

JEFFREY K. BARTON  
Clerk to the Board



INDEX TO MINUTES OF REGULAR MEETING  
OF BOARD OF COUNTY COMMISSIONERS  
OF JULY 13, 2010

1.	CALL TO ORDER.....	1
2.	INVOCATION .....	1
3.	PLEDGE OF ALLEGIANCE .....	2
4.	ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS .....	2
	Redesignate: Item 7.C. to Item 13.B. under County Attorney Matters.....	2
	Move: The Sheriff’s Presentation to the Final Item of the July 14, 2010 Budget Workshop .....	2
5.	PROCLAMATIONS AND PRESENTATIONS .....	3
5.A.	PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF JULY, 2010, AS RECREATION AND PARKS MONTH .....	3
5.B.	PRESENTATION OF PROCLAMATION HONORING TREASURE COAST WATERWAY CLEANUP WEEK JULY 19 <sup>TH</sup> THROUGH JULY 25 <sup>TH</sup> .....	3
5.C.	PRESENTATION OF VERO BEACH SPORTS VILLAGE’S 30 SECOND TV COMMERCIAL TO AIR ON MAJOR LEAGUE BASEBALL NETWORK BY MICHAEL C. ZITO, ASSISTANT COUNTY ADMINISTRATOR .....	3
5.D.	UPDATE FROM DIRECTOR OF EMERGENCY SERVICES, JOHN KING, REGARDING THE DEEPWATER HORIZON OIL SPILL .....	4

6.	APPROVAL OF MINUTES .....	4
6.A.	REGULAR MEETING OF JUNE 1, 2010 .....	4
7.	INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION.....	4
7.A.	UPDATE ON EMINENT DOMAIN MEDIATIONS WITH WILLIAM BETHEL, WILLIAM AND RUTH STANBRIDGE AND THE ABAZIS FAMILY .....	5
7.B.	FELLSMERE HYDRANT CHARGE – AGREEMENT TO PAY 2009 CHARGE .....	5
7.C.	FAST FOOD ENTERPRISES #2 LLP D/B/A BURGER KING – S.R. 60/58 <sup>TH</sup> AVENUE.....	5
8.	CONSENT AGENDA .....	5
8.A.	APPROVAL OF WARRANTS AND WIRES JUNE 25, 2010 TO JULY 1, 2010 .....	6
8.B.	QUARTERLY SUMMARY REPORT FOR ASSESSMENT OF ADDITIONAL COURT COSTS IN ACCORDANCE WITH 318.18 (13) FLORIDA STATUTES .....	6
8.C.	SUPERVISOR OF ELECTIONS 2009/2010 BUDGET AMENDMENT .....	6
8.D.	RECAPITULATION REPORT OF ERRORS AND INSOLVENCIES FOR THE 2009 TAX ROLL.....	7
8.E.	AUTHORIZE COUNTY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CORPORATE CARE WORKS, INC. FOR THE COUNTY’S EMPLOYEE ASSISTANCE PROGRAM.....	7
8.F.	AUTHORIZE COUNTY ADMINISTRATOR TO EXECUTE AN ADMINISTRATIVE SERVICES AGREEMENT WITH JAG ENTERPRISES LLC/BENEFITS WORKSHOP FOR THE COUNTY’S FLEXIBLE SPENDING ACCOUNT .....	8
8.G.	UPDATE ON TEMPORARY SUSPENSION AND PERMANENT EXCEPTION PROVISIONS.....	8
8.H.	APPROVAL OF EXTENSION FOR FEDERALLY FUNDED HOMELAND SECURITY GRANT #08-DS-60-10-40-01-204 .....	9
8.I.	KIMLEY-HORN AND ASSOCIATES, INC. AMENDMENT NO. 4 – FINAL PAYMENT 58 <sup>TH</sup> AVE AND SR 60 INTERSECTION IRC PROJECT NO. 05501.....	9
8.J.	WORK ORDER NO. 20 TO THE PROFESSIONAL BRIDGE DESIGN SERVICES AGREEMENT WITH BRIDGE DESIGN ASSOCIATES, INC. FOR 20 <sup>TH</sup> AVENUE BRIDGE OVER MAIN RELIEF CANAL.....	9

