

JEFFREY K. BARTON  
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS  
OF SEPTEMBER 7, 2010

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**JEFFREY K. BARTON**

Clerk to the Board



**September 7, 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, September 7, 2010. Present were Chairman Peter D. O’Bryan, Vice Chairman Bob Solari, and Commissioners Wesley S. Davis, and Gary C. Wheeler. Commissioner Joseph E. Flescher was absent. 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**

Chief Deputy Clerk of Circuit Court Jeffrey R. Smith 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 today's Agenda:

*ADDITION: ITEM 9.B. CONSTITUTIONAL OFFICERS - PROPERTY APPRAISER'S OFFICE -  
INFORMATIONAL ITEM BY CHAIRMAN O'BRYAN*

*DELETION: ITEM 13.B. COUNTER OFFER RECEIVED – PURCHASE AND SALE  
AGREEMENT – VERO ESTATES, LLC – NORTHEAST CORNER OF C.R. 510 AND 66<sup>TH</sup>  
AVENUE*

ON MOTION by Commissioner Wheeler, SECONDED  
by Commissioner Davis, by a 4-0 vote (Commissioner  
Flescher absent), the Board approved the Agenda as  
amended.

### **5. PROCLAMATIONS AND PRESENTATIONS**

#### **5.A. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF OCTOBER, 2010 AS BREAST CANCER AWARENESS MONTH**

Vice Chairman Solari read and presented the Proclamation to Nancy Madsen, Area  
Director for the American Cancer Society.

**5.B. PRESENTATION OF PROCLAMATION RECOGNIZING SEPTEMBER, 2010 AS  
THE WORKFORCE DEVELOPMENT MONTH**

Commissioner Davis read and presented the Proclamation to the following members of the Workforce Development Board of the Treasure Coast: Gwenda Thompson, President/CEO; Helene Caseltine, Board Member; Marcelo Dosantos, Branch Manager; Janice Meehan, Business Services Consultant; and Rosalinda Vera-Aviles, Recruiter.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF JULY 13, 2010**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of July 13, 2010. There were none.

ON MOTION by Commissioner Davis, SECONDED by Chairman O'Bryan, by a 4-0 vote (Commissioner Flescher absent), the Board approved the Minutes of the Regular Meeting of July 13, 2010, as written.

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

**7.A. 2010 ELECTION OF AFFORDABLE HOUSING ADVISORY COMMITTEE  
(AHAC) CHAIRMAN AND VICE CHAIRMAN**

Noted for the record was the election of Julianne Price as Chairman, and Andy Bowler as Vice Chairman, for the year 2010-2011.



**7.B. RESIGNATION OF DISTRICT 4 APPOINTEE TO THE PLANNING & ZONING COMMISSION**

Noted for the record was the resignation of Greg Smith, District 4 Appointee to the Planning & Zoning Commission. His resignation is effective December 31, 2010 and his term would have expired in 2011.

Chairman O'Bryan commended Mr. Smith for the work, time, and dedication he has put into the Planning & Zoning Commission.

**8. CONSENT AGENDA**

Vice Chairman Solari requested Item 8.U. be pulled for discussion.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the Consent Agenda, as amended.

**8.A. APPROVAL OF WARRANTS AND WIRES AUGUST 6, 2010 TO AUGUST 12, 2010**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of August 6, 2010 to August 12, 2010, as requested in the memorandum of August 12, 2010.

**8.B. APPROVAL OF WARRANTS AND WIRES AUGUST 13, 2010 TO AUGUST 19, 2010**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of August 13, 2010 to August 19, 2010, as requested in the memorandum of August 19, 2010.

**8.C. APPROVAL OF WARRANTS AND WIRES AUGUST 20, 2010 TO AUGUST 26, 2010**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the list of Warrants and Wires as issued by the Clerk to the Board for the time period of August 20, 2010 to August 26, 2010, as requested in the memorandum of August 26, 2010.

**8.D. COUNTY CAPITAL ASSET INVENTORIES**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the two asset lists (see pages 38-42 of backup) for deletion from the inventory system, as recommended in the memorandum of August 31, 2010.

