

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS

MAY 4, 2010

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JEFFREY K. BARTON

Clerk to the Board



May 4, 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, May 4, 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

Commissioner Davis ~~Deputy Teddy Floyd, Indian River County Sheriff's Office,~~ delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman O'Bryan led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

**ADDITION: ITEM 5.D. UPDATE FROM DIRECTOR OF EMERGENCY SERVICES JOHN KING,
REGARDING THE OIL SPILL IN THE GULF OF MEXICO**

**DELETION: ITEM 10.B.2. REQUEST TO SPEAK FROM FRED MENSING REGARDING EXTENSION
OF BUILDING PERMITS**

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

5. PROCLAMATIONS AND PRESENTATIONS

**5.A. PRESENTATION OF PROCLAMATION RECOGNIZING PEACE OFFICERS
MEMORIAL DAY MAY 10, 2010, AND POLICE WEEK MAY 10TH THROUGH
MAY 16TH**

Chairman O'Bryan read and presented the Proclamation to Sheriff Deryl Loar and his
staff.

**5.B. PRESENTATION OF PROCLAMATION RECOGNIZING FOSTER CARE MONTH
MAY 2010**

Commissioner Wheeler read and presented the Proclamation to Rosanna Gonzales,
Recruiter and Outreach Director for the Hibiscus Children Center, who accepted the
Proclamation on behalf of all Indian River County foster parents.

**5.C. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF MAY
AS NATIONAL WATER SAFETY MONTH**

Commissioner Flescher read and presented the Proclamation to Assistant Recreation Director Mike Redstone and his staff. Director Redstone provided the Board with a Power Point presentation (on file) regarding water safety.

**5.D. UPDATE FROM DIRECTOR OF EMERGENCY SERVICES JOHN KING,
REGARDING THE OIL SPILL IN THE GULF OF MEXICO**

Emergency Services Director John King, using a PowerPoint presentation (on file), provided an update on the April 20, 2010 oil spill, Florida's recovery efforts, current trajectory, protective actions taken by British Petroleum (BP), and volunteer opportunities.

Chairman O'Bryan requested that Director King to continue providing the Board with weekly updates.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF MARCH 23, 2010

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of March 23, 2010. There were none.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of March 23, 2010, as written.

**7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS
NOT REQUIRING BOARD ACTION - NONE**

8. CONSENT AGENDA

Chairman O'Bryan requested to pull Items 8.F. and 8.P. for discussion; and Commissioner Davis requested to pull Item 8.L. for discussion.

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

8.A. APPROVAL OF WARRANTS AND WIRES APRIL 16, 2010 TO APRIL 22, 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 April 16, 2010 to April 22, 2010, as requested in the memorandum of April 22, 2010.

**8.B. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT, INDIAN RIVER
COUNTY TRAFFIC EDUCATION PROGRAM TRUST FUND**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Report from the inception of the \$3 fee (October 1, 2002) through March 31, 2010, as recommended in the memorandum of April 23, 2010.

**8.C. INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE, QUARTERLY
INVESTMENT REPORT FOR THE QUARTER ENDING 03/31/2010**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Investment Advisory Committee Quarterly Report, as recommended in the memorandum of April 27, 2010.

**8.D. QUARTERLY SUMMARY REPORT FOR ASSESSMENT OF ADDITIONAL COURT
COSTS IN ACCORDANCE WITH 318.18(13) FLORIDA STATUTES**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Quarterly Summary Report for Assessment of Additional Court Costs, as requested in the memorandum of April 27, 2010.

8.E. OPEB TRUST REPORT FOR THE PERIOD 10/1/09 THROUGH 03/31/10

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously accepted the Other Post Employment Trust Benefits (OPEB) Trust Report, as recommended in the memorandum of April 27, 2010. (Custodian: BNY/Mellon)

8.F. ACQUISITION OF RIGHT-OF-WAY ALONG 66TH AVE – 4560 67TH AVENUE,
VERO BEACH

(Clerk's Note: This Item was pulled for discussion and heard following Item 13.A. and is placed here for continuity.)

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved to Table this Item until further action is taken on Agenda Item 13.A.

Deputy County Attorney Bill DeBraal described the 4.62 acre parcel located along 66th Avenue, north of 45th Street, acknowledged that Mr. and Mrs. Kurpil were being represented by Attorney Ralph Evans, and that they participated in negotiations with the County and agreed to sell the parcel for \$47,150.00. He also noted this to be the last piece of right-of-way needed for the 66th Avenue Improvement Project from SR60 to 59th Street.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, by a 4-1 vote (Chairman O'Bryan opposed), the Board approved the Agreement for the Purchase and Sale of Real Estate with Randy and Linda Kurpil, for property located at 4560 67th Avenue, and authorized the Chairman to execute same, as recommended in the memorandum of April 26, 2010.

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

**8.G. APPROVAL OF FY 2010/2011 AND 2011/2012 RADIOLOGICAL
EMERGENCY PREPAREDNESS AGREEMENT (REP GRANT)**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Fiscal Year 2010/2011 and Fiscal Year 2011/2012 Radiological Emergency Preparedness Agreement, and authorized the Chairman to execute the necessary documents, as recommended in the memorandum of April 16, 2010.