8.K.	WORK ORDER NO. 19 TO THE PROFESSIONAL BRIDGE DESIGN SERVICES AGREEMENT WITH BRIDGE DESIGN ASSOCIATES, INC. FOR CR512 BRIDGE OVER THE SEBASTIAN RIVER IRC PROJECT #9611 .....	10
8.L.	ACCEPTANCE OF EMERGENCY MANAGEMENT FEDERALLY-FUNDED SUBGRANT AGREEMENT CONTRACT NUMBER 11-FG-15-10-40-10 .....	10
8.M.	SENIOR RESOURCE ASSOCIATES (SRA) TRANSIT FACILITY CONSTRUCTION DELIVERY METHOD .....	11
8.N.	APPROVAL OF RESOLUTION ADOPTING THE UPDATED 2010 INDIAN RIVER COUNTY UNIFIED LOCAL MITIGATION STRATEGY .....	11
9.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES-NONE .....	11
10.	PUBLIC ITEMS .....	12
10.A.	PUBLIC HEARINGS .....	12
10.A.1.	SHARK BAITING, CHUMMING AND FISHING (LEGISLATIVE).....	12
10.B.	PUBLIC DISCUSSION ITEMS-NONE.....	15
10.C.	PUBLIC NOTICE ITEMS .....	15
10.C.1.	NOTICE OF SCHEDULED PUBLIC HEARING FOR JULY 20, 2010:.....	15
	CONSIDER ADOPTION OF AN ORDINANCE ENACTING A NEW SECTION 207.15 OF THE CODE OF INDIAN RIVER COUNTY ENTITLED "PAIN CLINICS AND PAIN MANAGEMENT CLINICS (LEGISLATIVE) .....	15
11.	COUNTY ADMINISTRATOR MATTERS-NONE.....	16
	THIS SPACE INTENTIONALLY LEFT BLANK.....	16
12.	DEPARTMENTAL MATTERS .....	17
12.A.	COMMUNITY DEVELOPMENT .....	17
12.A.1.	REQUEST TO APPROVE CONTRACT AWARDS FOR THE REHABILITATION OF FIVE HOMES PURCHASED BY THE INDIAN RIVER COUNTY HOUSING AUTHORITY WITH NEIGHBORHOOD STABILIZATION PROGRAM COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND REQUEST TO AMEND THE NEIGHBORHOOD STABILIZATION PROGRAM HOUSING ASSISTANCE PLAN .....	17

12.B.	EMERGENCY SERVICES-NONE .....	21
12.C.	GENERAL SERVICES-NONE .....	21
12.D.	HUMAN RESOURCES.....	21
12.D.1.	HEALTH INSURANCE RENEWAL – BLUECHOICE PPO 704 .....	21
12.D.2.	AUTHORIZE THE COUNTY ADMINISTRATOR TO SWITCH FROM THE BLUEMEDICARE GROUP PPO 1 PLAN TO THE BLUEMEDICARE GROUP PPO STANDARD PLAN .....	22
12.E.	HUMAN SERVICES-NONE.....	22
12.F.	LEISURE SERVICES-NONE.....	22
12.G.	OFFICE OF MANAGEMENT AND BUDGET-NONE.....	22
12.H.	RECREATION-NONE .....	22
12.I.	PUBLIC WORKS-NONE.....	23
12.J.	UTILITIES SERVICES.....	23
12.J.1.	BIOSOLIDS DEWATERING FACILITY – UCP-2697 – SUMMIT CM, INC. FINAL PAY AND RELEASE OF RETAINAGE.....	23
12.J.2.	APPROVAL OF WORK AUTHORIZATION DIRECTIVE No. 2009-010 FOR RELOCATION OF 16” FORCE MAIN ACROSS SOUTH RELIEF CANAL BY SHELTRA & SONS SON CONSTRUCTION Co., INC., UCP No. 4055 .....	23
12.J.3.	APPROVAL OF BID AWARD FOR IRC BID No. 2010042 ANNUAL BID FOR WATER METERS.....	24
13.	COUNTY ATTORNEY MATTERS.....	24
13.A.	PURCHASE AND SALE AGREEMENT – ROY AND CINDY BASS – 5210, 5220 85 <sup>TH</sup> STREET (C.R. 510) .....	24
13.B.	FAST FOOD ENTERPRISES #2 LLP D/B/A BURGER KING – S.R. 60/58 <sup>TH</sup> AVENUE.....	27
14.	COMMISSIONER ITEMS.....	29
14.A.	COMMISSIONER PETER D. O’BRYAN, CHAIRMAN-NONE .....	29
14.B.	COMMISSIONER BOB SOLARI, VICE CHAIRMAN-NONE.....	29
14.C.	COMMISSIONER WESLEY S. DAVIS-NONE .....	29
14.D.	COMMISSIONER JOSEPH E. FLESCHER-NONE.....	29
14.E.	COMMISSIONER GARY C. WHEELER-NONE.....	29

15. SPECIAL DISTRICTS AND BOARDS .....29  
15.A. EMERGENCY SERVICES DISTRICT-NONE ..... 29  
15.B. SOLID WASTE DISPOSAL DISTRICT-NONE ..... 29  
15.C. ENVIRONMENTAL CONTROL BOARD-NONE ..... 30  
  
16. ADJOURNMENT.....30

**JEFFREY K. BARTON**

Clerk to the Board



**July 13, 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 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, July 13, 2010. Present were Chairman Peter D. O'Bryan, Vice Chairman Bob Solari, and Commissioners Wesley S. Davis, Joseph E. Flescher, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Maureen Gelfo.

**1. CALL TO ORDER**

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

**2. INVOCATION**

~~Reverend Derrick West, First Baptist Church,~~ Commissioner Davis delivered the Invocation.

### **3. PLEDGE OF ALLEGIANCE**

Commissioner Wheeler led the Pledge of Allegiance to the Flag.

### **4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS**

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

*REDESIGNATE: ITEM 7.C. TO ITEM 13.B. UNDER COUNTY ATTORNEY MATTERS*

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Solari, the Board unanimously approved the Agenda, as amended.

Commissioner Wheeler requested the following change to the Agenda for the Budget Workshop scheduled for Wednesday, July 14, 2010:

*MOVE: THE SHERIFF'S PRESENTATION TO THE FINAL ITEM OF THE JULY 14, 2010 BUDGET WORKSHOP*

The Board CONSENSUS was to take formal action at the Budget Workshop of July 14, 2010 to schedule the Sheriff's presentation as the last item at the Workshop. The Chairman directed the County Administrator to notify the agencies of the adjustment in the schedule.