**8.E. CERTIFICATION OF 2010 TAX ROLL**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board ordered the certification of the 2010 tax roll to be extended prior to the completion of the Value Adjustment Board (VAB) hearings, if completion of the hearings would otherwise be the only cause for a delay in the issuance of tax notices beyond November 1, 2010, as requested in the Tax Collector's memorandum of August 30, 2010.

**8.F. PARTIAL RELEASE OF RETAINAGE FOR COASTAL TECH WORK ORDER #8,  
SECTOR 3 BEACH RESTORATION – PHASE I CONSTRUCTION PHASE  
SERVICES**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the partial release of retainage in the amount of \$27,944.40, for Work Order No. 8 (Tasks 1 and 2) with Coastal Technology Corporation, Inc. (CTC), as recommended in the memorandum of August 26, 2010.

**8.G. APPROVAL OF RELEASE OF RETAINAGE FOR MALCOLM PIRNIE, INC.**  
**WORK ORDER NO. 3-EM AND AMENDMENT NO. 1 TO WORK ORDER NO.**  
**3-EM FOR EGRET MARSH REGIONAL STORMWATER PARK**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board authorized payment of Malcolm Pirnie Inc.'s final invoice for release of retainage, in the amount of \$10,322.00, as recommended in the memorandum of August 16, 2010.

**8.H. RELEASE OF RETAINAGE FOR WORK ORDER NO. M2 AND AMENDMENT**  
**NO. 1 TO WORK ORDER NO. M2 WITH MALCOLM PIRNIE, INC. FOR**  
**LABORATORY SUPPORT SERVICES AND REPORTING FOR PC MAIN**  
**(FORMERLY KNOWN AS THE MAIN RELIEF CANAL POLLUTION CONTROL**  
**SYSTEM)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board authorized payment of Malcolm Pirnie Inc.'s final invoice for release of retainage in the amount of \$4,002.60, as recommended in the memorandum of August 23, 2010.

**8.I. AGREEMENT FOR DEVELOPER CONTRIBUTIONS TO ROAD IMPROVEMENTS / ASPHALT MILLINGS ON 53<sup>RD</sup> STREET WEST OF 66<sup>TH</sup> AVENUE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the Developer Agreement with Garrett and Cherie Guidroz, as recommended in the memorandum of August 23, 2010.

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

**8.J. STATE AID APPLICATION/AGREEMENT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board authorized the Chairman to execute the agreements and return to the Library Services Director to be forwarded to the appropriate State Library staff, as recommended in the memorandum of August 17, 2010.

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

**8.K. FINAL PAY TO INDIAN RIVER STATE COLLEGE (FORMALLY INDIAN RIVER COMMUNITY COLLEGE) FOR CONSTRUCTION SERVICES FOR COLLEGE LANE 16" WATER MAIN – UCP #3085**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the total amount of \$248,803.25 for construction services by SPS Contracting, Inc. of Vero Beach, and approved Invoice No. 715601-01 FINAL from Indian River State College for a total amount of \$20,171.75, as presented, as recommended in the memorandum of August 19, 2010.

**8.L. RELEASE OF RETAINAGE TO BRIDGE DESIGN SERVICES FOR DESIGN SERVICES TO ELIMINATE CONFLICTS BETWEEN EXISTING WATER AND FORCE MAINS AND A PROPOSED NEW BRIDGE ON OLD DIXIE HIGHWAY AT THE SOUTH RELIEF CANAL – UCP #3085**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved Invoice No. 03-538/11-2 FINAL from Bridge Design Services for a total amount of \$831.50, as presented. Payment of the invoice will release the retainage being held and complete the County Utility Department's obligation to the consultant, all as stated and recommended in the memorandum of August 26, 2010.

**8.M. SOUTH WTP AIR CONDITIONER UPGRADE – UCP-2859 FINAL PAY AND  
RELEASE OF RETAINAGE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the final pay and release of retainage to DAC Air Corporation for \$2,493.90, as recommended in the memorandum of August 23, 2010.

**8.N. LATERAL “G” FM CONVERSION TO REUSE – UCP 2830 FINAL PAY AND  
RELEASE OF RETAINAGE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the final pay and release of retainage to Trisure Corporation for \$45,055.13, as recommended in the memorandum of August 25, 2010.

