

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

February 23, 2010

The Board of County Commissioners of Brevard County, Florida met in regular session on February 23, 2010, at 9:01 a.m. in the Government Center Florida Room, 2725 Judge Fran Jamieson Way, Viera, Florida. Present were: Chairman Mary Bolin, Commissioners Robin Fisher, Chuck Nelson, Trudie Infantini, and Andy Anderson, County Manager Howard Tipton, and County Attorney Scott Knox.

The Invocation was given by Youth Pastor Cody Frazier, Victory Baptist Church, Cocoa, Florida.

Commissioner Nelson led the assembly in the Pledge of Allegiance.

APPROVAL OF MINUTES

Motion by Commissioner Nelson, seconded by Commissioner Anderson, to approve the February 4, 2010, Zoning Meeting Minutes. Motion carried and ordered unanimously.

PRESENTATION, RE: ST. JOHNS RIVER ALLIANCE

LeRoy Orion stated after he had worked with the St. Johns River Alliance (SJRA) to secure the upper basin as part of the Surface Water Improvement Management (SWIM) Program, which did not have much success, he went to the SJRA, and asked for a vote to support the program with the lower and middle basin, understanding it would reduce funding; and the upper basin was then put into the SWIM Program. He mentioned in 1994, he came before the Commission and received a unanimous vote, to simply require the State survey for the ordinary high waterline, to determine whether or not The Viera Company building should occur on the waters edge; four years had passed; and The Viera Company had decided to sell the land to the State, which now there are 14,000 acre that covers 14 miles of the riverfront from here to almost Lake Washington, that is in public ownership now, for the use of the citizens.

Mark Middlebrook expressed his thanks to Commissioner Anderson and Howard Tipton, County Manager, for meeting with him previously before this meeting, and he thanked Commissioner Nelson for his participation in the SJRA last year. He stated he has two resolutions for the Board to consider today; Brevard County is a key piece of the SJRA since it began in 2003, which consists of a 34 member Board that has four vacancies at the moment; most of the people that participate on the Board are County Commissioners, which consist of 12 of the 13 mainstream river counties being represented; the meetings are rotated; and he appreciates the use of the Space Coast Room yesterday. He stated this year will be a busy year with the St. Johns River Summit being held on September 15 and 16, 2010 in Jacksonville; there will be another one in 2015 that will be held in Central Florida; the last one held was in 2003, which is overdue, and there are a lot of very controversial issues being confronted by various

PRESENTATION, RE: ST. JOHNS RIVER ALLIANCE (CONTINUED)

counties; and they are expecting about 1,000 people, however, based on the economy it may be scaled back some next month. Mr. Middlebrook mentioned the other projects being worked on is the passage of a St. Johns River License Plate Bill, which is in its third attempt to get the Bill established; he is asking the member counties to support the Bill for the license plate; and it would mean about \$300,000 to the SJRA a year once the license plate is approved, marketed, and fully matured. He stated the American Heritage River Initiative has legislation pending in Congress that will take it from an initiative to a Program, which will make the St. Johns River (SJR) eligible for Federal funding; currently the SJR gets little or no Federal funding because of some of the mandates that are coming down through Federal Agencies including nutrient loading; and it will put a heavy burden on local communities in terms of some mandates. He noted some of the things that will be discussed at the Summit will be the hope of a Comprehensive Legislative Plan; one was done in 2003, the price then was \$4 billion, and the cost has gone up; but the Legislature has asked year after year whenever requests are being made about the SJR, and how it will fit into an overall plan; and part of what the Summit will do is create the plan. He noted other key pieces that will be looked at during the Summit are ecotourism, small business development as it relates to trails, and water conservation issues with the river. He stated the resolution that he has with him today is to convert the American Heritage River Initiative Program, which will make the SJRA eligible for \$600,000 a year in Federal funding; those dollars would be returned directly to member counties; this would roughly be \$9 million split among the 14 rivers; the current members that support this are City of Jacksonville, Volusia County, North East Regional Planning Council, University of North Florida, and all remaining counties on the SJRA Board are being asked to consider this resolution. He noted Brevard, Duval, Orange, Seminole, and Volusia Counties each have assessed membership dues in the past of \$20,000; and he is asking for approval from the Board to approach the Tourist Development Council (TDC), which has been supportive of the SJRA in past with its ecotourism initiatives.

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to acknowledge presentation by the St. Johns River Alliance (SJRA) on the recent activities and upcoming River Summit; and approve allowing SJRA to approach the Tourist Development Council (TDC), which has supported the SJRA and its ecotourism initiatives.

Commissioner Anderson stated he has two resolutions; and it will be one less county Mr. Middlebrook will have to deal with.

RESOLUTION, RE: SUPPORTING THE ST. JOHNS RIVER ALLIANCE

Commissioner Anderson read aloud a resolution supporting the St. Johns River Alliance.

Motion by Commissioner Anderson, seconded by Commission Nelson, to adopt Resolution supporting the creation of a St. Johns River license tag; and urging the Florida Legislature to approve the proposal. Motion carried and ordered unanimously. (See page _____ for Resolution No. 10-024.)

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RESOLUTION, RE: SUPPORTING THE AMERICAN HERITAGE RIVERS INITIATIVE

Commissioner Anderson read aloud a resolution supporting the American Heritage Rivers Initiative.

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to adopt Resolution supporting the American Heritage Rivers Initiative. Motion carried and ordered unanimously. (See page _____ for Resolution No. 10-025.)

RESOLUTION, RE: RECOGNIZING FLORIDA SAVES WEEK

Chairman Bolin read aloud a resolution recognizing Florida Saves Week.

Motion by Commissioner Fisher, seconded by Commissioner Nelson, to adopt Resolution proclaiming the week of February 21 through 28, 2010 as 2010 Florida Saves Week. Motion carried and ordered unanimously. (See page _____ for Resolution No. 10-026.)

Jenn Fletcher stated America Saves was launched in one city in 2001 and now has over 50 local, state, and national campaigns; it is a social marketing campaign that encourages individuals particularly low and moderate income persons, to save money, reduce debt, and build wealth. She stated the University of Florida, Brevard County Extension, working under the Comprehensive Statewide Program, is working towards helping the citizens build and protect wealth, plan for a secure financial future, pay down debt, and protect against financial fraud. She stated while many believe that low and moderate income families cannot afford to save and build wealth; it is believed that they cannot afford not to, with the contributions through a Workplace Retirement Program, the purchase of a home; and other savings during working years, can accumulate six figure assets. She stated instead of living paycheck to paycheck families are encouraged to begin saving; it is known that by starting small and thinking big debt individuals can reduce debt and build wealth; and America Saves was created to do just that with some of the events and activities held for the Florida Saves Week; in schools children will be designing or decorating piggy banks, with the top three winners and two aged categories will go on to the Countywide event, which will be held at the Brevard County Fair March 18 through the 28, 2010; and there are contests for homeschooled children, 4-H Groups, Boy Scouts, and Girl Scouts. She advised three financial seminars will take place and a savers enrollment period through the end of March, for individuals to get started with saving and reducing debt.