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

**8.H. APPROVAL OF BID AWARD FOR IRC BID NO. 2010037 FORKLIFT 6000 LB
CAPACITY**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the bid award to Randall Rents of Florida, Inc., in the amount of \$21,352.00, for the purchase of a new fork lift, as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid, as recommended in the memorandum of April 23, 2010.

8.I. F.D.O.T. LOCAL AGENCY PROGRAM (LAP) AGREEMENT – FPN No. 423186-1-58-01 AND RESOLUTION AUTHORIZING THE CHAIRMAN’S SIGNATURE, OLD DIXIE HIGHWAY SIDEWALK FROM 38TH LANE TO 65TH STREET, IRC PROJECT No. 0845

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the Local Agency Program (LAP) Agreement; and (2) **Resolution 2010-032**, authorizing execution of a Local Agency Program Agreement for the sidewalk construction on Old Dixie Highway from 38th Lane to 65th Street, with the State of Florida, Department of Transportation, and providing for an effective date.

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

8.J. F.D.O.T. LOCAL AGENCY PROGRAM (LAP) AGREEMENT – FPN No. 420339-1-58-01 AND RESOLUTION AUTHORIZING THE CHAIRMAN’S SIGNATURE, 8TH STREET SIDEWALK EAST OF US1 TO 6TH AVENUE, IRC PROJECT No. 0744

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved: (1) the Local Agency Program (LAP) Agreement; and (2) **Resolution 2010-033**, authorizing execution of a Local Agency Program Agreement for the sidewalk construction on 8th Street east of US1 to 6th

Avenue, with the State of Florida, Department of Transportation, and providing for an effective date.

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

8.K. APPROVAL OF WORK ORDER NO. 15 (ENGINEERING) WITH BRIDGE DESIGN ASSOCIATES, INC., RESURFACING OLD DIXIE HIGHWAY FROM US1 TO 53RD STREET, IRC PROJECT NO. 1028

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 15 (Engineering) with Bridge Design Associates, Inc., authorizing the project as outlined in the Scope of Services, for the lump sum fee of \$10,955.00, and authorized the Chairman to execute same, as recommended in the memorandum of April 26, 2010.

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

8.L. BRIDGE DESIGN SERVICES FOR 82ND AVENUE BRIDGE OVER THE I.R.F.W.C.D. LATERAL D CANAL (4TH STREET) – WORK ORDER NO. 16 WITH BRIDGE DESIGN ASSOCIATES, INC., IRC PROJECT NO. 0208

Commissioner Davis requested this Item be pulled for discussion, in hopes that this project would not follow the same scenario as the bridge project at 5th Street S.W. and 43rd Avenue.

Public Works Director Chris Mora provided an update regarding the rebuilding of the 5th Street S.W. and 43rd Avenue bridge project. He anticipated a completion date of June 2010, and addressed questions from the Board.

ON MOTION by Commissioner Davis, SECONDED by Chairman O'Bryan, the Board unanimously approved Work Order No. 16 (Engineering) with Bridge Design Associates, Inc., authorizing the project as outlined in the Scope of Services, for the lump sum fee of \$81,135.00, and authorized the Chairman to execute same, as recommended in the memorandum of April 9, 2010.

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

8.M. SCHUMANN DRIVE/BARBER STREET ROADWAY IMPROVEMENTS – IRC
PROJECT NO. 0546 DUNKELBERGER ENGINEERING & TESTING, INC.,
WORK ORDER NO. 2, RELEASE OF RETAINAGE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved payment to Dunkelberger Engineering and Testing, Inc., for release of retainage in the amount of \$1,586.81, as recommended in the memorandum of April 19, 2010.

8.N. AWARD OF BID # 2010033, 47TH STREET ROADWAY IMPROVEMENTS EAST OF US 1 TO TERMINUS POINT, IRC PROJECT NO. 0946

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the contract award to Clinton Barker Land Development, LLC, for paving, in the amount of \$132,695.40, as recommended in the memorandum of April 19, 2010.

8.O. WORK ORDER NO. 2 (ENGINEERING) WITH DUNKELBERGER ENGINEERING & TESTING, INC., LANDSCAPE IMPROVEMENTS 58TH AVENUE FROM OSLO ROAD (9TH STREET SW) TO 16TH STREET, IRC PROJECT NO. 0916 – RELEASE OF RETAINAGE

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved payment to Dunkelberger Engineering and Testing, Inc. for release of retainage in the amount of \$110.60, as recommended in the memorandum of April 20, 2010.

8.P. THE FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR SECTOR 3 BEACH RENOURISHMENT COST-SHARING

Chairman O'Bryan pulled this Item to express his appreciation to the Sebastian Inlet Tax District for partnering and cost-sharing with the County on the Sector 3 Beach Renourishment Project.

ON MOTION by Commissioner Davis, SECONDED by Chairman O'Bryan, the Board unanimously approved the First Amendment to the Interlocal Agreement for Sector 3 Beach Renourishment Cost-Sharing with the Sebastian Inlet Tax District (SITD), in the amount of \$4,680,000.00, and authorized the Chairman to execute same, as recommended in the memorandum of April 26, 2010.