**8.O. AWARD OF RFP No. 2010050 FOR AUCTION SERVICES**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board: (1) approved the Request for Proposal (RFP) to Karlin Daniel & Associates, Inc., as the lowest most responsive and responsible bidder meeting the specifications as set forth in the RFP; (2) approved the sample agreement; and (3) authorized the Chairman to execute said agreement when required Certificate of

Insurance has been received and approved by Risk Management, and the County Attorney has approved the agreement as to form and legal sufficiency, as recommended in the memorandum of August 30, 2010.

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

**8.P. CONSIDERATION OF INDIAN RIVER COUNTY 2010 SHIP PROGRAM AND HHR PROGRAM ANNUAL REPORTS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the State Housing Initiatives Partnership (SHIP) annual reports and the Hurricane Housing Recovery (HHR) annual report, and authorized the Chairman to execute the reports' Certification pages, as recommended in the memorandum of August 23, 2010.

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

**8.Q. CHOOSE LIFE LICENSE PLATE FUNDING DISTRIBUTION OF FUNDS TO CARE NET PREGNANCY CENTER OF INDIAN RIVER CO.**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the advance distribution of the Choose Life License Plate funds in the amount of \$17,000 to Care Net Pregnancy Center of



Indian River County, with the stipulation that all fund expenditures must be in accordance with Florida Statutes, Sections 320.08056 and 320.08058(29). Additionally, all documentation of expenditures for fiscal year 2009/2010 must be received by the Indian River County Budget Office no later than October 11, 2010, all as stated and recommended in the memorandum of August 30, 2010.

**8.R. MISCELLANEOUS BUDGET AMENDMENT 019**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved **Resolution 2010-067**, amending the Fiscal Year 2009-2010 Budget.

**8.S. DECLARE PLAYGROUND EQUIPMENT SURPLUS AND AUTHORIZE THE TRANSFER TO THE INDIAN RIVER COUNTY HOUSING AUTHORITY**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board declared the property surplus and excess to the County's needs and recommended that the playground equipment be given to the Indian River County Housing Authority for use at the housing complexes, as recommended in the memorandum of August 30, 2010.

**8.T. H.U.D. GRANT AGREEMENT SHELTER PLUS CARE GRANT  
FL0338C4H090900**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the new Shelter Plus Care Grant, FL0338C4H090900, and authorized the Chairman to execute three originals for submittal to the U.S. Department of Housing and Urban Development (HUD) as requested by the Treasure Coast Homeless Services Council, Inc., in the letter of August 31, 2010, and as recommended in the memorandum of August 31, 2010.

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

**8.U. APPROVAL OF WORK ORDER NO. PCS-1 WITH HYDROMENTIA, INC. FOR A  
PILOT ALGAL TURN SCRUBBER (ATS) SYSTEM FOR NITROGEN AND  
PHOSPHORUS REMOVAL FROM STORMWATER AND THE TREATMENT AND  
REUSE OF REVERSE OSMOSIS REJECT WATER**

Vice Chairman Solari asked his fellow Commissioners to consider having staff return in four to six weeks with an update on the Basin Action Management Plan for reducing pollutants entering the Indian River Lagoon.

Several Commissioners commended staff on being proactive in reducing the Total Maximum Daily Load (TMDL) of nitrogen and phosphorous which is discharging into the Lagoon.

Director Mora responded to Vice Chairman Solari's question about funding for the Project.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Davis, to: (1) approve staff's recommendation; and (2) direct staff to return with an update on the Basin Action Management Plan (BMAP) in four to six weeks.

Commissioner Davis wished to be kept abreast on the status of the TMDL loadings.

Vice Chairman Solari expressed interest in learning more about the practical aspects of accomplishing the Florida Department of Environmental Protection's pollution reduction goals.