RESOLUTION, RE: COMMENDING AND RECOGNIZING THE MERRITT ISLAND HIGH SCHOOL GIRL'S SOCCER TEAM

Commissioner Nelson read aloud a resolution commending and recognizing the Merritt Island High School Girl's Soccer Team.

Motion by Commissioner Nelson, seconded by Commissioner Anderson, to adopt Resolution commending and recognizing the Merritt Island High School Girl's Soccer

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**RESOLUTION, RE: COMMENDING AND RECOGNIZING THE MERRITT ISLAND
HIGH SCHOOL GIRL'S SOCCER TEAM (CONTINUED)**

Team as the State Champions. Motion carried and ordered unanimously. (See page for Resolution No. 10-033.)

REPORT, RE: FEBRUARY 25, 2010 WORKSHOP

Howard Tipton, County Manager, stated there is a workshop scheduled on February 25, 2010 on Space; there are a lot of different things going on with the President's direction changing a lot of things; and it is an opportunity for the Board and the community to begin to fully understand what the impacts will be. He stated the Director of John F. Kennedy Space Center was invited to be apart of the discussion on Thursday; and his schedule is very busy and had some time this morning to share with the Board, as he will be unable to attend on Thursday.

**PRESENTAION, RE: COLONEL ROBERT CABANA, DIRECTOR OF JOHN F.
KENNEDY SPACE CENTER**

Colonel Robert Cabana, John F. Kennedy Space Center Director, stated it is a privilege for him to be present today, to share the path forward at the Kennedy Space Center (KSC); he stated he offers his sincere appreciation for the support given from the Commission, with helping KSC to achieve its goal; and he thinks it is critical to work together for the betterment of the community. He expressed his appreciation to the Board for the \$800,000 put forward to help with the planning of the road, to provide access to the Exploration Park, and hopefully to bring more jobs into the area. He stated he would like to acknowledge those Commissioners who were kind enough to take time to come to the Governor's Space Summit in Orlando; it was very beneficial to have that support from the State that everyone comes together as a community; and if everyone does not work together, there will be no success with the future as one team. He stated President Obama's budget has been presented to KSC; it is a change from where he thought Space was headed; a lot of folks were disappointed; and he thinks there are opportunities in the budget to move forward. He stated there are some significant challenges going through this next year; in looking at the Space Shuttle Endeavour at its last flight, it was one of the cleanest vehicles ever when coming back from space; and the whole mission went absolutely perfect. He noted he was talking with some Troop Members about the complexity that goes into servicing one small system on the Shuttle and what it takes to do that, and the talented people that are making it happen; yesterday he was present when Discovery was rolled to the Vehicle Assembly Building (VAB) to prepare for its mission; and in looking at that team of employees, and how dedicated they are with the complexity of the workforce. He stated the Space Station will be completed; the last United States Module was launched on the last flight; there are some supply missions yet to go; there is a Russian Module that is going up, but it is essentially complete now; and it has to make sure it is in good configuration, so that when the Shuttle Flights stop it can be maintained with other assets. He stated continuation of Launch Services Program launching the expendable rockets with National Aeronautics and Space Administration (NASA) payloads on them in doing science, as transitioning away from the Shuttle, there may not be a new rocket flying yet, but there will be continued Launch Services Program launching the expendable rockets

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with NASA payloads on them from the Cape. Colonel Cabana stated he thinks one of the biggest challenges will be with the cancellation of the Constellation Program, how will it transition the work, capture the work being done, and prepare for the future as going from Constellation to a more commercial Space Flight Program to an area of research and development at KSC, with moving forward toward the goal of exploring. He advised for the last year and one-half, he has been doing his very best; his team has been working to prepare KSC to be in the best possible position for this path forward; and the changes made in the organization with future contracts have really prepared them for what is coming. He stated commercialization is the future for Low Earth Orbit and barriers have been identified to commercialization, with eight teams being put together and working with how to work with the President's budget, what areas need to be addressed, and how to make KSC more commercial-friendly to draw the work in; the Launch Services Program is going to be instrumental in moving forward; with research and design capabilities for future roles, key partnerships are being developed with the State of Florida in industry such as, Florida Power and Light (FPL) and the Solar Rate Facility that is set up with ten megawatts of power up into the grid from KCS, Clean Energy, and Exploration Park. He stated collaboration has been enhanced with the academia industry and international partners with a more program eccentric approach in how KSC is organized to a more support eccentric approach; before KSC was set up it was the Shuttle Program and all the engineering and support was within Shuttle or the International Space Station; and now there are smaller Program offices with institutional support, providing matrix support to those Programs. He stated the mission for KSC is an outstanding one; KSC safely manages, develops, integrates, and sustains Space Systems through, partnerships and enables innovative diverse access to space; and inspires the nations future explores; and he does not think that anything that has come in the President's budget detracts from or change the mission for KSC. He stated he thinks one of the biggest areas to capitalize in, with what the President has to offer, is a Premier 21st Century Launch Complex at KSC; the infrastructure is old, it was built in the 1960's, and there is a lot that can be done to improve it; this is \$2 billion over five years that is coming to the Cape; some of the money will go to improvement on the range with the Air Force; there are teams being put together; he has asked his Deputy Director, Janet Petro, to lead that effort for KSC, with a Summit to be held here in the very near future for industry, Department of Defense (DOD), and other partners to come together, for KSC to learn what it is that they want for the range; it is helpful to understand the customer needs and then modify KSC, use this money to draw them in, and he wants people to say they are not going to the Cape because they have to, they are coming to the Cape because they want to; and stated he believes that the Cape offers the best service for the best value and more work will be drawn to KSC. He stated partnership and enabling commercial space in the budget; \$6 billion over five years; Commercial Space and Low Earth Orbit is the future; it is time to transition; and capitulations needs to be done. He stated full utilization of the International Space Station is a national laboratory, \$15 billion over five years; he stated this is one of the things that he is hoping Exploration Park is really going to add to; the Space Life Sciences Facility that was build by the State of Florida is an anchor for that research park; what better place to bring research in for research on the Space Station; the payloads are already processed and that needs to continue to be developed because there is money for it. He stated the Space Station has been extended to 2020, with ten years of United States Astronauts up there on the Space Station in the future doing science for the benefit of all; and he wants