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

8.Q. LITTLE MERMAID CAR WASH, INC. – 12 MONTH LEASE, TIMOTHY E. AND JOSHANA TYNES, 1935 43RD AVENUE, VERO BEACH, FL, 43RD AVENUE WIDENING AND IMPROVEMENTS

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously granted the 12-month lease extension to Timothy and Joshana Tynes (Little Mermaid Car Wash, Inc.), and authorized the Chairman to execute same, as recommended in the memorandum of April 28, 2010.

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

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARING(S)

10.A.1. REQUEST FROM COASTAL HEALTH SYSTEMS OF BREVARD, INC. FOR A CLASS B CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE ALS/BLS INTERFACILITY TRANSPORTS ORIGINATING FROM INDIAN RIVER COUNTY (QUASI-JUDICIAL)

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

Assistant Fire Chief Brian Burkeen provided background regarding the request from Coastal Health Systems of Brevard, Inc. (Coastal) for a Class B Certificate of Public Convenience and Necessity, which would provide Advanced Life Support (ALS) and Basic Life Support (BLS) Interfacility transports originating within Indian River County. He described the Classes of Certificate of Public Convenience and Necessity (COPCN), and pointed out that there are currently three providers in the County that hold the Class B Certificate. He responded to Board questions regarding the County Ordinance, Chapter 304.07, oversaturation, transportation fees, and call volume within the County.

Discussion ensued regarding the Certificate of Need, competition, and possibly changing County Ordinance, Chapter 304.07, which deals with life support and wheelchair services.

The Chairman opened the Public Hearing.

Julia Alexander, 133 Gadsden Lane, Cocoa Beach, Representative for Coastal Health Systems of Brevard, outlined her company's services, facilities, equipment, and performance statistics. She spoke about Indian River County's need for transport services and the resources her company could bring to the County. She addressed Commissioners' questions and concerns.

Charles Maymon, Chief Operating Officer for American Ambulance and All County Ambulance Service, spoke to Chapter 401 issues, Medicare allowables, and his company's rates and services. Although he supported free enterprise, he urged the Board to deny the application to Coastal Health Systems of Brevard, Inc. He suggested that if the Board decides to grant the Class B Certificate to Coastal, that they request a Needs Assessment be conducted. He thereafter responded to questions from the Board.

Commissioner Wheeler thought it would be advantageous for the Department of Emergency Services to be back on the road for ALS, feeling that if a patient needs transportation they could call a private company to transport them, which would free up the ambulances and take the County out of private competition. He suggested staff examine this and bring a report to the Board for review.

Chief Burkeen explained the processes of moving patients to the hospital as well as interfacility transfers.

Paula Barakos, We Care of the Treasure Coast, requested the Board base their decision on the needs of the County. She supported competition, but questioned why Coastal Health Systems of Brevard, Inc. would be allowed to service Indian River County while she was denied access to Brevard County.

Discussion ensued regarding the applications, Coastal's ability to serve the public, competition, and need of services.

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

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the Class B Certificate of Public Convenience and Necessity be granted to Coastal Health Systems of Brevard, Inc., to provide ALS/BLS Interfacility transports originating from Indian River County.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously directed staff to bring to the Board, a review of Indian River County Code, Chapter 304, Life Support and Wheelchair Services, with more of an emphasis on qualification than need.

There was a brief discussion on how the Ordinance should be addressed if an application is received before the rewrite, and the qualification requirements of the licensing process.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously directed staff to bring to the Board, an analysis that addresses the pros and cons of ALS versus BLS Interfacility Transports, and a cost benefit analysis.

The Chairman called a Break at 10:39 a.m. and reconvened the meeting at 10:51 a.m. with all members present.

**10.A.2. ORDINANCE AMENDMENT TO PROVIDE FOR DISSOLVING AND
SUNSETTING COMMITTEES CREATED PURSUANT TO ORDINANCES,
RESOLUTION TO PROVIDE FOR DISSOLVING AND SUNSETTING
COMMITTEES CREATED PURSUANT TO RESOLUTIONS (LEGISLATIVE)**

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

County Attorney Alan Polackwich recapped the Memorandum of April 27, 2010, recalling that this issue had been brought to the Board on April 6, 2010, considering whether the Board wanted to sunset certain advisory committees and task forces not required by law. He explained that the following committees created by Ordinance require a change in the Ordinance and a Public Hearing: Historic Resources Advisory Committee, Wabasso Ongoing Review Task Force, S.R. 60 Ongoing Review Task Force, and North Barrier Island Ongoing Review Task Force. The following committees created by Resolution do not require a Public Hearing: Conservation Lands Advisory Committee, Utility Advisory Committee, Public Library Advisory Board, Emergency Services District Advisory Committee, Historic Resources Advisory Committee, Land Acquisition Advisory Committee, Parks and Recreation Committee, and Professional Services Advisory Committee. He advised the Board to hold the Public Hearing on the Ordinance changes, close the Public Hearing, and make a decision.

The Chairman opened the Public Hearing.

Paul Kuvshnikov, 2050 East Lakeview Drive, Sebastian, Chairman of the Historic Resources Advisory Committee, voiced concern over his committee being dissolved/sunsetted. He urged the Board to retain the committee, and wanted a recommendation on cost saving measures.

Discussion ensued over the advantages and disadvantages of government-sponsored committees, saving money, and the costs/expenses for various committees.