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Commissioner Flescher absent), the Motion carried. The Board: (1) approved and authorized the Chairman to execute Work Order No. PCS-1 with Hydromentia, Inc. for the six-month algal turf scrubber pilot plant study for a lump sum fee of \$188,000, said approval to be contingent upon the County's receipt of a \$250,000 legislative grant from the Florida Department of Environmental Protection (FDEP); (2) approved a \$4,560 contingency fee in the event up to two each additional acute and chronic bioassay tests are required, said approval to be contingent upon the County's receipt of the referenced \$250,000 grant; and (3) directed staff to return with an update on the Basin Action Management Plan (BMAP) in four to six weeks.

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

**8.V. CONSENT TO ASSIGNMENT OF VOTING EQUIPMENT CONTRACTS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the assignment of the agreements from Sequoia Voting Systems, Inc., to Dominion Voting Systems, Inc., and authorized the Chairman and, if necessary, the Supervisor of Elections, to execute the assignment documents, as recommended in the memorandum of August 27, 2010.

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

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

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

Sheriff Deryl Loar presented his request to use \$37,651.00 of funds netted in a public auction of surplus property and vehicles, which was held on May 8, 2010. He stated that, in accordance with the Florida Statutes, Chapter 274, the proceeds would be used to acquire new like-kind property within the current fiscal year.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board authorized the Sheriff to use proceeds of \$37,651.00 acquired in a public auction of surplus property and vehicles, to acquire new like-kind

property within the 2009/2010 fiscal year, as requested in his letter of August 30, 2010.

**9.B. ADDITION: PROPERTY APPRAISER MATTERS - INFORMATIONAL**  
**ITEM BY CHAIRMAN O'BRYAN**

Chairman O'Bryan provided information on the appeal process for residents who disagree with the assessed value of their property on their TRIM (Truth in Millage) Notice. He said the residents could discuss the assessment with the Property Appraiser, and if an agreement is not reached (whether or not they continue negotiations with the Property Appraiser), they may file a petition with the Value Adjustment Board to appeal the value before an independent Special Magistrate. Chairman O'Bryan noted that the deadline for filing the petition is 5:00 p.m. on Tuesday, September 14, 2010.

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARINGS**

**10.A.1. CONSIDERATION OF PROPOSED AMENDMENT TO CN DISTRICT**  
**(NEIGHBORHOOD COMMERCIAL) REGULATIONS CHAPTER 911**  
**(LEGISLATIVE)**

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

Community Development Director Bob Keating explained that the next two public hearings were related. He conveyed that Bruce Barkett, Esquire, representing George Beutell, Buildex, Inc., had requested that the hearings be postponed to a time when the entire Board could hear the matter. Director Keating indicated that an appropriate time certain would be the first meeting in October, Tuesday, October 5, 2010.

A broad-ranging discussion ensued, during which Board and staff considered the best course of action, with several Commissioners favoring the acceptance of public input at today's meeting.

**Attorney Bruce Barkett**, Collins, Brown, Caldwell, Barkett, & Garavaglia, 756 Beachland Blvd., wished to make his presentation to all five commissioners.

**Attorney Gregg Casalino**, O'Haire, Quinn, Candler, & Casalino, 3111 Cardinal Drive, representing Indian River Estates, said he had a lengthy presentation that he wanted the entire Board to hear prior to their making a decision.

Chairman O'Bryan sought and received confirmation that there was no one in the audience who could not return if a continuation of the public hearing was held on Tuesday, October 5, 2010.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Vice Chairman Solari, to TABLE the  
the public hearing to a time certain of Tuesday, October 5,  
2010.

Commissioner Davis stated he would only support the Motion if today's hearing was opened to public input.

Director Keating advised that today's public hearing could be opened and continued on October 5, 2010, without requiring a re-noticing.

Commissioner Wheeler WITHDREW his Motion.

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

Chairman O'Bryan reiterated that the public would have the opportunity to speak on this matter at the public hearing on October 5, 2010, following which, the Board would take action.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the continuance of the public hearing to a time certain of Tuesday, October 5, 2010.

Chairman O'Bryan advised that letters pertaining to this matter had been submitted to the Board by Chuck Mechling, F. Kendall Sharp, Polly Schwey, and Ralph Sexton, and they would be read into the record at the Public Hearing of October 5, 2010.

