requested and received permission from the Board to discuss the lack of drainage and tree maintenance on 44th Avenue, in lieu of Code Enforcement issues. He expressed concerns over the sloping property of CR510, and how it creates standing water on his property because there is no ditch. He requested the County provide a drainage ditch and trim the trees away from the electrical wires.

Chairman O'Bryan pointed out that the approved land swap now allows for a drainage easement, that staff can now evaluate the situation, and develop a master plan to deal with the standing water.

Administrator Baird conveyed that the property of concern is County right-of-way and that staff would evaluate the situation for possible improvements.

Commissioner Flescher stated that Florida Power and Light had been responsive, was currently on a maintenance schedule to inspect the electrical wires, and that the trees had been cut away from the electrical wires.

10.C. PUBLIC NOTICE ITEMS

10.C.1. NOTICE OF SCHEDULED PUBLIC HEARINGS: TWO PUBLIC HEARINGS

**HAVE BEEN SCHEDULED TO CONSIDER THE DESIGNATION OF A
BROWNFIELD AREA NEAR 74TH AVENUE AND 9TH STREET S.W.**

10.C.1.A. NOTICE OF SCHEDULED PUBLIC HEARING APRIL 5, 2010 -

**THE FIRST PUBLIC HEARING WILL BE CONDUCTED BY COUNTY AND STATE
DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF ON MONDAY,
APRIL 5, 2010 AT 6:00 P.M. IN THE PAMELA AND RUSSELL BJORKMAN
ROOM OF THE BRACKETT LIBRARY AT THE INDIAN RIVER STATE COLLEGE
MUELLER CAMPUS, LOCATED AT 6155 COLLEGE LANE, VERO BEACH,
FLORIDA**

10.C.1.B. NOTICE OF SCHEDULED PUBLIC HEARING APRIL 20, 2010

**THE SECOND PUBLIC HEARING WILL BE CONDUCTED AS PART OF THE
TUESDAY, APRIL 20, 2010 REGULAR MEETING OF THE BOARD OF COUNTY
COMMISSIONERS**

County Attorney Alan S. Polackwich, Sr. read the Notices into the record.

Director Keating reported that the adjacent and private property owners, being part of the Florida Brownfield Program, were sent a Notice of the Public Hearing. He announced that the second Public Hearing would be conducted as part of the April 20, 2010 regular Board of County Commission Meeting.

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. CONSIDERATION OF INEOS NEW PLANT BIOENERGY LLC'S REQUEST FOR A LOCAL JOBS GRANT

Director Keating reviewed his Memorandum dated March 16, 2010. He provided a brief history and defined the details of the County's Local Jobs Grant Program, which INEOS New Planet BioEnergy LLC (INEOS) has applied for. He conveyed that INEOS is proposing to locate to the Ocean Spray site in Vero Beach, and that the Economic Development Council (EDC) recommended the Board approve their application for a grant of up to \$310,000. He provided an overview of the company's eligibility, the job creation threshold, grant calculations, the Jobs Grant Agreement, and the two job incentive programs that INEOS plans to apply for - the Qualified Target Industry (QTI) Tax Refund, and the Brownfield Redevelopment Bonus Refund, both requiring a 20% match from the County.

Helene Caseltine, Economic Development Director for the Indian River County Chamber of Commerce, voiced her supported for the program, and introduced INEOS Representative David King.

David King, President of INEOS New Planet BioEnergy LLC, stated that his company would be the first commercial plant using the INEOS bio-advanced technology for converting waste into ethanol and renewable power, with the first phase being related to using vegetable waste and construction of demolition debris. He provided project status, initiatives, and project economics. He requested the Board approve the Local Jobs Grant Application and the Resolution.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Wheeler, the Board unanimously: (1) approved a Local Jobs Grant Agreement of up to \$310,000 for INEOS New Planet BioEnergy LLC; (2) approved **Resolution 2010-024**, recommending to Enterprise Florida that INEOS New Planet Bioenergy, LLC be approved as a Qualified Target Industry pursuant to s.288.106, Florida Statutes; and providing an appropriation of \$60,500 as part of a Local Jobs Grant Program for local participation in the Qualified Target Industry Tax Refund Program for Fiscal Years 2011/12, 2012/13, 2013/14, 2014/15, 2015/16, and 2016/17, and providing for an effective date; and (3) authorized the Chairman to execute the Jobs Grant Agreement with INEOS New Planet BioEnergy LLC, after approval of the Agreement by appropriate County staff and the County Attorney's office.