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KSC to be leading the way in doing that research of processing the payloads that goes up to the International Space Station. Colonel Cabana stated \$3 billion over five years in Robotic Precursor Missions will be launched by the Launch Services Program on rockets out of KSC and out of the Air Force side of the Cape; there is a lot of research at KSC in Robotic efforts; and he wants to draw in the research and development dollars for that, with this being the future work for KSC. He mentioned \$7.8 billion over five years in Technology Demonstration Programs and another \$4.5 billion in Space Technology Development over five years; KSC people look to be the place where operations is done and rockets are launched from; he would like to tell that he has some of the best scientists and engineers than anywhere; and the engineering work that has been done with surface systems for exploration beyond Low Earth Orbit, the systems that are needed for living in space, and operation once there with all kinds of research going on at developing key products in partnership with Industry having Space Act Agreements, with a lot of research and development being captured at KSC. He noted education outreach needs to continue along with the partnerships at KSC because they are the future. He stated KSC will succeed as a team with building needed relationships; he stated he believes the work will come if a quality product is offered at a fare price; he understands what the customer wants and needs for continued future growth instead of a decrease; and it will be a hard transition, with a lot of people out of work when the Shuttle stops flying and with the cancellation of the Constellation Program, which he cannot specifically say what the workforce is going to be in the future. He stated the President's budget is still being analyzed; once there is a detailed analysis he will have a better impact of what the status of future jobs will be at KSC. He stated the main thing is he does not want KSC to be remembered as the place where humans were launched to moon 40 years ago or that is the place where humans were launched from on the Shuttle, he wants KSC to be remembered as the place that goes forward; and he really believes the best is still in front of KSC with growth and being prosperous. He expressed his thanks for the support given, it is critical to the future and the community, because it is in for some tough times, but he wants it to be known that KSC is doing all that it can to try and ease this transition; there are very few people at KSC that are not touched by this loss that is in front of it and he believes with the Board's support, KSC will get through this.

Commissioner Fisher stated one of things that has been tried to be done as a whole is to have a clear message of what would like to be seen for Brevard County and the State of Florida; it has been hard to develop that message; and inquired if a message was put together, can he tell him what the message would be. Colonel Cabana responded his best message would be he believes there is a bright future ahead, the budget is there, forward movement will be done, and the ultimate destination is Mars to explore beyond Low Earth Orbit, to develop those technologies to make it possible, and as a community capture that work; and to put themselves in a position so that there is a match to what the future is with commercial operation to Low Earth Orbit and developing the technologies to explore beyond Low Earth Orbit. He stated he wants to ensure that KSC is in a position to support that through services on the launch pads, launch complex 39 upgraded to the 21st Century Launch Complex Initiative, and make it so that it is ready to support whatever comes, that is can launch the U.S. build rockets that are going to carry the payloads to the Moon, Mars, and beyond. He stated it is not a specific

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destination that initially will be gone to, but they will work up towards the ultimate destination to put humans on the planet Mars within the solar system; and his goal is to make sure that is supported.

Commissioner Nelson inquired what does the community needs to do to try to capture the new initiatives at KSC to diversify. Colonel Cabana responded to continue to look within industry of what areas compliment what is done at KSC; capitalize on the technical engineering work and the technicians that are available that are going to be excess to capacity soon; and if the Initiative Plan of Exploration Park does not have to be strictly related to what is being done at KSC, as long as it supports the technologies being done for the industries, companies that are wanting to come to Florida, because it is a great place to live.

Commissioner Anderson expressed his thanks to Colonel Cabana; this is very personal to him, because he has spent a lot of his adult life out at KSC; it was a dream come true for him to work there; he has collected a lot of memorabilia over the years; and it is hard to see the Manned Space Program go away. He stated he represents South Brevard County and a lot of people that work at KSC, live in that area, and commute everyday. He inquired what guarantees will be made to keep the launch operations here rather than somewhere else. Colonel Cabana responded launching into Low Earth Orbit needs to be on the East Coast of the United States where it is not a hazard after launching, and when something falls off it can fall into the ocean and not on people or land; right now for NASA it looks like the Cape and Wallops Flight Facility are the safest; and Wallops is not set up to handle launching humans into space. He stated he cannot image that being the case in the future, and he is going to do everything he can do to ensure that launch will be out of Complex 39 from the Cape at KSC, with launching humans into space, that is the history, and the future, because the infrastructure is here and available to commercial companies; he wants to work with them to ensure that they are given what is needed, understandings of what is required in launching humans to space, the infrastructure, and availability that has to be a partnership with industry, because it just cannot be on its dime making this all happen; and a marginal cost can be spent to use the infrastructure because other companies cannot afford to build. He stated this is not the end of human flight; there are American Astronauts on the International Space Station who have to rely on Russian partners right now, as the Space Shuttle retires to get the Astronauts up and down, but will continue to have humans on the Space Station for another 10 years; and hopefully, if things go right by the year 2016 there will be launches at the Cape of U.S. rockets to the International Space Station.

Chairman Bolin stated one of the things mentioned was the Governor's Space Summit; what she walked away from the Summit with was the enthusiasm that everyone Statewide is now concerned with the situation with space; and now the decision has been decided that they have to unify, so it is not just Brevard County leading the charge anymore it is now the State and Tallahassee to assist with this also.

Commissioner Fisher stated he knows Colonel Cabana will not be present Thursday, but he wanted to mention as part of one of the things he is going to ask is going to be to get some momentum around the State; he would like to see a resolution done by the Board and that resolution can ask for some things out of the Federal Delegation to have a bold

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PRESENTAION, RE: COLONEL ROBERT CABANA, DIRECTOR OF JOHN F. KENNEDY SPACE CENTER (CONTINUED)

statement of heading to Mars, with a timeline, and then drive the resolution around things happening at KSC. Commissioner Fisher stated he thinks the community has to make sure that there is a clear message about the cancellation of Constellation; he had a phone conference call with Frank DiBello regarding what message should be sent to the Senators in Congress, but he is also going to ask the other 26 counties to support that resolution too, so it is a Statewide resolution and not just a Brevard County resolution.

Colonel Cabana noted that is a great point and working with Frank DiBello on Space Florida is having the focal point for organizing this State; and the message is in going forward is great. He mentioned there will be no found work for everybody, but things are being done to draw new jobs to the area, it will not happen immediately, but there will be work to continue to do so. He expressed his thanks for the support of retraining the current workforce, helping to find jobs, and job fairs with other companies.