The Chairman called a break at 9:36 a.m., and reconvened the meeting at 9:44 a.m., with all members present.

**10.A.2. BUILDEX, INC.'S APPEAL OF THE PLANNING AND ZONING COMMISSION'S  
DENIAL OF BUILDEX INC.'S REQUEST TO REZONE ±2.17 ACRES FROM  
PRO TO CN (QUASI-JUDICIAL)**

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

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, by a 4-0 vote (Commissioner Flescher absent), the Board approved the continuance of the public hearing to a time certain of Tuesday, October 5, 2010.

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

**10.C. PUBLIC NOTICE ITEMS-NONE**

**11. COUNTY ADMINISTRATOR MATTERS-NONE**

**12. DEPARTMENTAL MATTERS**

**12.A. COMMUNITY DEVELOPMENT**

**12.A.1. REQUEST FOR AUTHORIZATION TO ABATE RECURRENCE OF A PUBLIC NUISANCE ON AN UNMAINTAINED GOLF COURSE WITHIN VISTA GARDENS MULTIFAMILY DEVELOPMENT (LANDOWNER: VISTA GOLF LLC; CODE ENFORCEMENT CASE No. 2009060086)**

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

Responding to Chairman O'Bryan's query, Attorney Polackwicz divulged that the negotiation process between the Vista Associations and Vista Golf, LLC is still ongoing.



The Chairman CALLED THE QUESTION, and by a 4-0 vote (Commissioner Flescher absent), the Motion carried. The Board authorized the County's employees, servants, agents, or contractors to again enter upon the Vista Golf, LLC property within Vista Gardens at all reasonable times and take whatever action is necessary to abate the nuisance described in staff's report, with costs of the abatement to be recorded as a lien against the subject property, as recommended in the memorandum of August 19, 2010.

**12.A.2. REQUEST FOR BOARD AUTHORIZATION FOR STAFF TO INITIATE A  
COMPREHENSIVE PLAN AMENDMENT TO ALLOW LIMITED RECREATIONAL  
VEHICLE USE IN MOBILE HOME RENTAL PARKS**

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Davis, to direct staff to initiate a Comprehensive Plan Text Amendment and LDR Amendment to allow a limited number of recreational vehicles (RV's) in small-scale mobile home parks designated Mobile Home Rental Park (MHRP).

Commissioner Wheeler provided background on this item, explaining that the proposal to allow the recreational vehicles (RV's) to rent vacant spaces in the smaller 20-acre mobile home rental parks was a means of trying to keep the parks in business and prevent their conversion to other uses, which would result in the displacement of the residents. He invited any residents with concerns about the proposal to contact him, and advised that the Board would hold a public hearing for further public input on this matter.

**Gwendolyn Ripp**, Heron Cay, questioned whether the proposed amendment to allow recreational vehicles in the mobile home rental parks would change the definition of a residential mobile home park.

A brief discussion ensued between **Ms. Ripp** and Commissioner Wheeler regarding the importance of having an informational meeting with the mobile park homeowners who would be affected by the adoption of the proposed amendments.

The following individuals supported the request to initiate a Comprehensive Plan Text Amendment and LDR Amendment to allow a limited number of recreational vehicles in small-scale mobile home parks:

**Bill Gorman**, President Lifestyle Choice Realty, the Management Company for Tanglewood Village Co-op, Inc. (*Mr. Gorman noted for the record that the Minutes of December 2, 2008 had erroneously indicated his opposition to the proposed amendment*).

**Theodora Eaton**, Board Member and resident of Tanglewood Village Co-Op, Inc.

**Claudia Ellis**, Tanglewood Village Co-Op, Inc.

Chairman O'Bryan reiterated that the Board was today directing staff to bring the LDR Amendments back to the Board, and that a formal public hearing would be held.

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Commissioner Flescher absent), the Board directed staff to initiate a Comprehensive Plan Text Amendment and LDR Amendment to allow a limited number of recreational vehicles (RV's) in small-scale mobile home parks designated Mobile Home Rental Park (MHRP), as recommended in the memorandum of August 19, 2010.