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

12.A.2. CONSIDERATION OF AMENDING THE INDIAN RIVER COUNTY CODE TO CHANGE THE COLLECTION OF IMPACT FEES FROM BUILDING PERMIT ISSUANCE TO CERTIFICATE OF OCCUPANCY

Director Keating recapped his Memorandum of March 15, 2010, recalling that at the February 18, 2010 Economic Summit, the Board requested to change the timing of Impact Fee payments from building permit issuance to Certificate of Occupancy (CO). He sought direction to advertise for a Public Hearing.

Utilities Director Erik Olson spoke about specifics and issues pertaining to water and sewer in the initiation phase of a project.

Discussion ensued regarding issues of notification, administration, capacity reservation, and funding delays.

Vice Chairman Solari suggested staff review this in three years to include the assessment of what it has cost the County, and if it had an impact on the sewer and water system.

Discussion ensued further regarding Impact Fees, capacity, water/sewer, and splitting the Impact Fee cost.

Chairman O'Bryan asked staff to research the 20% of local governments who collect Impact Fees at CO, find out what the impacts were, and how they were addressed.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Solari, by a vote of 3-2 (Commissioners Wheeler and Davis opposed), the Board directed staff to move forward with a Public Hearing.

Commissioner Wheeler did not believe this would be a good use of staff's time.

Joseph Paladin, President of Black Swan Consulting, opposed the proposed change of paying the Impact Fee at CO. He asked staff to consider separating commercial from residential to see if anything could be done with the financing of Commercial Impact Fees.

The Chairman called a Break at 12:27 p.m. and reconvened the meeting at 12:36 p.m. with all members present.

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES - NONE

12.D. HUMAN RESOURCES - NONE

**12.D.1. REQUEST FOR QUALIFICATIONS FOR HEALTH INSURANCE/EXCESS
LOSS REINSURANCE BROKERAGE AND ACTUARIAL SERVICES –
COMMITTEE RECOMMENDATIONS**

Director of Human Resources Jim Sexton reviewed his memorandum dated March 17, 2010. He spoke about the submitted proposals, the Request for Proposal (RFQ) Committee, and results of the ranking, and details as to why the Committee recommended the Gehring Group over the other firms. Staff and the RFQ Committee recommended to begin negotiations with the Gehring Group and bring back a contract to the April 13, 2010 Board of Commission Meeting for approval. Director Sexton pointed out that as an alternative, the Board could reject all proposals, and authorize staff to issue a RFP for Health Insurance Consultant Services through the competitive bidding process.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Vice Chairman Solari, for discussion, to
authorize staff to begin negotiations with the Gehring
Group.

Commissioner Flescher observed that some applicants had supplied a pricing structure and some had not, and he felt the information provided should have been consistent. He opposed the recommendation and supported the alternative – to reject all proposals and authorize staff to issue a RFP for Health Insurance Consultant Services through the competitive bidding process.

Administrator Baird supported the RFQ process, and provided his reasons why.

Chairman O'Bryan voiced concerns over how the numbers were tabulated for the ranking, the rating process used by one reviewer, and offered suggestions on how to handle a tie-breaker.

Discussion ensued between the Board and staff regarding the submission of pricing, negotiations, and the ranking order of the top firms.

The Chairman CALLED THE QUESTION and by a 4-1 vote (Commissioner Flescher opposed), the Board authorized staff to begin negotiations with the Gehring Group, and bring back a Contract for Board approval at the April 13, 2010 Commission Meeting. In the event that staff cannot come to terms with the Gehring Group, staff will begin negotiations with the second ranked firm, the Crowne Group.

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

Public Works Director Chris Mora, using a PowerPoint Presentation (on file), provided an update to the Sector 3 Beach Renourishment Project, and answered questions from the Board.

12.I.2. SECTOR 3 BEACH RESTORATION PROJECT, CHANGE ORDER NO. 1, RANGER CONSTRUCTION INDUSTRIES, INC.

Director Mora recapped his Memorandum dated March 18, 2010, advising the Board that Ranger Construction Industries, Inc. (Ranger) is requesting an approval of Change Order 1 because of additional permit requirements adding additional costs to their original bid. He explained the details of the dispute regarding additional sand processing costs, the haul credit, and Coastal Tech's proposal for two separate alternatives on how to handle Change Order No. 1 (pages 402 and 403 of the Backup). Staff had recommended approval of Alternative 2 since the costs can be documented, and the higher haul credit is warranted.

Discussion ensued regarding documentation, using the Brian Davis Mine as a possible source, and the truck haul credit.

Bob Schafer, Vice President, Ranger Construction Industries, Inc. explained and defended the details of his bid.