Commissioner Flescher stressed the importance of various committees, the information they bring to the Board for better decisions, and the means for advising the Board on the interests of the community. He believed dissolving/sunsetting the Historic Resources Advisory Committee would eliminate a valuable process of expertise, as well as cost saving measures.

Further discussion ensued regarding committee origins, smaller government, economics, the Board relying on existing organizations for advice, the appreciation of and for committee volunteers, duplication and broadening the scope of certain committees, the operation of private/public committees, the cost involved for staff to attend committees, and designating ad hoc, growth awareness, and/or task force committees to deal with the issues.

Barbara Drndak, 406 33rd Avenue S.W., was in attendance for the fire tower issue, Item 12.A.1., but decided to speak in support of Citizen Advisory and Ad Hoc committees. She felt commissions and advisory committees were a way to give to the local community, and the essence of good local government. She urged the Board to consider the committees as the public's opportunity to participate in their government, reiterated that it provides the Board with an opportunity to hear a synopsis and recommendation of issues without staff having to sit through the committee meetings, and asked the Commissioners to implement a format that would allow individuals to bring their issues directly to the Board.

Ms. Drndak endorsed the preservation of the fire tower located at the northwest corner of 4th Street and 43rd Avenue, and indicated a willingness to organize a "Friends of the Tower" volunteer group to assist with funding issues. She said her intent was for the property to be recognized as a historic site, and ensure that the tower is registered with the National Historic Lookout Register, as well as the Florida Master Site File of the Florida Division of Historic Preservation.

A brief discussion ensued regarding fire tower concerns, committee participation, Commission accessibility, and procedures for bringing issues to the Board.

Dale Simchick, 766 S. Easy Street, Sebastian, believed peoples' passion is not of a special interest group or tower, but rather the involvement in government and policy, and she asked the Commissioners to remember their passions when they review the policies and committees. She supported streamlining and limiting government, and wished for the Board to consider cost-cutting to preserve some of the committees involved with the Board's policy making. She encouraged the Commissioners to consider having the Committees meet quarterly, and/or project out for one year (prior to sunseting) so staff can direct the committees to review their mission statement, wrap up, make final recommendations, provide a summary as to what they had accomplished, and to submit a plan.

Glenn Heran, 6985 57th Street supported sunseting committees, smaller government, and using less staff time. He felt the Board was completely accessible, and that those individuals who feel passionate about certain issues should form their own individual committees.

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

MOTION was made by Vice Chairman Solari, SECONDED by Commissioner Davis, to sunset the following committees: (1) Historic Resources Advisory Committee, (2) Wabasso Ongoing Review Task Force, (3) S.R. 60 Ongoing Review Task Force, and (4) North Barrier Island Ongoing Review Task Force.

Commissioners Davis, O'Bryan, Solari, and Wheeler, expressed their individual views and support for sunseting the four committees.

Commissioner Flescher opposed sunseting the committees, feeling it would be too drastic. He believed sunseting the committees would send a negative message to those who have volunteered and brought expertise to the Board's decision making. He wanted the committees to meet annually and remain intact.

Attorney DeBral explained why the Historical Resources Advisory Committee was listed twice in the draft Ordinance.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner Flescher opposed), the Motion carried. The Board adopted **Ordinance 2010-009**, repealing Section 902.06, Historic Resources Advisory Committee; amending Sections 911.18(3)(c)3., 911.18(9)(d)(2)c and 911.18(9)(k)(4) Wabasso Ongoing Review Task Force; amending Sections 911.19(3)(a)6. and 911.19(14) S.R. 60 Ongoing Review Task Force; amending Section 911.20(3)(c)2. and 911.20(12)(k)(4) North Barrier Island Ongoing Review Task Force; amending Section 911.21(3)(B)3. Roseland Corridor Regulations; amending Section 911.22(3)4 Other Corridors Special Development Regulations; amending Section 933.04. Power and Authority Pertaining to Historical and Archaeological Resource Protection; amending Section 933.11(4) Incentives for Historic Preservation; by sunseting the Committees authorized by said Ordinances; providing for conflicts; providing for severability; and providing for effective date.

The Chairman called a Break at 11:57 a.m. and reconvened the meeting at 1:15 p.m. with all members present.

Attorney Polackwich announced that the Board would now consider the Advisory Committees created by Resolution.

Chairman O'Bryan named the following Advisory Committees being considered for dissolution/sunsetting: Conservation Lands Advisory Committee, Utility Advisory Committee, Public Library Advisory Board, Emergency Services District Advisory Committee, Historic Resources Advisory Committee, Land Acquisition Advisory Committee, Parks and Recreation Committee, and Professional Services Advisory Committee.

MOTION WAS MADE by Vice Chairman Solari, to sunset the committees created by Resolution.

Chairman O'Bryan asked Vice Chairman Solari to hold his motion since Commissioner Davis wanted to discuss this item, and he agreed.

Commissioner Davis voiced concerns over consolidating the committees. He was not opposed to sunsetting committees, but was uncertain whether this was the right thing to do at this time.

Discussion ensued between the Board and staff regarding consolidating, reorganizing, enlarging, eliminating, and possibly forming new and diverse committees.

The Chairman opened the Public Hearing.