### **12.A.3. CONDEMNATION, DEMOLITION, AND REMOVAL OF UNSAFE STRUCTURES**

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

Community Development Director Robert Keating reported that four structures have been identified for demolition; however the one at 1820 38<sup>th</sup> Lane has already been removed. He also divulged that an arson investigation is currently being conducted on the structure located at 8715 103<sup>rd</sup> Avenue, and asked the Board to authorize staff to proceed with the demolition of the structures at 8435 62<sup>nd</sup> Avenue and 12995 100<sup>th</sup> Place, and to defer demolition of the property on 103<sup>rd</sup> Avenue.

Jose Guanch, County Building Official, responding to Commissioner Davis's query, advised that the owner of the property on 103<sup>rd</sup> Avenue had informed him that the arson investigation should be concluded by October 30, 2010.

A brief discussion ensued as to when the demolitions could be accomplished in view of the arson investigation. Director Keating explained that staff still had to solicit bids for the work, and that the demolition could proceed on November 1, 2010.

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Commissioner Flescher absent), the Motion carried. The Board: (1) approved **Resolution 2010-068**, providing for the demolition of unsafe structures and the recovery of costs; (2) authorized staff to defer the demolition of the structure at 8715 103<sup>rd</sup> Avenue until the conclusion of the arson investigation; (3) declared the structures located at 8435 62<sup>nd</sup> Avenue and 12995 100<sup>th</sup> Place unsafe and a nuisance; and (4) ordered the buildings demolished with

related debris removed from the property by a private vendor approved through standard bid procedures. The structure at 1820 38<sup>th</sup> Lane has been removed from the Condemnation List.

**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**

**12.G.1. TWELVE MONTH REVIEW INDIAN RIVER COUNTY CODE, SECTION 105.041, LOCAL PREFERENCE IN PURCHASING OR CONTRACTING**

County Budget Director Jason Brown reviewed the memorandum of August 26, 2010 to update the Board on the effects of Ordinance 2009-010, Section 105.41, Local Preference in Purchasing or Contracting, which established a local preference policy on the County's bid awards. He provided a breakdown of the bid award demographics over a six-month and a subsequent twelve-month period, and sought Board direction on whether to continue with the policy.

Commissioner Davis inquired whether the policy had cost the taxpayers more money, and was informed by Director Brown that the County has not spent any more than the low bid.

Purchasing Manager Jerry Davis, responding to Commissioner Davis's query, conveyed that there have been several instances where out-of-area vendors decided not to purchase the bid documents because of the local preference policy. He also noted that several contractors had questioned why Indian River included in its policy some counties wherein the courtesy was not reciprocated.

Vice Chairman Solari saw no possible benefit to the citizens and favored sunseting Section 105.041.1, Local Preference in Purchasing or Contracting.

Commissioner Wheeler agreed with Vice Chairman Solari, observing that competition was healthy, and that it was the County's responsibility to obtain the best price and quality of service.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Vice Chairman Solari, to sunset Section  
105.041.1 of Ordinance 2009-010, Local Preference in  
Purchasing or Contracting.

Chairman O'Bryan said that he would support the Motion because it seemed that St. Lucie County was the only county granting to us the same courtesy we granted to them through the local preference policy.

The Chairman CALLED THE QUESTION, and by 3-1 vote (Commissioner Davis opposed and Commissioner Flescher absent), the Motion carried. The Board directed staff to SUNSET Section 105.041.1, Local Preference in Purchasing or Contracting, of Ordinance 2009-010.

**12.H. RECREATION-NONE**

**12.I. PUBLIC WORKS**

**12.I.1. INDIAN RIVER ESTATES / ACTS, INC. DEVELOPER AGREEMENT FOR  
PAVING OF 26<sup>TH</sup> STREET BETWEEN 82<sup>ND</sup> AVENUE AND 74<sup>TH</sup> AVENUE**

Public Works Director Christopher Mora used a PowerPoint Presentation (on file) to provide description and conditions on the proposed agreement between the County and Indian River Estates/ACTS for the paving of 26<sup>th</sup> Street between 82<sup>nd</sup> Avenue and 74<sup>th</sup> Avenue, in conjunction with the development of Phase 3 of Indian River Estates. He advised that the project is on the list of eight (8) priority road projects known as the “Super 8” projects” which were approved by the Board in May 2010, and asked the Board to approve the Developer’s Agreement with ACTS, Inc.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Vice Chairman Solari, to approve the  
Developer’s Agreement with ACTS, Inc., a Pennsylvania  
corporation.