## **5. PROCLAMATIONS AND PRESENTATIONS**

### **5.A. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF JULY, 2010, AS RECREATION AND PARKS MONTH**

Commissioner Flescher read and presented the Proclamation to Recreation Department Head Michael Zito, and staff members Fawna Mavis, Mike Redstone, David Fleetwood, Holden Kriss, Bela Nagy, and Bob Wilson.

### **5.B. PRESENTATION OF PROCLAMATION HONORING TREASURE COAST WATERWAY CLEANUP WEEK JULY 19<sup>TH</sup> THROUGH JULY 25<sup>TH</sup>**

Commissioner Davis read and presented the Proclamation to Steve Haigis and Norman Ridgely.

### **5.C. PRESENTATION OF VERO BEACH SPORTS VILLAGE'S 30 SECOND TV COMMERCIAL TO AIR ON MAJOR LEAGUE BASEBALL NETWORK BY MICHAEL C. ZITO, ASSISTANT COUNTY ADMINISTRATOR**

Assistant County Administrator Michael Zito displayed a video scheduled to air on July 14, 2010 on the Major League Baseball Network, of a television commercial advertising the Vero Beach Sports Village (formerly known as Dodgertown). He reported that the video may also be viewed at the County's website, <http://www.ircgov.com> and at <http://www.vbsportsvillage.com>. Assistant Administrator Zito noted that the audio portion of the commercial would also be aired on Westwood One Satellite Radio throughout the Country.

The Board commended Administrator Zito on his work, and expressed an interest in having organizations such as the Chamber of Commerce include a link to the video on their websites.



**5.D. UPDATE FROM DIRECTOR OF EMERGENCY SERVICES, JOHN KING,  
REGARDING THE DEEPWATER HORIZON OIL SPILL**

Director of Emergency Services John King used a PowerPoint (on file) to update the Board on Day 85 of the Deepwater Horizon Oil Spill. He reported that British Petroleum (BP) was installing a new containment cap, and continuing to establish relief wells. He stated that the area most impacted by the spill has extended from Galveston, Texas to Pensacola, Florida. Director King described pre-emptive actions taken by the State of Florida and by County staff, and conveyed that the best website on which to obtain further information on the spill was [www.dep.state.fl.us/deepwaterhorizon](http://www.dep.state.fl.us/deepwaterhorizon). Concluding his presentation, Director King addressed a question posed at the last meeting relative to how the spill is impacting the arsenic levels found in the ocean and the marine wildlife.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF JUNE 1, 2010**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of June 1, 2010. There were none.

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Solari, the Board unanimously approved the Minutes of the Regular Meeting of June 1, 2010, as written.

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

**7.A. UPDATE ON EMINENT DOMAIN MEDIATIONS WITH WILLIAM BETHEL,  
WILLIAM AND RUTH STANBRIDGE AND THE ABAZIS FAMILY**

Noted for the record was the Deputy County Attorney's report verifying that the hearing on eminent domain mediations with William Bethel, William and Ruth Stanbridge, and the Abazis Family, will be rescheduled after the County receives the appraisal reports from the appraiser hired by Simon and Holloway (the representing attorney for the above parties).

**7.B. FELLSMERE HYDRANT CHARGE – AGREEMENT TO PAY 2009 CHARGE**

Noted for the record was the County Attorney's assessment that the Fellsmere City Attorney's position on the 2009 fire protection charges makes it unlikely that the County and Fellsmere will reach an agreement for payment of the 2009 charge.

**7.C. FAST FOOD ENTERPRISES #2 LLP D/B/A BURGER KING – S.R. 60/58<sup>TH</sup>  
AVENUE**

This item was heard under County Attorney Matters, as Item 13.B.

**8. CONSENT AGENDA**

Chairman O'Bryan requested Item 8. G. be pulled 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 JUNE 25, 2010 TO JULY 1, 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 June 25, 2010 to July 1, 2010, as recommended in the memorandum of July 1, 2010.

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the 318.18 (13) Florida Statutes Quarterly Summary Report for Assessment of Additional Court Costs for the quarter ending in June 2010, as requested in the memorandum of July 6, 2010.

**8.C. SUPERVISOR OF ELECTIONS 2009/2010 BUDGET AMENDMENT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved a budget amendment authorizing the use of \$52,070 from City election revenues to fund needed expenditures in the 2009/2010 Budget, as recommended in the memorandum of July 6, 2010.

**8.D. RECAPITULATION REPORT OF ERRORS AND INSOLVENCIES FOR THE 2009  
TAX ROLL**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Errors and Insolvencies Report and the Recapitulation Report for the 2009 Tax Roll, as requested in the letter of July 7, 2010.

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

**8.E. AUTHORIZE COUNTY ADMINISTRATOR TO EXECUTE A CONTRACT WITH  
CORPORATE CARE WORKS, INC. FOR THE COUNTY'S EMPLOYEE  
ASSISTANCE PROGRAM**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized the County Administrator to execute the contract with Corporate Care Works, Inc. (CCW) for the County's Employee Assistance Program (EAP), as recommended in the memorandum of July 7, 2010.