Jens Tripson, 2525 14th Street, former Chairman and current member of the Conservation Lands Advisory Committee, appreciated what the Board was trying to do to cut expenses and consolidate committees. He requested the Board keep the Conservation Lands Advisory Committee intact.

Vice Chairman Solari felt committees should be need-driven. He suggested sunsetting all committees, sending out e-mails thanking the committee members for their work, and asking them to come to the Board with their committee's key tasks, so the information could be reviewed for consolidation into one committee.

Mr. Kuvshnikov sought and received clarification on the timeframe of Vice Chairman Solari's suggestion.

Chairman O'Bryan noted that some committees have not had an opportunity to meet since this topic was noticed, and felt it might be best to let the committee members have one more meeting so they can discuss this and come to a consensus.

Attorney DeBraal said it would be permissible for the Board, by Resolution, to sunset these committees in 45 or 60 days to allow them to meet one last time.

Commissioner Wheeler suggested sunsetting the committees, moving forward with consolidation, and coming up with a diverse group of people that would want to volunteer.

Chairman O'Bryan wanted to sunset the committees 60 days from today, allowing them to meet as a group and come to a consensus.

Milt Thomas, 686 Glenview Terrace, Chairman of the Public Library Advisory Board, explained the library system, supported committee consolidation, and requested the Board not dissolve the Public Library Advisory Board Committee.

MOTION WAS MADE by Vice Chairman Solari,
SECONDED by Commissioner Wheeler to sunset all the
committees created by Resolution in 60 days.

Vice Chairman Solari suggested the Staff Assistants put together one more meeting within said timeframe, ask the committee members to discuss and report their key issues, and decide whether there needs to be one or two new committees to address those issues.

Commissioner Wheeler sought and received information pertaining to the Public Library Advisory Board Committee and funds raised through the “Friends of the Library”.

Attorney Polackwich pointed out that the first half of Vice Chairman Solari’s Motion should be in the form of adopting the Resolution, and making the adoption effective 60 days from today’s meeting.

MOTION WAS AMENDED by Vice Chairman Solari,
SECONDED by Commissioner Wheeler to approve
Resolution 2010-034, as amended, dissolving and
sunsetting the following Advisory Committees established
by Resolution *in 60 days from May 4, 2010*: Conservation
Lands Advisory Committee, Utility Advisory Committee,
Public Library Advisory Board, Emergency Services
District Advisory Committee, Historic Resources
Advisory Committee, Land Acquisition Advisory
Committee, Parks and Recreation Committee, and
Professional Services Advisory Committee.

The Chairman CALLED THE QUESTION, and by a vote of 4-1 vote (Commissioner Flescher opposed), the Motion carried.

10.A.3. AMENDMENT TO SECTION 100.03(4) OF THE CODE OF INDIAN RIVER COUNTY, CODIFYING AND PUBLISHING THE ORDINANCES TO READOPT THE CODE UP TO AND INCLUDING SUPPLEMENT 78 (LEGISLATIVE)

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

Attorney Polackwich explained that Florida Law requires the Board to codify and publish all Ordinances annually. He said the last time this was done the Ordinances were codified through Supplement 65, as published by the Municipal Code Corporation, and now the County needs to codify and publish the Ordinances up to and including Supplement 78, which requires a Public Hearing.

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

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2010-010**, amending Section 100.03(4) of the Code of Indian River County (“the Code”), codifying and publishing the Ordinances up to and including Supplement 78 thereto, readopting the Code, designating the Code as the best evidence of the current law of Indian River

County, Florida, and providing for severability, codification, and an effective date.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM WILLIAM M. WELLS REGARDING CODE ENFORCEMENT

William Wells, 8800 44th Avenue, spoke about his frustration in an attempt to acquire a survey and garage permit, as well as information regarding dock setbacks. He provided the Board with a copy of the *Letter of Concurrence for Setback Waiver* (on file), and felt it was time to bring this situation to a close.

Commissioner Flescher explained the details regarding Mr. Wells' neighbor, boat, and dock concerns, how he had brought them before the Board last year, and how staff had met with him on several occasions to address his concerns. He invited staff to verify the outcome of the meetings and the discussions that had taken place.

Director Keating provided explanations relative to Mr. Wells' concerns and pointed out that staff had adequately addressed his concerns at subsequent meetings.

Chief of Environmental Planning and Code Enforcement Roland DeBlois revealed that the County's minimum dock setbacks, as in Mr. Wells' case, are actually less than that of Department of Environmental Protection (DEP).

Commissioner Flescher indicated that there would be an opportunity for Mr. Wells to meet with staff during the May timeframe to review what staff has done.