Director Mora, with input from Administrator Baird, responded to Commissioner Davis’s question on the “Super 8” list of road priority projects.

The Chairman CALLED THE QUESTION, and by a 4-0  
vote (Commissioner Flescher absent), the Motion carried.  
The Board approved the Developer’s Agreement with  
ACTS, Inc., a Pennsylvania corporation.

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

**12.1.2. WORK ORDER NO. 10 COASTAL TECHNOLOGY CORPORATION INC.**  
**SECTOR 3 BEACH RESTORATION PROJECT – PHASE 2 PRE-**  
**CONSTRUCTION PHASE SERVICES**

Public Works Director Christopher Mora used a PowerPoint Presentation (on file) to update the Board on Work Order No. 10 with Coastal Technology Corporation, Inc. for pre-construction services for Phase 2 of the Sector 3 Beach Restoration. He said that if the Work Order is approved, Coastal Technology would prepare a Water Quality Variance Application, which is a prerequisite for the Florida Department of Environmental Protection (FDEP) to issue a Notice-to-Proceed for Phase 2. Director Mora thereafter presented staff's recommendation for Board approval of Work Order No. 10.

MOTION WAS MADE by Vice Chairman Solari,  
SECONDED by Commissioner Wheeler, to approve Work  
Order No. 10 to the contract with Coastal Technology  
Corporation, Inc.

**Michael Walther**, Engineer of Record/President Coastal Technology Resources, responding to Chairman O'Bryan's query, calculated that the County would receive the FDEP's Notice-to-Proceed by December 1, 2010.

Chairman O'Bryan sought and received confirmation from Mr. Walther that the Board would receive frequent updates on the progress of the Notice-to-Proceed.

James Gray, County Coastal Engineer, addressing Commissioner Davis's question, projected that Phase 2 of the Sector 3 Beach Restoration Project would commence around November 15, 2010.

The Chairman CALLED THE QUESTION, and by a 4-0  
vote (Commissioner Flescher absent), the Motion carried.

The Board approved and authorized the Chairman to execute Work Order No. 10 to the contract with Coastal Technology Corporation, Inc., as recommended in the memorandum of August 24, 2010.

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

**12.J. UTILITIES SERVICES**

**12.J.1. SHELL LANE EAST A PORTION OF SUMMERPLACE PETITION SEWER SERVICE INDIAN RIVER COUNTY PROJECT NO. UCP 4039 RESOLUTION IV – FINAL ASSESSMENT**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Solari, by a 4-0 vote (Commissioner Flescher absent), the Board approved **Resolution 2010-069**, certifying “as-built” costs for installation of sewer service in Shell Lane East in Indian River County and other construction as necessitated by such project providing for formal completion date and date for payment without penalty and interest.

**12.J.2. BID AWARD RECOMMENDATION, CONSTRUCTION OF WATER AND RECLAIMED WATER LINE REPLACEMENTS/EXTENSIONS AND MISCELLANEOUS ANNUAL REQUIREMENTS LABOR CONTRACT INDIAN RIVER COUNTY BID NO. 2010052, UTILITIES PROJECT NO. UCP 4054**

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Davis, to approve the award of Bid No. 2010052 to the two lowest responsive



and responsible bidders, Melvin Bush Construction, Inc. of Port St. Lucie, Florida, and Derrico Construction Corporation of Melbourne, Florida.

Director of Utility Services Erik Olson addressed Chairman O'Bryan's question about the necessity to line up vendors in addition to Sheltra and Son Construction Company, Inc.