Chairman O'Bryan recapped the history of the project and two issues of concern: (1) the cost of the increased processing, and (2) compensation for the increased cost of the Geotechnical engineering sampling. He stressed the need to contain the costs in moving forward, and asked that the Board be informed immediately of any additional costs.

Mr. Schafer confirmed that in moving forward, and included in Phase II, the cost would remain at \$15.66 per cubic yard, which includes the mining, trucking, delivering and spreading of the sand.

A lengthy discussion ensued by the Board regarding the verbiage of “draft” on the Change Order, the hauling credit, whether the Brian Davis Mine sand was considered in the bid, the change in numbers, and the delay in negotiations.

MOTION WAS MADE by Commissioner Davis, SECONDED by Chairman O’Bryan, to approve Alternate No. 1, Ranger’s proposed Change Order No. 1, increasing the total contract price from \$7,270,806.90 to \$8,220,601.81. This amount includes a credit of \$117,138.94 to account for sand fill unit cost rounding and reduced truck hauling costs due to shorter haul routes.

Discussion ensued regarding this Change Order and as well as Change Order No. 2 (under Item 12.I.3.), and locking-in the price at \$15.66 per cubic yard of sand for both Phases.

Chairman O’Bryan called a Break at 1:45 p.m. and reconvened the meeting at 1:56 p.m. with all members present. The Chairman announced that he would move forward with the remaining items on the Agenda, and return to Items 12.I.2 and 12.I.3., after the ongoing negotiations with staff and Ranger are completed. The Board returned to this Item at 2:19 p.m.

Director Brown provided a summary (on file) of the agreed Contract prices as follows:

- Current Contract - \$7,270,807
- Change Order No. 1 (Motioned above) - \$8,220,602
- Additional 33% (66,903 cubic yards at \$15.66) - \$1,047,701
- Total cost at 33% level ((269,640 cubic yards) - \$9,268,303

- Change Order No. 2 (lump sum) - \$304,747.77
- Additional 47,649 cubic yards at \$15.66 - \$746,183
- Total at 317,289 cubic yards (Phase I) - \$10,319,233

Chairman O'Bryan clarified that 317,289 cubic yards of sand was for Phase I, and an estimated quantity of 267,000 cubic yards of sand was projected for Phase II.

Director Mora said an agreement had been made with Ranger, that should the County need the additional 33% for Phase II, they will hold the \$15.66 cubic yard rate.

Mr. Schafer confirmed that the unit cost of \$15.66 per cubic yard would remain for the duration of the project.

Administrator Baird pointed out that the reduction of \$117,138.94 for the truck hauling credit was approved in the earlier Motion for Change Order No. 1.

Chairman O'Bryan once again clarified the cubic yards and contract price for both phases of the project.

Attorney Polackwich encouraged staff to put everything in writing, approve the change orders subject to the various conditions expressed, and allow the Public Works Department and himself to ensure everything is in agreement.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved Alternative No. 1, Ranger's proposed Change Order No. 1, increasing the total contract price from \$7,270,806.90 to \$8,220,601.81. This amount includes a credit of \$117,138.94 to account for sand fill unit cost rounding and reduced truck hauling costs due to shorter haul routes.

12.1.3. SECTOR 3 BEACH RESTORATION PROJECT, CHANGE ORDER NO. 2, RANGER CONSTRUCTION INDUSTRIES, INC.

Chairman O'Bryan summarized Change Order No. 2, saying that the 33% additional sand volume would be 47,649 cubic yards, at a per unit price of \$15.66 per cubic yard, for a total of \$304,747.77, which includes mobilization/demobilization.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Chairman O'Bryan, to approve Change Order No. 2 as revised.

There was a brief discussion regarding additional sand, the unit price of \$15.66 per cubic yard being applied to both phases of the project, and Attorney recommendations.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Chairman O'Bryan, to approve the revised Change Order No. 2 to reflect 47,649 additional cubic yards of sand at a cost of \$15.66 per cubic yard, with a lump sum payment of \$304,747.77, and all sand for Phase II will cost no more than \$15.66 per cubic yard.

Michael Walther, P.E., Coastal Technology Corporation, suggested Change Order No. 2 reflect the additional 33% at the top of the page, and pointed out that the additional 47,649 cubic yards of sand, both at \$15.66, would yield a total contract price at \$10,319.233.00.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Chairman O'Bryan, to approve: (1) revised Change Order No. 2 to reflect 66,903 cubic yards of sand as part of the 33% additional contract requirement, at a unit cost of \$15.66 per cubic yard; (2) the purchase 47,649 cubic yards of sand as part of the 33% additional contract requirement, at a unit cost of \$15.66 per cubic yard; (3) to pay a lump sum of \$304,747.77 for Change Order No. 2; and (4) that all sand in Phase II will cost no more than \$15.66 per cubic yard.