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

**8.F. AUTHORIZE COUNTY ADMINISTRATOR TO EXECUTE AN ADMINISTRATIVE SERVICES AGREEMENT WITH JAG ENTERPRISES LLC/BENEFITS WORKSHOP FOR THE COUNTY'S FLEXIBLE SPENDING ACCOUNT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized the County Administrator to execute the Administrative Services Agreement with JAG Enterprises LLC/Benefits Workshop for the administration of the County's Flexible Spending Account, as recommended in the memorandum of July 7, 2010.

**8.G. UPDATE ON TEMPORARY SUSPENSION AND PERMANENT EXCEPTION PROVISIONS**

Chairman O'Bryan pointed out that this item highlights the current Board's dedication to encouraging local businesses. He advised that two businesses had taken advantage of the temporary suspension provision in Ordinance 2009-005 (adopted on May 19, 2009), to proceed with opening their establishments while addressing minor technicalities.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously accepted the update on temporary suspension and permanent exception provisions.

**8.H. APPROVAL OF EXTENSION FOR FEDERALLY FUNDED HOMELAND SECURITY GRANT #08-DS-60-10-40-01-204**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the contract to extend the Subgrant Agreement with the State of Florida Department of Emergency Management (FDEM) and authorized the Chairman to execute this agreement, as recommended in the memorandum of July 1, 2010.

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

**8.I. KIMLEY-HORN AND ASSOCIATES, INC. AMENDMENT NO. 4 – FINAL PAYMENT 58<sup>TH</sup> AVE AND SR 60 INTERSECTION IRC PROJECT No. 05501**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the release of retainage to Kimley-Horn and Associates, Inc. on Invoice No. 4156593, dated 04/30/10 in the amount of \$3,033.00, as recommended in the memorandum of June 25, 2010.

**8.J. WORK ORDER NO. 20 TO THE PROFESSIONAL BRIDGE DESIGN SERVICES AGREEMENT WITH BRIDGE DESIGN ASSOCIATES, INC. FOR 20<sup>TH</sup> AVENUE BRIDGE OVER MAIN RELIEF CANAL**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1)

approved Work Order No. 20 (Engineering) with Bridge Design Associates, Inc., authorizing the above-mentioned project as outlined in the scope of services; and (2) authorized the Chairman to execute Work Order No. 20 for a lump sum fee of \$1,550.00, as recommended in the memorandum of June 29, 2010.

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

**8.K. WORK ORDER NO. 19 TO THE PROFESSIONAL BRIDGE DESIGN SERVICES AGREEMENT WITH BRIDGE DESIGN ASSOCIATES, INC. FOR CR512 BRIDGE OVER THE SEBASTIAN RIVER IRC PROJECT #9611**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 19 (Engineering) with Bridge Design Associates, Inc., authorizing the above-mentioned project as outlined in the Scope of Services, and authorized the Chairman to execute Work Order No. 19 for a lump sum fee of \$1,960.00, as recommended in the memorandum of June 28, 2010.

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

**8.L. ACCEPTANCE OF EMERGENCY MANAGEMENT FEDERALLY-FUNDED SUBGRANT AGREEMENT CONTRACT NUMBER 11-FG-15-10-40-10**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved

and authorized the Chairman to execute the Federally Funded Subgrant Agreement (11-FG-15-10-40-10) with the State of Florida Division of Emergency Management, as recommended in the memorandum of July 1, 2010.

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

**8.M. SENIOR RESOURCE ASSOCIATES (SRA) TRANSIT FACILITY  
CONSTRUCTION DELIVERY METHOD**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously affirmed staff's position and authorized the solicitation of competitive bidding for the Senior Resource Associates (SRA) Transit Facility to be built at the 43<sup>rd</sup> Avenue site presently leased to the Senior Resource Association, Inc. for that purpose, as recommended in the memorandum of July 7, 2010.

**8.N. APPROVAL OF RESOLUTION ADOPTING THE UPDATED 2010 INDIAN RIVER  
COUNTY UNIFIED LOCAL MITIGATION STRATEGY**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2010-059**, for approval of the 2010 Revised Indian River County Unified Local Mitigation Strategy.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL  
AGENCIES-NONE**



## **10. PUBLIC ITEMS**

### **10.A. PUBLIC HEARINGS**

#### **10.A.1. SHARK BAITING, CHUMMING AND FISHING (LEGISLATIVE)**

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

County Attorney Alan S. Polackwich, Sr. reported that pursuant to direction by the Board majority on June 15, 2010, he was presenting a draft Ordinance regulating shark fishing activities occurring in close proximity to swimming activities. He explained that although he had chosen the distance of 500 yards to define in “close proximity”, the figure could be amended should the Board desire. He thereafter presented staff’s recommendation to proceed with the Public Hearing to consider adoption of the Ordinance.

Responding to Chairman O’Bryan’s query, Attorney Polackwich defined the terms “shark fishing” and “remote County beach areas”, as incorporated into the Ordinance.

Vice Chairman Solari asserted that the proposed Ordinance was too vague, and inconsistent with the Void for Vagueness Doctrine, and the Rule of Law.

Commissioner Davis acknowledged that some citizens felt there was a need to regulate shark fishing; however, he felt that the proposed Ordinance was too strong. He conveyed that he would be willing to support an Ordinance addressing the practice of blood chumming.