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Commissioner Flescher absent), the Motion carried. The Board: (1) approved the award of Bid No. 2010052 to the two lowest responsive and responsible bidders, Melvin Bush Construction, Inc. of Port St. Lucie, Florida, and Derrico Construction Corporation of Melbourne, Florida. The term of the agreements will be two (2) years with a maximum of two (2) renewal terms of one (1) year each; (2) approved the sample agreement; (3) authorized the Chairman to execute associated contracts with the Contractors when the required Certificates of Insurance have been received and approved by Risk Management. The County Attorney has approved the agreement as to form and legal sufficiency. Submittal of a Public Construction Bond will be required on an individual project basis and only for projects with a labor cost exceeding \$100,000.00, all as recommended in the memorandum of August 30, 2010.

### **13. COUNTY ATTORNEY MATTERS**

#### **13.A. ENGAGEMENT OF OUTSIDE LAW FIRM TO CONSULT WITH COUNTY ATTORNEY'S OFFICE ON ELECTRIC, WATER AND SEWER FRANCHISE ISSUES**

County Attorney Alan S. Polackwich, Sr. reported that on July 20, 2010, the Board had authorized staff to hire outside counsel as a consultant to the County Attorney's Office on electric franchise, and water and sewer franchise issues. He stated that he has approached the law firm of Messer, Caparello & Self, P.A. (MCS), and that a preliminary agreement to contract with the firm has been reached, subject to the Board's ratification.

Attorney Polackwich responded to questioning from Commissioner Davis regarding the scope of the work that the consultant would undertake.

ON MOTION by Commissioner Davis, SECONDED by Chairman O'Bryan, by a 4-0 vote (Commissioner Flescher absent), the Board: (1) ratified the hiring of the law firm of Messer, Caparello & Self, P.A. Tallahassee, FL, to act as a legal consultant on issues relating to the electric, water and sewer franchises; and (2) authorized the Chairman or County Attorney to execute the engagement letter, as recommended in the memorandum of August 27, 2010.

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

**13.B. COUNTER OFFER RECEIVED – PURCHASE AND SALE AGREEMENT – VERO  
ESTATES, LLC – NORTHEAST CORNER OF C.R. 510 AND 66<sup>TH</sup> AVENUE**

Deleted

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

Deputy County Attorney Bill DeBraul recalled that on July 13, 2010, the Board had directed staff to renew negotiations (initially begun on April 6, 2010), for the purchase of right-of-way property owned by Roy and Cindy Bass, and located at 5210, 5220 85<sup>th</sup> Street (CR 510). The Board had authorized an offer of \$350,000 inclusive of all costs and fees for the property, and the Basses have counter-offered to sell for an all inclusive sum of \$375,000, with a two-year leaseback provision. Attorney DeBraul asked the Board to either approve the all-inclusive price of \$375,000 for the purchase, sale, and lease of the Bass property, or direct staff to terminate negotiations.

MOTION WAS MADE by Commissioner Davis to approve the all inclusive price of \$375,000 for the purchase, sale, and lease of the Bass property. MOTION DIED for lack of a Second.

MOTION WAS MADE by Vice Chairman Solari to terminate negotiations with Roy and Cindy Bass for the purchase, sale, and lease of the Bass property. MOTION DIED for lack of a Second.

Chairman O'Bryan wished to reiterate the \$350,000 offer, inclusive of all costs and fees, to the Basses, and to terminate negotiations if the subject offer is rejected.

A brief discussion ensued between the Commissioners and Attorney Polackwich, during which it was decided to keep the offer open for two weeks until September 21, 2010.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Chairman O'Bryan, to: (1) reject the counter offer of \$375,000, inclusive of all fees and costs, offered by Roy and Cindy Bass; and (2) reiterate the Board's offer of \$350,000 inclusive of all costs and fees for the purchase, sale, and lease of the Bass property at 5210, 5220 85<sup>th</sup> Street (CR 510), until the time certain of Tuesday, September 21, 2010, at which time the offer will be considered withdrawn.

Commissioner Davis referenced a situation which had occurred with the Fleming property on 16<sup>th</sup> Street to explain why he did not support the Motion.

The Chairman CALLED THE QUESTION, and by a 3-1 vote (Commissioner Davis opposed and Commissioner Flescher absent), the Motion carried.

#### **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 10:45 a.m.

ATTEST:

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

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

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

BCC/MG/2010Minutes