Commissioner Infantini stated she enjoyed the presentation at the Space Summit in Orlando; one of things stated at the Summit was there is a lot of money that is being allocated now for research; and inquired if Colonel Cabana knew of anything this Commission could do to capture some of those dollars for the Cape. Colonel Cabana responded it is an internal NASA process; he is doing his best with the folks that he has been working in those areas of research and development, to go forward to try and draw those funds to KSC; and those decisions are in the process of being made up at his headquarters right now with what major projects are going to go to certain centers.

REPORT, RE: ORDINANCE AMENDING SECTION 62-507(d)(2) OF THE CODE OF ORDINANCES

Scott Knox, County Attorney, stated there were some amendments to Section 62-507(d)(2) pertaining to vested rights that arose that were advertised for today's meeting, which are not ready for consideration; and he would like to have the public hearing continued until March 9, 2010.

Chairman Bolin inquired if it is on today's Agenda. Attorney Knox responded it is not on the Agenda, but it was advertised for today.

Motion by Commissioner Nelson, seconded by Commissioner Anderson, to continue public hearing to consider an ordinance amending Section 62-507(d)(2) of the Code of Ordinances of Brevard County, Florida, clarifying the definition of an "Existing Single Family Residence", to the March 9, 2010 Board of County Commissioners meeting. Motion carried and ordered unanimously.

REPORT, RE: GROUNDBREAKING AT TICO AIRPORT

Commissioner Fisher stated yesterday he attending the groundbreaking ceremony at TICO for its Administration Building, which had nice attendance, with Congresswoman Suzanne Kosmas present; and it was good to see some construction taking place in the

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REPORT, RE: GROUNDBREAKING AT TICO AIRPORT (CONTINUED)

north area of the County. Commissioner Fisher stated the Valiant Air Command is working on its air hanger; and the Board was instrumental as a Commission with helping them to get funds from Tourist Development Council (TDC).

REPORT, RE: SAVE SPACE WEB SITE

Commissioner Fisher stated Kimberly Prosser, SCGTV Communications Director, Leigh Holt, Government Relations Manager, staff, and he are starting to work on the Save Space web site, to help get the message out, because since the creation of his letter writing campaign to Save Space there have been 11,000 interested individuals wanting to save space.

REPORT, RE: AEROSPACE CAREER DEVELOPMENT COUNCIL

Commissioner Fisher stated he attended the Aerospace Career Development Council presentation from the Head of Human Resources at KSC, with the resources being made for retraining and finding jobs. He stated one of the sad things is there is much success in Alabama and Mississippi more so than in Florida.

REPORT, RE: VALKARIA AIR FESTIVAL

Commissioner Infantini stated she attended the very successful Valkaria Air Festival over the weekend.

REPORT, RE: HABITAT FOR HUMANITY

Commissioner Infantini stated she attended a Habitat for Humanity wall raising event; she would really like to thank the partners involved for providing the volunteered labor and materials to build a home.

REPORT, RE: JUDGING A CONSTITUTION CONTEST

Commissioner Infantini stated she had the opportunity to Judge a Constitution Contest; the two students who participated did an outstanding job discussing the Constitution; she stated she was extremely impressed, and those students are a real credit to Brevard County; and she will be bringing a resolution back to the Board at a later date for those students.

REPORT, RE: VALKARIA AIR FESTIVAL

Commissioner Anderson stated he attend the Valkaria Air Festival and it was an outstanding event; he enjoyed the pilots that came to him asking him to thank the

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REPORT, RE: VALKARIA AIR FESTIVAL (CONTINUED)

entire Board for its support of its industry; and he stated they do represent an industry that creates economic development in the community and provides jobs.

REPORT, RE: MEMBERSHIP DUES

Commissioner Anderson stated membership dues are paid to the Florida Association of Counties, but the Boards is probably not the most active Commission in it; and he inquired if it is something that someone may want to get engaged in with a resolution throughout the State to support the Kennedy Space Center.

Commissioner Fisher responded it would not hurt to ask.

Howard Tipton, County Manager, mentioned the Executive Director and the current Board Chair of the Florida Association of Counties will be present at Thursday's workshop; and he thinks Commissioner Anderson's timing is the perfect time to inquire.

REPORT, RE: FOUR UNDER FORTY EVENT

Chairman Bolin stated she attended the Four Under Forty event; it was a wonderful event; and it was good to see the young people in the professional workforce tell of their accomplishments.

REPORT, RE: KEEP BREVARD BEAUTIFUL

Chairman Bolin stated Keep Brevard Beautiful will have a partnership with Chili's from 11:00 a.m. to 11:00 p.m. today, and they will take ten percent of all sales and donate to Keep Brevard Beautiful.

REPORT, RE: APPOINTMENT TO CANVASSING BOARD

Chairman Bolin stated there needs to be a reassignment to the Canvassing Board; and she will ask Attorney Knox explain.

Scott Knox, County Attorney, stated the State Law does not allow members of the Canvassing Board get involved in election campaigns or support candidates; it is a very broad law that states if in any way, a Commissioner is involved in a candidates campaign, the individual is not eligible to be on the Canvassing Board; it is his understanding that one of the Commissioners has that issue; and there needs to someone designated to fill the position.

Chairman Bolin inquired if there are any volunteers at this time who would like to be on that important board coming up this year. Commissioner Fisher responded he would do it.

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REPORT, RE: APPOINTMENT TO CANVASSING BOARD (CONTINUED)

Commissioner Anderson stated he was on the Canvassing Board, but he is supporting a School Board Member and Senate candidate Marco Rubio; and he is unable to participate.

Chairman Bolin noted there are two Commissioners who are actively in a campaign; and he or she is not eligible.

Commissioner Infantini stated she is also supporting a couple of people.

Motion by Commissioner Anderson, seconded by Commissioner Infantini, to appoint Commissioner Fisher to serve as Commissioner Liaison to the Canvassing Board. Motion ordered and carried unanimously.

REPORT, RE: APPOINTMENT TO EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL

Chairman Bolin stated due to scheduling conflicts, Commissioner Infantini will not be able to attend; and inquired if there is a volunteer to assist her on the East Central Florida Regional Planning Council.

Commissioner Nelson stated he will do it; he is disappointed that this is the second go around, because when he made the appointments he had two Commissioners that did not attend; he stated he will do it again because he thinks it is an important responsibility as a Commissioner to represent; and had he not gone when he made appointments, there would have no representative present when The Viera Company and Farmton came before the Regional Planning Council. He mentioned there are decisions being made elsewhere that impact Brevard County, and there has to be representation.