Commissioner Flescher emphasized that he was not opposed to shark fishing. However, he was concerned about public safety and felt the draft Ordinance would prevent the County from being promoted as a desirable spot for shoreline shark fishing.

Addressing Vice Chairman Solari's queries on whether the draft document would comply with the Rule of Law, Attorney Polackwich stated that as long as the Ordinance was enforced in a reasonable manner, the County would not run afoul of the law. He noted that he was more concerned about State preemption issues pertaining to saltwater fishing.

Commissioner Wheeler opposed the draft Ordinance, declaring that the 500-yard limit would virtually prevent any shark fishing at all, which was not his intent. He said that any type of fishing could potentially attract sharks, and stressed that he was solely looking for a tool authorizing public safety officials to request anglers to move if they were fishing near swimmers.

Attorney Polackwich clarified that the intent of the draft Ordinance was not to prohibit shark fishing.

Discussion ensued regarding the possibility of using the existing County Ordinance addressing the issue of "animal teasing" to regulate shoreline shark fishing.

Chairman O'Bryan expressed support for the proposed Ordinance, but wished to amend it as follows: (1) scale down the 500-yard distance to 300 yards, and (2) change the wording in Section 3 (3) (e) to either remove the "residential development" or add wording such as "concentrated residential development" so that single-family homes along a mile-stretch of beach would still be fairly remote.

*The Chairman opened the Public Hearing.*

Sheriff Deryl Loar affirmed that the Sheriff's Department would enforce any Ordinance adopted by the Board. He suggested the Board require permits for any shark fishing tournaments, so that the public, Board, and law enforcement would all be aware of the events.

A legal opinion was sought and received from Attorney Polackwich regarding the Sheriff's suggestion on requiring permits for land-based shark fishing tournaments.

Sheriff Loar responded to Vice Chairman Solari's queries, and spoke about the training process for the Sheriff's personnel, who would have to learn how to assess whether an angler was actually shark fishing. He also provided his opinion on the enforceability of the proposed Ordinance.

**Penny Chandler**, President, Indian River Chamber of Commerce, asked the Commissioners to make a clear distinction between shoreline fishing and the practices of chumming and blood baiting.

A brief discussion ensued wherein Commissioners discussed whether the regulation of the practices of chumming and blood baiting were an avenue they wished to pursue. Chairman O'Bryan felt that the proposal would basically prohibit shark fishing in any area.

**Doug Distl**, representing Carlton Homeowners Association, offered to train the Sheriff's deputies, reminded the Board of the petition opposing shark fishing which had been given to them, and urged the Commissioners to listen to the people.

**Curtis** (inaudible surname), Vero Beach, opposed the proposed Ordinance because he felt it would keep young people from being able to experience shoreline fishing.

*There being no further speakers, the Chairman closed the Public Hearing.*

MOTION WAS MADE by Vice Chairman Solari,  
SECONDED by Commissioner Davis, to DENY adoption  
of the proposed Ordinance restricting shark fishing  
activities in close proximity to swimming activities.

Extensive debate continued, as each Board member further clarified his stance on this issue.

Chairman O'Bryan, in addition to his earlier suggestions amending the draft Ordinance, suggesting that under Section 3 (3) (a), the words "blood baiting" or "chumming" should be inserted to further clarify shark fishing activity.

Debate continued as the Commissioners presented further arguments in support of, or in opposition to, the proposed Ordinance.

The Chairman CALLED THE QUESTION, and by a 3-2 vote (Commissioners O'Bryan and Flescher opposed), the Motion carried. The Board DENIED adoption of the draft Ordinance restricting shark fishing activities in close proximity to swimming activities.

**10.B. PUBLIC DISCUSSION ITEMS-NONE**

**10.C. PUBLIC NOTICE ITEMS**

**10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR JULY 20, 2010:**

**CONSIDER ADOPTION OF AN ORDINANCE ENACTING A NEW SECTION  
207.15 OF THE CODE OF INDIAN RIVER COUNTY ENTITLED "PAIN  
CLINICS AND PAIN MANAGEMENT CLINICS (LEGISLATIVE)**

Attorney Polackwich read the notice into the record.

Chairman O'Bryan noted that Commissioners Davis and Wheeler would not be present at the July 20, 2010 meeting, and inquired whether they were agreeable to proceeding with the public hearing on that date. There was no objection.

The Board CONSENSUS was to proceed with the public hearing as scheduled, for the time certain of Tuesday, July 20, 2010.

County Administrator Joseph Baird asked the Board if they would also like to proceed with the public hearing scheduled for July 20, 2010, which involved modification of the County's locational requirements for premises serving alcoholic beverages to correspond to State Requirements.

The Board CONSENSUS was to proceed with the second public hearing as scheduled, for the time certain of Tuesday, July 20, 2010.

The Chairman called a break at 10:29 a.m. and reconvened the meeting at 10:41 a.m., with all members present.