NO BOARD ACTION REQUIRED OR TAKEN

10.B.2. REQUEST TO SPEAK FROM FRED MENSING REGARDING EXTENSION OF BUILDING PERMITS

Deleted

10.C. PUBLIC NOTICE ITEMS

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

10.C.1.A. SCHEDULED PUBLIC HEARING MAY 11, 2010

COUNTY INITIATED REQUEST: REVIEW OF THE PROPOSED EAR (EVALUATION AND APPRAISAL REPORT) BASED AMENDMENTS TO THE INDIAN RIVER COUNTY COMPREHENSIVE PLAN FOR TRANSMITTAL OF THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) FOR REVIEW (LEGISLATIVE)

10.C.1.B. SCHEDULED PUBLIC HEARING MAY 11, 2010

DI VOSTA HOMES, L.P.'S REQUEST FOR A CHANGE TO THE WATERWAY VILLAGE DRI DEVELOPMENT ORDER AND DEVELOPER'S AGREEMENT TO IMPLEMENT A SETTLEMENT AGREEMENT (QUASI-JUDICIAL)

10.C.1.C. SCHEDULED PUBLIC HEARING MAY 18, 2010

COUNTY INITIATED REQUEST: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA AMENDING TITLE X, IMPACT FEES, OF THE CODE OF INDIAN RIVER COUNTY; AMENDING CODE SECTION 1000.09 "PAYMENT", TO ALLOW FOR PAYMENT OF IMPACT FEES AT THE CERTIFICATION OF OCCUPANCY (CO) TIME; AND,

PROVIDING FOR CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE
(LEGISLATIVE)

10.C.1.D. SCHEDULED PUBLIC HEARING JUNE 8, 2010

CORRIGAN ET AL'S REQUEST TO AMEND THE COMPREHENSIVE PLAN'S FUTURE LAND
USE ELEMENT POLICIES 1.22 AND 1.36 TO ALLOW FOR EXPANSION OF
COMMERCIAL/INDUSTRIAL NODES FOR LARGE SCALE
RESEARCH/TECHNOLOGY/INDUSTRIAL PARKS AND TO INCREASE THE SIZE AND USE
ALLOWANCES OF THE COMMERCIAL/INDUSTRIAL DESIGNATED PROPERTY LOCATED AT
THE NORTHEAST CORNER OF SR 60 AND 102ND AVENUE (LEGISLATIVE)

10.C.1.E. SCHEDULED PUBLIC HEARING JUNE 8, 2010

CORRIGAN ET AL'S REQUEST TO AMEND THE COMPREHENSIVE PLAN TO EXPAND THE
COUNTY'S URBAN SERVICE AREA (USA) AND TO REDESIGNATE ± 674.17 ACRES
LOCATED WEST OF 102ND AVENUE AND NORTH OF S.R. 60 FROM AG-2,
AGRICULTURAL-2 (UP TO 1 UNIT/10 ACRES), TO C/I, COMMERCIAL/ INDUSTRIAL;
(LUDA 2010010038-64921) (LEGISLATIVE)

County Attorney Polackwich read the notices into the record.

11. COUNTY ADMINISTRATOR MATTERS - NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT - NONE

**12.A.1. BOARD CONSIDERATION OF REQUEST TO DESIGNATE THE FIRE
LOOKOUT TOWER AT THE NORTHWEST CORNER OF 43RD AVENUE AND 4TH
STREET (4330 4TH STREET) AS A HISTORIC STRUCTURE**

Environmental Planning and Code Enforcement Chief Roland DeBlois, using a PowerPoint Presentation (on file) provided description and conditions related to the fire tower located on a ±4 acre property at the northwest corner of 43rd Avenue and 4th Street, which the County had purchased in January 2010 for a future fire station. He described the tower, its condition, the criteria used for a historic designation, potential costs/funding, and consensus that the tower and small office building near the base of the tower is situated in a manner that would allow for the development of a future fire station, while still preserving the structures.

Discussion ensued regarding an anticipated timeframe for the new fire station, the cost of maintaining the tower and bringing it up to hurricane standards, asking staff to be cooperative regarding access to the property, preserving the small office building, and giving Ms. Drndak one year to come up with an organization or “Friends of the Tower” group that would raise money for the maintenance and preservation of the tower.

(Clerk’s Note: Barbara Drndak attended the meeting to address this Item, but instead she spoke under Item 10.A.2.)

MOTION WAS MADE by Vice Chairman Solari,
SECONDED by Commissioner Wheeler, directing staff to
not dismantle the fire tower for one (1) year, and for staff
to be cooperative in granting access to the property for
inspections.

Emergency Services Director John King emphasized that the tower was designed as a workers' tower, not for public access or for the attachments of antennas or coaxial cables, and for safety reasons he encouraged the Board to not allow either.

Mr. Kuvshnikov said that he had learned from lookouts.us, that the fire tower does not need to be accessible to fall under the historic preservation guideline.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board directed staff to not dismantle the fire tower for one (1) year, and for staff to be cooperative in granting access to the property for inspections.

12.B. EMERGENCY SERVICES - NONE

12.C. GENERAL SERVICES - NONE

12.D. HUMAN RESOURCES - NONE

12.E. HUMAN SERVICES - NONE

12.F. LEISURE SERVICES - NONE

12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

12.H. RECREATION - NONE

12.I. PUBLIC WORKS

12.I.1. RIGHT-OF-WAY ACQUISITION FOR COUNTY ROAD PROJECTS,
RESOLUTION 2008-139

Public Works Director Chris Mora using a PowerPoint Presentation (on file), recapped his memorandum dated April 26, 2010 (on file). He provided background and analysis regarding Resolution 2008-139, the County Right-of Way Acquisition Resolution that right-of-way structure and procedures are based upon. He listed the road projects in priority order (see below), indicated that right-of-way was acquired and funding was in place for Projects 1-3, and that Projects 4-8 had right-of-way or permitting issues remaining. He described the alternatives, conveyed staff's recommendation, and requested direction from the Board.