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to appoint Commissioner Nelson to serve as Commissioner Liaison to the East Central Florida Regional Planning Council. Motion carried and ordered unanimously.

REPORT, RE: LEAGUE OF CITIES RECOMMENDATIONS

Commissioner Anderson stated the Public Safety Coordinating Council will have a meeting to discuss recommendations by the League of Cities.

Commissioner Fisher mentioned when he spoke with Sheriff Parker and the Chief of Police, they told him there are some things that they would like to make sure is on the Agenda for the Public Safety Coordinating Council for the League of Cities recommendations; and he thinks the Public Safety Coordinating Council is looking for direction of the issues.

ITEMS PULLED FROM THE CONSENT

Commissioner Infantini stated the two items she would like to pull from the Consent Agenda are, Item III.B.2, Board Consideration, Re: Request for Reduction of Fine and Release of Code Enforcement Lien for Glimcher Merritt Square LLC and Item III.C.3, Acknowledgement, Re: Economic Development Commission of Florida's Space Coast's FY08/09 Annual Audit.

Commissioner Anderson stated he would like to pull Item III.B.7, Award of Bid #B-2-10-23, Re: Forestry Mulcher Equipment for Parks and Recreation.

Chairman Bolin stated she is going to pull Item III.B.3, Permission to Advertise Request for Information, Re: Energy Service Companies.

BOARD CONSIDERATION, RE: REQUEST FOR REDUCTION OF FINE AND RELEASE OF CODE ENFORCEMENT LIEN FOR GLIMCHER MERRITT SQUARE LLC

Howard Tipton, County Manager, stated there is no problem with continuing this for two weeks, and bringing back to the Board the research results.

Motion by Commissioner Infantini, seconded by Commissioner Fisher, to table the request for reduction of fine and release of Code Enforcement Lien for Glimcher Merritt Square LLC, to the March 9, 2010 Board of County Commissioners meeting. Motion carried and ordered unanimously.

PERMISSION TO ADVERTISE REQUEST FOR INFORMATION, RE: ENERGY SERVICE COMPANIES

Chairman Bolin stated the reason she wanted to pull this Item is because she would like to make the wording extensive to the fact that the County will go out for the information and when the information comes back she would like to have the information immediately rolled into a Request for Proposal (RFP), so the results can be brought back to the Board in May 2010.

Commissioner Fisher stated he thought there was some funding available at the Federal level for the retrofitting of older County Government buildings; and inquired if before going out to RFP can it be verified that there might be some opportunities available with the funding. Howard Tipton, County Manager, replied staff absolutely can look into the landscaping for funding opportunities; and will continue to look into verifying funding. Commissioner Fisher stated the way he would verify is calling upon the Lobbyist Eddy Pauley who has referenced this in the past.

Chairman Bolin inquired if Mr. Tipton would be able to put the correct wording in place expressing what she would like to do. Mr. Tipton responded yes, it would state permission to go forward with the Request for Information for outside lighting in an attempt to procure energy savings; and once having that information, then asking for permission to move forward with the RFP to bring back to the Board as soon as possible. Chairman Bolin responded yes, that is her intent. Mr. Tipton stated as a

PERMISSION TO ADVERTISE REQUEST FOR INFORMATION, RE: ENERGY SERVICE COMPANIES (CONTINUED)

recommendation it would be to have the designation of a Selection Committee to help speed this effort along.

Motion by Commissioner Infantini, seconded by Commissioner Anderson, to grant permission to advertise Request for Information from Energy Services Companies interested in providing energy efficient lighting retrofits utilizing Energy Performance Contracting in accordance with Florida Statute 489.145; after receiving the information, authorize staff to proceed with Request for Proposals (RFP); authorize the County Manager to designate a Selection Committee to expedite the process; and authorize staff to verify if there is Federal funding available for energy efficiency through the County Lobbyist Eddy Pauley. Motion carried and ordered unanimously.

AWARD OF BID #B-2-10-23, RE: FORESTRY MULCHER EQUIPMENT FOR PARKS AND RECREATION

Commissioner Anderson inquired is it the condition of the equipment currently being used, or is it the machine that burned up. Mike Knight, Environmentally Endangered Lands Manager, responded the machine was lost in a fire and it was completely destroyed. Commissioner Anderson inquired how often is this equipment used; and is it for pepper busting. Mr. Knight responded it is primarily used for mowing the vegetation along the edge of the fire units; there is over 100 miles of fire line throughout the County, that are maintaining 152 fire units; and every time there is a prescribed burn, the vegetation on each side has to be mowed back to prevent ignition of the unit beside it on fire. Commissioner Anderson inquired if the equipment is used for fire prevention. Mr. Knight responded yes; and it is sometimes used for exotics, but primarily to make sure those burn units are safe from burn.

Motion by Commissioner Anderson, seconded by Commissioner Nelson, to authorize award of Bid #B-2-10-23 for Forestry Mulcher Equipment for Parks and Recreation, to the lowest, most responsive bidder. Motion carried and ordered unanimously.

BOARD CONSIDERATION, RE: REQUEST FOR REDUCTION OF FINE AND RELEASE OF CODE ENFORCEMENT LIEN FOR GLIMCHER MERRITT SQUARE LLC (CONTINUED)

Chairman Bolin stated she has received a speaker card for Item III.B.2, the Item has been approved; and inquired if John Hixenbaugh would still like to speak before the Board on this Item.

John Hixenbaugh responded yes, he is an Attorney, and he represents Glimcher Merritt Square LLC, which owns the property. He stated he made the trip here from St. Petersburg this morning; he was not aware that there was a concern or consideration to reschedule the Item; and he thought if there were any questions he would be able to answer any question without him having to make another trip here.

Chairman Bolin inquired what the pleasure of the Board is.