**11. COUNTY ADMINISTRATOR MATTERS-NONE**

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## **12. DEPARTMENTAL MATTERS**

### **12.A. COMMUNITY DEVELOPMENT**

#### **12.A.1. REQUEST TO APPROVE CONTRACT AWARDS FOR THE**

#### **REHABILITATION OF FIVE HOMES PURCHASED BY THE INDIAN RIVER COUNTY HOUSING AUTHORITY WITH NEIGHBORHOOD STABILIZATION PROGRAM COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND REQUEST TO AMEND THE NEIGHBORHOOD STABILIZATION PROGRAM HOUSING ASSISTANCE PLAN**

Community Development Director Robert Keating came before the Board with two related requests: (1) to approve the Contract Award for the rehabilitation work associated with five properties which have been acquired for the Neighborhood Stabilization Program (NSP); and (2) to approve proposed modifications to the NSP Community Development Block Grant (CDBG) Housing Assistance Plan (HAP). He reviewed the memorandum of June 30, 2010, to outline and describe the reasons for the changes (see pages 170 – 185 of the backup) in the Housing Assistance Plan, and conveyed that the requirement for public disclosure of the names of the renters or purchasers of the homes might be problematic for those individuals. He confirmed staff's recommendation of the Contract Award providing there are no conflicts of interest between the Board Members and the contractors; and asked the Board to approve the proposed changes to the HAP, giving staff the authority to work with the County's NSP partnering agencies on the public disclosure provision.

Chairman O'Bryan clarified with Director Keating that it would be advisable for the Board to declare any known conflicts of interest with any of the contractors on the approved NSP CDBG Contractor List (pages 168 and 169), not just the contractors being approved today.

Commissioner Davis disclosed that he had a potential conflict of interest due to the potential involvement of a family member if a septic tank inspection is undertaken at the third listed property, located at 7986 100<sup>th</sup> Court, Vero Beach, Florida.

Attorney Polackwich advised Commissioner Davis to abstain from voting on the aforementioned property at 100<sup>th</sup> Court.

Chairman O'Bryan disclosed that he was friends with Banov Architecture & Construction, Inc., but had no business dealings with the firm, and Attorney Polackwich advised him that he could still vote.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Commissioner Flescher, to approve  
staff's recommendation.

Attorney Polackwich advised the Board to vote separately on the home requiring the septic tank check, located at 7986 100<sup>th</sup> Court, Vero Beach, Florida.

MOTION WAS AMENDED by Commissioner Wheeler,  
SECONDED by Commissioner Flescher, to approve the  
following contractors and total awards for each of the  
following properties: (a) 8246 103rd Avenue, Vero  
Beach, Florida, to De La Hoz Builders, Incorporated,  
Sebastian, Florida, for the total amount of \$28,413.00; (b)  
7966 100th Avenue, Vero Beach, Florida, to McAlhany  
Construction Company, Vero Beach, Florida, for the total  
amount of \$27,105.00; (c) 174 Spring Valley Avenue,

Sebastian, Florida, to McAlhany Construction Company, Vero Beach, Florida, for the total amount of \$26,080.00; and (d) 9750 84th Street, Vero Beach, Florida, to De La Hoz Builders, Incorporated, Sebastian, Florida, for the total amount of \$19,479.00.

There being no further discussion, the Board took the following action:

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved the following contractors and total awards for each of the following properties: (a) 8246 103<sup>rd</sup> Avenue, Vero Beach, Florida, to De La Hoz Builders, Incorporated, Sebastian, Florida, for the total amount of \$28,413.00; (b) 7966 100<sup>th</sup> Avenue, Vero Beach, Florida, to McAlhany Construction Company, Vero Beach, Florida, for the total amount of \$27,105.00; (c) 174 Spring Valley Avenue, Sebastian, Florida, to McAlhany Construction Company, Vero Beach, Florida, for the total amount of \$26,080.00; and (d) 9750 84<sup>th</sup> Street, Vero Beach, Florida, to De La Hoz Builders, Incorporated, Sebastian, Florida, for the total amount of \$19,479.00.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Flescher, to approve the following contractor and total award for the following property: 7986 100th Court, Vero Beach, Florida, to McAlhany Construction Company, Vero Beach, Florida, for the total amount of \$19,549.00.



Chairman Davis announced he would abstain from the vote and file Form 8B, Memorandum of Voting Conflict.

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Commissioner Davis recused himself), the Motion carried. The Board approved the following contractor and total award for the following property: 7986 100<sup>th</sup> Court, Vero Beach, Florida, to McAlhany Construction Company, Vero Beach, Florida, for the total amount of \$19,549.00.

Chairman O'Bryan invited input from the Board members on the proposed changes to the Housing Assistance Plan.

Commissioner Davis noted that the line for the Chairman's execution of the document contained his name, rather than Chairman O'Bryan's.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to approve the proposed changes to the Neighborhood Stabilization program (NSP) Community Development Block Grant (CDBG) Housing Assistance Plan (HAP), giving staff authority to work with Treasure Coast Homeless Services Council on the provision relating to disclosure of the names of the recipients of the qualifying applicants for the properties.

**Louise Hubbard**, Treasure Coast Homeless Services Council, voiced her concerns about the public disclosure clause (referred to earlier by Director Keating), in the HAP.