- (1) Oslo Road between 43rd Avenue and 27th Avenue
- (2) 53rd Street between 58th Avenue and Indian River Boulevard
- (3) 26th Street between 82nd Avenue and 74th Avenue
- (4) Oslo Road between 58th Avenue and 43rd Avenue
- (5) 26th Street between 43rd Avenue and US1,
- (6) 66th Avenue between 4th Street and 16th Street
- (7) 43rd Avenue between 18th Street and 26th Street
- (8) 66th Avenue between SR60 and 41st Street

Discussion ensued regarding long-range projections, roadway plans at 60% design, pending Notices to Owners, declining revenues, and road priorities.

The Chairman opened the floor to public comments.

Joseph Paladin, Black Swann Consulting, wanted staff to provide a time schedule as to when the projects would be starting, using Developer Agreements in the future, and rescinding the Notice to Owners on the projects that had been moved out of the program.

Vice Chairman Solari felt that supporting staff's recommendation would help the level of service over the next few years.

Director Mora stressed that focusing on the aforementioned road projects, and not purchasing right-of-way on projects that are not needed, would allow the County to meet the level of service standard.

Ralph Evans, Stewart, Evans, Stewart and Emmons, Esquire, 3355 Ocean Drive, representing two clients, felt there was an injustice to property owners, who at the end of 120 days continued to negotiate with the County, and now feel they are being penalized because they did not say "no" to the County.

Deputy County Attorney Bill DeBraul believed it was best for the County to differentiate between the individuals who have been actively negotiating with the County, and those who have been content to just wait.

Discussion ensued regarding the implementation of a policy and/or contract, the contract terms grandfathering certain individuals, and cutting road projects due to the economic downturn.

Management and Budget Director Jason Brown defined the need for modifying Resolution 2008-139, saying that it keeps the process in place for road projects, but does not provide the ability to make adjustments from 2004 planning, which means the County is still buying right-of-way based on a design contract from 2004. He emphasized that if this continues, the County will run out of money.

Commissioners Davis and Wheeler voiced concerns and wanted more time to find a solution.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Flescher, to approve staff's recommendation.

Commissioner Davis recognized the need for modifying the Resolution, but felt uncertain about this being the correct alternative.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner Davis opposed), the Motion carried. The Board approved **Resolution 2010-035**, amending policies for acquisition of right-of-way for road expansion and improvement projects previously set out in Resolution No. 2007-027, ~~and~~ 2008-116 and 2008-139; and the Notice to Owner/Right-of-Way Recision Letter.

12.I.2. STAFF UPDATE – SECTOR 3 BEACH RENOURISHMENT PROJECT

Director Mora, using a PowerPoint Presentation (on file), provided a staff update on the recent progress of the Sector 3 Beach Renourishment Project.

12.J. UTILITIES SERVICES

12.J.1. APPROVAL OF BID AWARD FOR IRC BID NO. 2010024, NORTH WATER TREATMENT PLANT RAW WATER TRANSMISSION SYSTEM

(Clerk's Note: This Item was heard following Item 8.J. and is placed here for continuity.)

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Wheeler, to approve staff's recommendation.

Attorney Polackwich, in reviewing the Memorandum dated April 20, 2010, wanted to ensure the Board did not unknowingly take action to release the Bid Bond, and that the Board not release H&D (H & D) Construction, Inc. from their responsibilities or obligations on the original bid and award.

The Commissioners sought and received details regarding the Bid Bond.

Director of Utility Services Erik Olson, noting that he had already spoken with Attorney Polackwich, said the bid bond was valid, and as a result, the 5% bid bond would be called. He conveyed that the contract was officially awarded and the shop drawings were received and accepted by the consulting firm. He felt the Bid Bond to be no different than any other contract.

Based on Attorney Polackwich's recommendation that the Board not release H&D Construction from their responsibilities, and their letter stating they cannot perform the project, he believed it would be in the best interest of the County to move forward and award the contract to the second lowest bidder.

MOTION WAS AMENDED by Vice Chairman Solari, SECONDED by Commissioner Wheeler, to: (1) not release H&D Construction Co., Inc. from the responsibilities of having made and been awarded the bid; (2) award the contract to Timothy Rose Construction, Inc., as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (3) approve the sample Agreement; and (4) authorize the Chairman to execute same after receipt and approval of the required Public Construction Bond and Certificate of Insurance, and after the County Attorney has approved the Agreement as to form and legal sufficiency.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

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

12.J.2. WORK ORDER No. 26 WITH GEOSYNTEC CONSULTANTS, INC. FOR GROUND WATER ASSESSMENT AND MONITORING PROPOSAL NORTH COUNTY WATER PLANT

ON MOTION by Commissioner Davis, SECONDED by Chairman O'Bryan, the Board unanimously authorized Work Order No. 26 with Geosyntec for a Natural Attenuation Monitoring Plan in the amount of \$12,088.00, as recommended in the memorandum of April 5, 2010.

RELEASE OF LIEN ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

12.J.3. EMERGENCY SEWER REPAIR AT 650 21ST STREET SW, APPROVAL OF EMERGENCY WORK DIRECTIVE WITH TIMOTHY ROSE CONTRACTING, INC.