**BOARD CONSIDERATION, RE: REQUEST FOR REDUCTION OF FINE AND
RELEASE OF CODE ENFORCEMENT LIEN FOR GLIMCHER MERRITT SQUARE
LLC (CONTINUED)**

Commissioner Infantini stated the Special Magistrate's decision was based on the premise that the property had changed ownership; and inquired if Mr. Hixenbaugh could address that issue. Mr. Hixenbaugh responded the violation occurred in late 2006, it went before the Special Magistrate in 2007, and at that time the tenant was found in violation. He stated the current property owner Glimcher acquired the property in October 2007, which is after the date of the Special Magistrate hearing. Commissioner Infantini inquired how much did Glimcher pay for the property, because while she was trying to track the records through the Clerk of Courts, she was not actually able to see where there was a transfer of ownership; she stated there was a name change from Thor Merritt Square to Glimcher Merritt Square; and that was recorded in the State of Florida records, which reflected a name change with no indication that there was actually a transaction and a sale. She stated she was trying to track where this sale occurred because she did not see any Dock Stamps paid on it, which on a \$5 to \$6 million piece she knows the County would not mind collecting the Dock Stamps on that; and since she did not actually see a transaction occur, she did not see a change of ownership only a name change; and if the premise was to reduce the fine as a result of change of ownership, it seemed like an invalid premise. She stated she is not saying that the fine should not be reduced right now but the premise from the Special Magistrate's ruling was because the ownership had changed. Mr. Hixenbaugh replied he thinks the point of no ownership occurring that certainly is something that was presented by himself in the application to the Special Magistrate; he stated he does not represent Thor, he represents Glimcher as the understanding that it actually was a conveyance of the property, not just a name change; and while sitting in his seat, realizing there was a question, he began looking through the paperwork and saw a Title Commitment involved with the transaction. He stated he is not prepared to answer the specific question; it has never been expressed to him by the client that was actually a name change; and in fact, all of the correspondence he has from the client was that the current ownership entity had no interest in the property at the time that the violation occurred.

Commissioner Infantini stated she has the copies from the State of Florida web site where it shows Thor Merritt Square submitted for a name change in possibly 2009 to Glimcher Merritt Square, which is the only transaction that took place; it was not an actual financial transaction; if the details are looked at, Mr. Hixenbaugh will find that the ownership interest still represented, whether it was Thor or Glimcher, the same parties owned the property with the same ownership interest; and inquired if Mr. Hixenbaugh would like to contact them when there is a break. Mr. Hixenbaugh replied he feels terribly blindsided. Commissioner Infantini expressed her apologies. Mr. Hixenbaugh stated it is not her fault and he would not have made arrangements to make the trip to represent Glimcher Merritt Square today if he had that information, because that information is important to all; and he is not prepared, and will respond in two weeks. Commissioner Infantini stated on the Property Appraisers web site in the Permitting section it shows submission of a name change as well; and they did not actually transact to sell the business. Mr. Hixenbaugh expressed his apologies to the Board.

**ACKNOWLEDGEMENT, RE: ECONOMIC DEVELOPMENT COMMISSION OF
FLORIDA'S SPACE COAST'S FY08-09 ANNUAL AUDIT**

Commissioner Infantini stated she has not had a chance to review the information that was submitted yesterday afternoon; and requested that it be tabled for two weeks for review to accept the audit.

Motion by Commissioner Infantini, seconded by Commissioner Anderson, to table the Economic Development of Commission of Florida's Space Coast's FY09/09 annual audit prepared by Janes, Key & Dinho, P.A., to the March 9, 2010 Board Meeting.

**RESOLUTION RELEASING CONTRACT, RE: BONITA BEACH CONDOMINIUM –
BONITA BEACH LLC**

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to adopt Resolution releasing Contract dated January 27, 2009 with Bonita Beach LLC, for Bonita Beach Condominium. Motion carried and ordered unanimously. (See page for Resolution No. 10-027.)

**FINAL ENGINEERING AND PRELIMINARY PLAT APPROVAL, RE: IVANHOE AND
VIDINA DRIVE SUBDIVISION, 08SD-00787 – THE VIERA COMPANY**

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to grant the final engineering and preliminary plat approvals for Ivanhoe and Vidina Drive Subdivision, subject to minor engineering changes as applicable, and developer is responsible for obtaining all necessary jurisdictional permits. Motion carried and ordered unanimously.

**ACCEPTANCE, RE: UTILITY EASEMENT FROM BONITA BEACH CONDOMINIUM
ASSOCIATION, INC.**

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to accept Utility Easement from Bonita Beach Condominium Association, Inc. in favor of Brevard County for the operation and maintenance of a sewer system, for the proposed development of Bonita Beach Condominiums. Motion carried and ordered unanimously. (See page for Easement.)

**ACCEPTANCE, RE: SIDEWALK AND PUBLIC UTILITY EASEMENTS FROM
CVS75766 FL, LLC**

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to accept Sidewalk and Public Utility Easements from CVS75766 FL, LLC, for property located in Section, Township 26 South, Range 36 East. Motion carried and ordered unanimously. (See page for Easements.)

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RESOLUTION, RE: CANCELLATION OF TAXES ON PROPERTY ACQUIRED FOR BARNES BOULEVARD WIDENING PROJECT

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to adopt Resolution for the cancellation of real property taxes on property acquired for Barnes Boulevard Widening Project. Motion carried and ordered unanimously. (See page for Resolution No. 10-028.)

AMENDMENT NO. 2 TO LEASE AGREEMENT WITH FLORIDA INLAND NAVIGATION DISTRICT, RE: DREDGE MATERIAL

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to execute Amendment No. 2 to Lease Agreement with Florida Inland Navigation District (FIND) for use of dredge material stored at FIND's Dredge Material Management Area BV-2C in District 1. Motion carried and ordered unanimously. (See page for Amendment No. 2.)

REVISION OF POLICY BCC-26, RE: ACQUISITION OF CONSULTANT PROFESSIONAL SERVICES

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to approve revisions to Board Policy BCC-26, Acquisition of Consultant Professional Services, to incorporate changes to Florida Statutes. Motion carried and ordered unanimously. (See page for Policy BCC-26.)

PERMISSION TO BID, RE: DETENTION CENTER ROOF REPLACEMENTS, PODS "A" AND "B"

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to authorize permission to advertise, bid, award, and execute Contract for Detention Center Roof Replacements on Pods "A" and "B", to the lowest, qualified, responsive bidder. Motion carried and ordered unanimously.

APPROVAL, RE: REQUEST TO PURCHASE REPLACEMENT AMBULANCE UNITS

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to approve the purchase of four replacement ambulances from Wheeled Coach, Inc., which is an approved vendor on the Florida Sheriff's Association (FSA) Vehicle State contract bid, for a total purchase cost of \$487,100. Motion carried and ordered unanimously.

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MEMORANDUM OF AGREEMENT WITH TERRESTRIAL HABITAT CONSERVATION AND RESTORATION SECTION OF DIVISION OF HABITAT AND SPECIES CONSERVATION OF FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, RE: PRESCRIBED BURING AND OTHER LAND MANAGEMENT ACTIVITIES

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to execute the Memorandum of Agreement (MOA) with the Terrestrial Habitat Conservation and Restoration (THCR) Section of the Division of Habitat and Species Conservation of the Florida Fish and Wildlife Conservation Commission (FWCC); and waived the County requirement for legal venue in Brevard County. Motion carried and ordered unanimously. (See page _____ for Memorandum of Agreement.)