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

FORM 8B, MEMORANDUM OF VOTING CONFLICT, ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**12.B. EMERGENCY SERVICES-NONE**

**12.C. GENERAL SERVICES-NONE**

**12.D. HUMAN RESOURCES**

**12.D.1. HEALTH INSURANCE RENEWAL – BLUECHOICE PPO 704**

Director of Human Resources James Sexton, through a recap of the memorandum dated July 7, 2010, presented an update on the County's Group Health Plan with Blue Cross Blue Shield of Florida. He introduced Anna Marie Studley, Managing Director of the Gehring Group (the County's insurance broker), and conveyed that the broker has successfully negotiated a three-year Administrative Services Agreement with Blue Cross at a savings of approximately \$179,000 per year. Director Sexton conveyed that there were no anticipated premium increases to dependent coverage, nor to the plan costs, and recommended the Board authorize the County Administrator to renew the Group Health Plan with Blue Cross Blue Shield of Florida, without plan design changes.

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Solari, the Board unanimously authorized the County Administrator to renew the group health plan, BlueChoice PPO 704, with Blue Cross Blue Shield of Florida without plan design changes, as recommended in the memorandum of July 7, 2010.

**12.D.2. AUTHORIZE THE COUNTY ADMINISTRATOR TO SWITCH FROM THE  
BLUEMEDICARE GROUP PPO 1 PLAN TO THE BLUEMEDICARE GROUP  
PPO STANDARD PLAN**

Director of Human Resources James Sexton, through a recap of the memorandum of July 7, 2010, provided background and analysis on staff's recommendation to switch from the BlueMedicare Group PPO 1 Plan to the BlueMedicare Group PPO Standard Plan. He advised that the Plan I premium was scheduled to increase to \$396.86 per month, and that switching to the Standard Plan would reduce the premium by \$20.00. Director Sexton conveyed that changes resulting from the switch would be as follows: (1) annual out-of-pocket maximum costs would go from \$1,000 to \$1,500; and (2) per-admission co-pays for hospital stays would go from \$100-\$500 per day to \$150-\$1,050 per day. He added that all co-pays would count towards total out-of-pocket expenses.

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Solari, the Board unanimously authorized the County Administrator to switch from the BlueMedicare Group PPO 1 Plan to the BlueMedicare Group PPO Standard Plan, effective October 1, 2010, as recommended in the memorandum of July 7, 2010.

**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-NONE**

**12.J. UTILITIES SERVICES**

**12.J.1. BIOSOLIDS DEWATERING FACILITY – UCP-2697 – SUMMIT CM, INC.**

**FINAL PAY AND RELEASE OF RETAINAGE**

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Solari, the Board unanimously approved the final pay and release of retainage to Summit Construction Management, Inc. (Summit CM, Inc.), for \$186,197.43, as recommended in the memorandum of June 21, 2010.

**12.J.2. APPROVAL OF WORK AUTHORIZATION DIRECTIVE NO. 2009-010 FOR**

**RELOCATION OF 16” FORCE MAIN ACROSS SOUTH RELIEF CANAL BY  
SHELTRA & SONS SON CONSTRUCTION CO., INC., UCP No. 4055**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the project at a total estimated cost of \$81,732.52, and authorized the Chairman to execute Work Authorization Directive No. 2009-010 to the Utilities Department Labor Contractor, Sheltra & Son Construction Co., Inc., as recommended in the memorandum of July 6, 2010.

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

**12.J.3. APPROVAL OF BID AWARD FOR IRC BID NO. 2010042 ANNUAL BID FOR  
WATER METERS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously:

- (1) Approved the Bid Award to Municipal Water Works, Inc., as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid;
- (2) Authorized the Purchasing Division to issue blanket purchase orders for the period beginning July 2010 through May 30, 2011 with the recommended bidder; and
- (3) Authorized the Purchasing Manager to renew this bid for three [3] additional one [1] year periods subject to satisfactory performance, vendor acceptance, and the determination that renewal of this annual bid is in the best interest of Indian River County, as recommended in the memorandum of June 10, 2010.

**13. COUNTY ATTORNEY MATTERS**

**13.A. PURCHASE AND SALE AGREEMENT – ROY AND CINDY BASS – 5210, 5220  
85<sup>TH</sup> STREET (C.R. 510)**

Deputy County Attorney Bill DeBraal recalled that on April 6, 2010, the Board had directed staff to undergo negotiations for the purchase of right-of-way property located at 5210, 5220 85<sup>th</sup> Street (CR 510), owned by Roy and Cindy Bass. He recapped the memorandum of July 6, 2010 to provide the details of the purchase, reporting that the Basses have offered to sell their property for \$360,000, plus attorney's fees of 5.25% of the purchase price (\$18,900), appraisal fees of \$6,700, and surveying costs of \$3,600, for a total cost of \$389,200, with a

two-year lease at the rate of one dollar per year. Attorney DeBraul thereafter presented staff's recommendation to approve the Purchase, Sale, and Lease Agreement.

Discussion ensued as the Board questioned Attorney DeBraul on the fair-market value for the rental.

Chairman O'Bryan objected to the purchase, noting that the County would be buying land which might not be utilized for quite awhile. He also noted that the two-year leaseback at one dollar per year was a violation of a policy set in place last year, which limited an initial leaseback term to one year, with subsequent renewals to occur in six-month increments at fair-market rental rates.

Attorney DeBraul responded to the Board's questions regarding the \$320,000 appraisal value, the \$360,000 asking price, and the extra fees which were being requested above the purchase price.