The Chairman CALLED THE QUESTION and the motion carried unanimously. The Board approved: (1) revised Change Order No. 2 to reflect 66,903 cubic yards of sand as part of the 33% additional contract requirement, at a unit cost of \$15.66 per cubic yard; (2) the purchase of 47,649 cubic yards of sand as part of the 33% additional contract requirement, at a unit cost of \$15.66 per cubic yard; (3) to pay a lump sum of \$304,747.77 for Change Order No. 2; and (4) that all sand in Phase II will cost no more than \$15.66 per cubic yard.

Chairman O'Bryan opened the floor to public comment; there being no speakers, he closed the floor.

12.J. UTILITIES SERVICES - NONE

**12.J.1. ADDITION: UPDATE TO COMMISSION ON UTILITY WATER SERVICE FOR
COUNTYSIDE NORTH**

Attorney Polackwich provided background information relating to the Memorandum of Understanding between Indian River County Utilities and Equity Lifestyles Properties, Inc. for MHC Countryside North LLC, and concluded that after reviewing the intent of the original 1993 Agreement (with then owner Realcor-Vero Beach Associates, d/b/a Countryside North Mobile Home Park, and the Countryside North Homeowners Association, Inc.), that nothing was inconsistent. He provided direction to the Board, should the decision be made to change the Agreement that was entered into on March 2, 2010.

Director of Utility Services Erik Olson anticipated an agreement between the Park and Equity LifeStyle Properties, INC. (ELS) regarding water service and the related reading of the water meters, within the next two weeks. If and when this occurs, staff will bring back the memorandum, modify it and move forward.

NO ACTION REQUIRED OR TAKEN

13. COUNTY ATTORNEY MATTERS

**13.A. CONSIDERATION OF THE PROPOSED SETTLEMENT BETWEEN INDIAN
RIVER COUNTY AND GROVE LAND UTILITIES**

Assistant County Attorney George Glenn recapped his memorandum dated March 15, 2010, explaining Grove Land Utilities' request for certification, and concerns regarding the potential uses that could be preempted by the Public Services Commission that would be contrary to the Comprehensive Land Use Plan, as it relates to supplying residential development

in non-AG Commercial Development. He said that County Staff, the County Attorney's Office, and Grove Land Utilities LLC now feel they have an Agreement in place that would satisfy both parties. He described the proposed Settlement Agreement, and urged the Board's approval.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the settlement with Grove Land Utilities, authorized the Chairman to execute the Settlement Agreement, and authorized the County Attorney's Office to withdraw its objection to the Public Service Commission, as recommended in the memorandum of March 15, 2010.

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

14. COMMISSIONER ITEMS

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

14.A.1. SPACE PROGRAM RESOLUTION

Chairman O'Bryan requested the Board adopt a Resolution similar to one adopted in Brevard County, urging the Florida Legislative Delegation to seek legislative support for the United States Space Program, and Florida's continuance as an essential component of the program.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously directed Attorney Polackwich to bring back to the Board a Resolution with the correct County format, under Consent Agenda.

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

14.C. COMMISSIONER WESLEY S. DAVIS - NONE

14.D. COMMISSIONER JOSEPH E. FLESCHER - NONE

14.E. COMMISSIONER GARY C. WHEELER - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT

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. APPROVAL OF MINUTES REGULAR MEETING OF DECEMBER 8, 2009

15.A.2. APPROVAL OF MINUTES REGULAR MEETING OF DECEMBER 15, 2009

15.A.3. APPROVAL OF MINUTES REGULAR MEETING OF JANUARY 19, 2010

**15.A.4. EMERGENCY SERVICES STATION 9, CHANGE ORDER NO. 3 – DIRECT
PURCHASES**

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 FEBRUARY 2, 2010

15.B.2. WORK AUTHORIZATION NO. 4 – FINAL PAY TO GEOSYNTEC CONSULTANTS, INC. FOR ENGINEERING SERVICES WITH THE DESIGN AND PERMITTING FOR SEGMENT 3 CLASS I LANDFILL

15.B.3. WORK AUTHORIZATION NO. 16 AND AMENDMENT NO. 1 – FINAL PAY TO GEOSYNTEC CONSULTANTS, INC. FOR ENGINEERING SERVICES WITH THE CONSTRUCTION OF VERTICAL EXPANSION AND PARTIAL CLOSURE OF THE CLASS I LANDFILL

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 2:38 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Peter D. O'Bryan, Chairman

Minutes Approved: _____

BCC/LA/2010 Minutes