APPOINTMENT, RE: PUBLIC GOLF ADVISORY BOARD

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to appoint **Marty Brown** to serve on the Public Golf Advisory Board, with said term of appointment expiring December 31, 2012. Motion carried and ordered unanimously.

APPROVAL, RE: HOG POINT COVE SANCTUARY MANAGEMENT PLAN

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to approve the Hog Point Cove Sanctuary Management Plan, which outlines the public access and land management activities proposed for the property. Motion carried and ordered unanimously.

APPROVAL, RE: NORTH BUCK LAKE SANCTUARY MANAGEMENT PLAN

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to approve the North Buck Lake Sanctuary Management Plan, which outlines the public access and land management activities proposed for the property. Motion carried and ordered unanimously.

APPROVAL, RE: REVISED BARRIER ISLAND SANCTUARY MANAGEMENT PLAN

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to approve the Revised Barrier Island Sanctuary Management Plan, which outlines the public access and land management activities proposed for the property. Motion carried and ordered unanimously.

ACKNOWLEDGEMENT, RE: 2010 ADJUSTMENTS TO SPACE COAST AREA TRANSIT FIXED BUS ROUTES

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to acknowledge the adjustments to Space Coast Area Transit's Fixed Route Bus Service to become

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**ACKNOWLEDGEMENT, RE: 2010 ADJUSTMENTS TO SPACE COAST AREA
TRANSIT FIXED BUS ROUTES (CONTINUED)**

effective April 2010 as listed on Table 1, Adjustments to Space Coast Area Transit's Fixed Bus Routes. Motion carried and ordered unanimously.

**STIPULATED SETTLEMENT AGREEMENT AND STIPULATED ORDER MODIFYING
PERMANENT INJUNCTION, RE: IMPLEMENT REMEDIAL MEASURES
DESIGNED TO ABATE ONGOING CRIMINAL ACTIVITIES AND PUBLIC
NUISANCE AT SHOWBOAT ADULT WORLD IN UNINCORPORATED COCOA**

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to authorize a Stipulated Settlement Agreement and Stipulated Order Modifying Permanent Injunction to implement remedial measures designed to abate ongoing criminal activities and public nuisance at Showboat Adult World in unincorporated Cocoa. Motion carried and ordered unanimously.

AUTHORIZATION, RE: FLORIDA CONTRABAND FORFEITURE MONIES

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to authorize the use of \$65,000 of State Forfeiture Funds for acquisition of replacement electronic equipment for Criminal Investigations Division; and authorized any necessary budget amendments. Motion carried and ordered unanimously.

AUTHORIZATION, RE: FLORIDA CONTRABAND FORFEITURE EQUIPMENT

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to authorize the donation of confiscated equipment from State Forfeiture to Habitat for Humanity. Motion carried and ordered unanimously.

APPOINTMENTS/REAPPOINTMENTS, RE: CITIZEN ADVISORY BOARDS

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to appoint and/or reappoint **Barbara Davis** and **Amicitia Maloon-Gibson** to the Brevard County Commission on Status of Women, with terms expiring December 31, 2013; **Robynne Hester** to the Community Development Block Grant Advisory Board, with term expiring December 31, 2011. Motion carried and ordered unanimously.

APPROVAL, RE: BILLS AND BUDGET CHANGES

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to approve Bills and Budget Changes, as submitted. Motion carried and ordered unanimously. (See pages _____ for List of Bills and Budget Change Requests.)

DISCUSSION

Chairman Bolin stated she has a request from staff; due to the importance and time element on Item VII.A.2, Approval, Re: Items Associated with the Transportation Economic Stimulus Projects (Fiscal Impact: \$1,428,278); it has been brought to her attention for the Board to discuss it at this time, with any direction given by the Board to be worked on immediately; and she inquired what is the pleasure of the Board.

Commissioner Fisher inquired if there were any Speaker Cards. Chairman Bolin stated she has Speaker Cards on Items V.B and V.C; she suggests going ahead and doing the three Items under Public Hearing, so those people can be released; and she stated she will adjust the Agenda to put Item VII.A.2 before Unfinished Business.

PUBLIC HEARING, RE: ORDINANCE AMENDMENTS TO COASTAL SETBACK AND CONTROL LINES CODE ADDRESSING PERFORMANCE STANDARDS FOR MINOR STRUCTURES WITHIN THE COUNTY'S COASTAL SETBACK AREA

Chairman Bolin called for the public hearing to consider Ordinance amendments to Coastal Setback and Control Lines Code addressing performance standards for minor structures within the County's coastal setback area.

There being no objections heard, motion was made by Commissioner Anderson, seconded by Commissioner Nelson, to adopt Ordinance amending Chapter 62, Article XII Code of Ordinances of Brevard County, Florida, relating to the Coastal Setback and Control Lines, specifically amending Section 62-4213, Permitted Structures Seaward of Coastal Setback Line; providing for the interpretation of conflicting provisions; providing for severability; providing for are encompassed; and an effective date. Motion carried and ordered unanimously. (See page _____ for Ordinance No. 10-03.)

PUBLIC HEARING, RE: ORDINANCE FOR ECONOMIC DEVELOPMENT TAX EXEMPTION FOR SEA AWAY FAMILY OF COMPANIES, INC.

Chairman Bolin called for the public hearing to consider an ordinance for Economic Development tax exemption for Sea Away Family of Companies, Inc.

Kevin Gholston, Vice President of CVG Strategy, stated CVG Strategy is a manufacturing consulting company; he stated he is present today on his own behalf, representing himself, and as a member of Economic Development Council's (EDC) Ad Valorem Tax Abatement Council (AVT); and he is in support of the Sea Away exemption.

Commissioner Infantini stated her concern is offering a tax abatement, but it is not tied to any type of jobs; the only thing is there has to be a building; she would like to see this tied to jobs, because otherwise it would appear that there could be a building built, receive a tax exemption, and then sell it for a larger amount of money later; but it is not tied to anything other than construction.

Mr. Gholston advised he personally has been through the relocation process when he was CEO at EDAK, Inc.; the way it works is once the Board approves, the business has

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**PUBLIC HEARING, RE: ORDINANCE ECONOMIC DEVELOPMENT TAX
EXEMPTION FOR SEA AWAY FAMILY OF COMPANIES, INC. (CONTINUED)**

to perform, certify to the County and/or City on an annual basis to perform what was committed to; and as he understands it, Sea Away is planning to hire 100 people. Commissioner Infantini stated it is not in the ordinance and perhaps the ordinance needs to be reworked, because the Ordinance that she read does not state anything about positions; it does mention in the EDC write up; but unfortunately it only states that that there is a business.