MOTION WAS MADE by Vice Chairman Solari,  
SECONDED by Chairman O'Bryan, to DENY the  
Purchase and Sale Agreement with Roy and Cindy Bass,  
at this time.

Commissioner Davis voiced support for the Purchase Agreement, noting that the property owners' ability to utilize their land was being impacted by its impending sale. He felt the County should undertake the purchase at this time, when a willing seller is in hand, and not have to deal with an eminent domain issue in the future.

Attorney DeBraul requested that the Board provide him with some acceptable terms, so he could make a counter-offer to the Bases.

Vice Chairman Solari recommended that staff renegotiate the lease terms consistent with the updated lease policy mentioned by Chairman O'Bryan.

MOTION WAS AMENDED by Vice Chairman Solari, SECONDED by Chairman O'Bryan, to DENY the Purchase and Sale agreement with Roy and Cindy Bass at this time; to have staff re-negotiate the terms of the lease agreement to one year; and to negotiate the fair market value of the lease prior to closing.

County Administrator Joseph Baird inquired whether the Board wished to use ONLY the value of the appraisal as the purchase price offer, or whether it wished to use the value of the appraisal plus the attorney's fees, appraisal fees, and surveying costs mentioned earlier by Attorney DeBaal.

Discussion ensued among the Board, during which it was clarified that the appraisal was for \$320,000, and the asking price was \$360,000, because of the parties agreeing the appraisal had come in low. Vice Chairman Solari stated that he wanted to go back to using the \$320,000 appraisal as the purchase price, as opposed to the \$360,000 negotiated amount, and to allow for the extra fees.

MOTION WAS AMENDED by Vice Chairman Solari, SECONDED by Chairman O'Bryan, to: (1) present a counter-offer to Roy and Cindy Bass at the appraised value of \$320,000, plus attorney's fees of 5.25% of the purchase price; appraisal fees of \$6,700; and surveying costs of \$3,600; (2) to amend the lease agreement from a two-year to a one-year lease; and (3) to determine a fair-market rental rate prior to closing.

The Chairman CALLED THE QUESTION, and by a 4-1 vote (Commissioner Davis opposed), the Amended Motion carried. The Board directed staff: (1) to present a counter-offer to Roy and Cindy Bass, at the appraised value of \$320,000, plus attorney's fees of 5.25% of the purchase price; appraisal fees of \$6,700; and surveying costs of \$3,600; (2) to amend the lease agreement from a two-year to a one-year lease; and (3) to determine a fair-market rental rate prior to closing.

**13.B. FAST FOOD ENTERPRISES #2 LLP D/B/A BURGER KING – S.R. 60/58<sup>TH</sup> AVENUE**

*(Clerk's Note: This item was originally 7.C. and was redesignated and heard as Item 13.B.)*

Attorney DeBraal recapped the memorandum of July 6, 2010 to provide background information on the proposed purchase of right-of-way owned by Fast Food Enterprises #2 LLP (Fast Food), and located at the Burger King franchise at the corner of SR60 and 58<sup>th</sup> Avenue. He said that the Board had approved an agreement between Fast Food and MBV Engineering for a cure plan for Burger King's parking lot, which included extensive surveying work, but due to reduced transportation revenues and the expense of the cure plan, staff was recommending Alternative 1, that MBV Engineering complete the cure plan for Burger King's parking lot without the surveying work.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Chairman O'Bryan, to approve Alternative 1, to allow MBV Engineering to finish the cure plan without the surveying work and resume



negotiations in the future when funding for right-of-way acquisition and road construction becomes available.

Commissioner Davis felt the subject intersection needed fixing and wished to also pursue Alternative 3, to continue negotiations to see if any non-monetary action could be taken to move this forward.

MOTION WAS AMENDED by Vice Chairman Solari, SECONDED by Chairman O'Bryan, to approve Alternative 1, to allow MBV Engineering to finish the cure plan without the surveying work AND Alternative 3, to continue negotiations but limit discussion to non-monetary settlement.

Further discussion ensued about the possibility of purchasing from Equity One, the agent for the Ryanwood Shopping Plaza, right-of-way which could be conveyed to Fast Food to help make up for some of Burger King's lost parking.

Chairman O'Bryan remarked that the above purchase of land would still constitute a monetary settlement.

Attorney DeBaal observed that the only true non-monetary settlement might be a Developers Agreement where the County promises to purchase the property based on good faith negotiations and convey it to Burger King.

Commissioner Davis mentioned the possibility of the County acquiring other outparcels at the Ryanwood Shopping Plaza, and wanted to keep dialogue open between the County, Equity One, and Fast Food.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board directed staff: (1) to allow MBV Engineering to finish the cure plan without the surveying work, and authorized staff to draft a deductive change order eliminating the surveying work that is yet to be performed; and (2) authorized staff to continue negotiations with Fast Food Enterprises #2 LLP d/b/a/ Burger King, but limit discussion to non-monetary settlement.

**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-NONE**

**15.C. ENVIRONMENTAL CONTROL BOARD-NONE**

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

**16. ADJOURNMENT**

There being no further business, the Chairman declared the meeting adjourned at 11:31 a.m.

ATTEST:

\_\_\_\_\_  
Jeffrey K. Barton, Clerk

\_\_\_\_\_  
Peter D. O'Bryan, Chairman

Minutes Approved: \_\_\_\_\_

BCC/MG/2010Minutes