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Davis, the Board unanimously approved the Work Directive with Timothy Rose Contracting, Inc., in the amount of \$73,422.00, for the replacement of gravity sewer pipe along 21st Street S.W., and authorized the Chairman to execute same, as recommended in the memorandum of April 27, 2010.

12.J.4. CITY OF VERO BEACH, TOWN OF INDIAN RIVER SHORES AND INDIAN RIVER COUNTY UTILITY SERVICE ANALYSIS

Director Olson recapped staff's Memorandum dated April 28, 2010, providing the Board with background relating to the possibilities/opportunities for consolidation or change in water and sewer utility services with the City of Vero Beach and Indian River County, the proposed Consultant's initial and modified scope of work for the project, and the related costs to accomplish the project. He supported the selection of GAI Consultants, but not the \$169,933 initial investigation fee. He felt there was a better alternative, believing that at a minimum, the Consultant should give the County a reasonable price, take the information and provide recommendations, and provide an efficient scenario.

The Commissioners expressed concerns regarding the interview process, the financial feasibility of either merging the system into a regional system or the County providing services for the franchise areas, the purpose of the Consultant, and the Board having already provided direction and the identification of three major scenarios.

A lengthy discussion ensued between Director Olson and the Board regarding the rate study, the Consultant's response to the County's Request for Qualifications (RFQ), holding another meeting to reaffirm the Board's direction, and paying the installment to obtain the requested information.

Chairman O'Bryan directed the Board's attention to the Scope of Services Proposal, Exhibit "A", Phase 1B – Initial Analysis, Item No. 2, on page 263 of the Backup. He suggested the proposal be sent back to the Consultant requesting the options as listed under Item No. 2, and to be delivered by October 1, 2010.

Discussion ensued regarding the direction, the time element involved, having this done at a reasonable and fair price, and moving forward.

MOTION was made by Vice Chairman Solari to issue the Request for Qualifications (RFQ) to the second ranked Consultant on the list. The Motion DIED for lack of a Second.

Director Brown suggested staff return to GAI Consultants, request a price on Item No. 2 within an acceptable timeframe, and if both parties come to an agreement, give them another opportunity and move forward. If that does not work, he suggested going to the second-ranked Consultant.

ON MOTION by Commissioner Wheeler, SECONDED by Chairman O'Bryan, by a 4-1 vote (Vice Chairman Solari opposed), the Board directed staff to go back to GAI Consultants to request an evaluation/analysis of the Town of Indian River Shores and County Franchises with the City of Vero Beach (as presented on page 263 of the Backup), to preferably be delivered by October 1, 2010.

13. COUNTY ATTORNEY MATTERS

13.A. PURCHASE AND SALE AGREEMENT – TOM AND LINDA WINKEL, 6650 45TH STREET, VERO BEACH

(Clerk's Note: This Item was heard following Item 12.I.2., and is placed here for continuity.)

Attorney DeBaal recapped his Memorandum dated April 26, 2010, providing background and details of the property. He conveyed that the property owners had requested a leaseback because the County is purchasing more than 20% of their property, and even though there is no hard structure on the property, they want to continue using the property.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Wheeler, to approve the Agreement for the Purchase and Sale of Real Estate and Lease.

Chairman O'Bryan did not support the Motion, believing the severance damages and costs to cure the remaining property were excessive, and not a good use of taxpayers' money.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Chairman O'Bryan opposed), the Motion carried. The Board approved the Agreement for the Purchase and Sale of Real Estate and Lease with Tom and Linda Winkel, and authorized the Chairman to execute the documents, as recommended in the memorandum of April 26, 2010.

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

14. COMMISSIONER ITEMS

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

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

14.C. COMMISSIONER WESLEY S. DAVIS - NONE

14.D. COMMISSIONER JOSEPH E. FLESCHER - NONE

14.E. COMMISSIONER GARY C. WHEELER - NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT - NONE

15.B. SOLID WASTE DISPOSAL DISTRICT

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 Solid Waste Disposal District. Those Minutes are being prepared separately.

15.B.1. APPROVAL OF MINUTES REGULAR MEETING OF MARCH 2, 2010

15.B.2. APPROVAL OF MINUTES REGULAR MEETING OF MARCH 23, 2010

**15.B.3. WORK ORDER NO. 15 TO CAMP DRESSER & MCKEE INC. (CDM) FOR
PHASE I SURFACE WATER AND GROUNDWATER MONITORING AND
EVALUATION**

15.C. ENVIRONMENTAL CONTROL BOARD

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

15.C.1. APPROVAL OF MINUTES REGULAR MEETING OF FEBRUARY 2, 2010

15.C.2. REPORT OF ACTIVITIES FOR SECOND QUARTER FY 09/10 (JANUARY THROUGH MARCH 2010)

15.C.3. RELEASE OF LIEN – NATIONAL CITY BANK OF INDIANA, NATIONAL CITY BANK, NATIONAL CITY MORTGAGE, AND NATIONAL CITY MORTGAGE Co. ENVIRONMENTAL CONTROL HEARING BOARD CASE 453-08

15.C.4. RELEASE OF LIEN – SHELBY HOMES AT OSLO, INC. ENVIRONMENTAL CONTROL HEARING BOARD CASE 434-08

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 4:27 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Peter D. O'Bryan, Chairman

Minutes Approved: _____

BCC/LA/2010 Minutes