Stockton Whitten, Assistant County Manager, stated in Section 102-187 of the ordinance it states the thresholds for consideration, with it being a new or expanding business, economic benefit tied to the number of jobs, and capital improvements with payroll; any other representations made by the company are apart of the application approval process; and in granting the abatement, all of those promises made on the application are a requirement of the abatement and must be adhered to by the company.

Commissioner Nelson stated part of the package includes the Economical Impact Analysis done by EDC, which indicated 100 jobs, with an average number of employees of 46,000, and capital investment \$72 million; this is the basis of the approval as Mr. Whitten was explaining to the Board for the basis of approval, which has to be done or the abatement is lost; and in the past, abatements have been taken away with failure to perform; and this is the same process followed on every one since he has been onboard.

Mr. Gholston explained the way it works is the company has to perform as Commissioner Nelson stated; as the company certifies it does not actually get the rebate or abatement until the following year, so the company still has to pay its taxes just like regularly paid, and then there is a refund processed a year after.

Commissioner Infantini expressed her thanks for the explanation; and that it was her misunderstanding.

Commissioner Fisher inquired for the record if the application is part of the ordinance. Mr. Whitten responded yes, it is apart of the application and it was submitted as those representations made, with regards to acquiring the exemption; and it is specifically Section 102-185(g).

Commissioner Infantini stated she did not realize that the application was part of the ordinance, because the ordinance does not say anything about the specific two pages; and stated she stand corrected.

There being no objections heard, motion was made by Commissioner Nelson, seconded by Commissioner Anderson, to adopt Ordinance granting an Economic Development Ad Valorem Exemption to Sea Away Family of Companies, Inc. 1230 Sea Ray Boulevard, Merritt Island, Florida; specifying the items exempted; providing the expiration date of the exemption; finding that the business meets the requirements of Chapter 196.012 F.S.; providing for proof of eligibility for exemption; providing for an annual report by Sea Away Family of Companies, Inc.; and providing an effective date. Motion carried and ordered unanimously. (See page _____ for Ordinance No. 10-04.)

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**PUBLIC HEARING, RE: ORDINANCE REVISING CHAPTER 62, ARTICLE V,
SECTION-4 EXTENSION OF IMPACT FEE MORATORIUM**

Chairman Bolin called for the public hearing to consider an ordinance revising Chapter 62, Article V, Section 4, Extension of Impact Fee Moratorium.

Bruce Moia stated he owns a small company in the development business; the phones are starting to ring and people are starting to come into his business; he stated he thinks it takes some time when the impact fees are seen as being abated and it gives an incentive; when meeting with clients they tell him that it is the incentive that actually helps to get off to a good start, with the projects that are in the works; and he would love to see it extended, and he fully supports the extension.

Bob Wille stated he wanted to echo Mr. Moia's comments with seeing some benefits out of the Impact Fee Moratorium; he is asking the Board to continue to do so especially in the phase of Federal tax benefits that are due to expire on April 30 for first-time home buyers; and it will be very helpful if the Board will consider extension of this Impact Fee Moratorium.

There being no objections heard, motion by Commissioner Infantini, seconded by commissioner Anderson, to adopt Ordinance amending Ordinance No. 09-08E Imposing a two year moratorium on the collection of Transportation Impact Fees from residential or commercial projects; changing the eligibility criteria from building permit to certificate of occupancy; providing for an extension of the moratorium; providing for severability; providing for an area embraced; providing for an effective date; and providing for inclusion in the Code. Motion carried and ordered unanimously. (See page for Ordinance No. 10-05.)

Commissioner Nelson stated he is going to support the extension, but there are a couple of things that were ran into last time that he wanted to bring up; one being the cities, with the issue of could the cities opt out; it was said that it was the cities call; he stated he asked Scott Knox, County Attorney, if there was some wording that could be incorporated to make the process easier, because what was being said was an impact fee study would have to be created to get out; a simpler solution was needed to continue to collect; and Attorney Knox came up with some wording that would assist the cities. He inquired if Attorney Knox could state what that change would be. Attorney Knox replied currently the ordinance provides exemption for any project that is under 1,200 trips between a certain date, so what he was suggesting was perhaps expanding it to read; any project that is more than 1,200 trips would be eligible to pay in any city if the city so chooses; and in other words, the city would have the option of staying in the exemption moratorium or ask to collect in the cities. Commissioner Nelson inquired if the cities would have to have a vote to stay in or get out; that is what is trying to be accomplished, so if that could be incorporated into the ordinance, that would address the issue. He stated the other issue he has is when looking at the impact there is only three percent of all permits issued, which were impact fee-related; 97 percent of all building permit fees that were issued did not get any benefit from this; he is still trying work to see if there is a way of spreading the economic benefit across a greater segment of the construction community; and the difficulty is if something is developed, the ordinance would have to be revised in a simple way that the Board could, in effect, be able to end the moratorium by implementing an easier way if approved instead of readvertising. He stated it could be an easier way of moving on; it would be as simple as this moratorium

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**PUBLIC HEARING, RE: ORDINANCE REVISING CHAPTER 62, ARTICLE V,
SECTION-4 EXTENSION OF IMPACT FEE MORATORIUM (CONTINUED)**

may be terminated at anytime upon the adoption of a resolution to that affect by the Board of County Commissioners at a duly-noticed public hearing. He stated all it say is that three Board members agree that there is a reason, then it can move forward with ending the moratorium; and doing whatever it is that is thought to be the better idea. He noted those three votes could change at anytime, and it would simplify the process and make the ordinance more flexible.

Commissioner Fisher stated at the last meeting issuance of County building permits issuance of 8,870 with most being sheds and fences, which created \$3 million in revenue; then he saw what the refunding was of the impact fees; and inquired how is \$3 million in revenue being replaced. Commissioner Nelson responded this is the total for all elements of a permit; stated he is focusing on building permits; incorporated in this were other permit collections for Natural Resources, with some of the others; at this point in time, he does not have the answers, but he thinks it is still a work in progress, and the benefit is only the three percent of the construction industry based on the permits being issued; and is there a way of better spreading the economic benefit across the community so that it encourages people to pull permits, because right now sometimes the difference between doing a project or not is the building permit; forget about the impact fees and the contractors who are out there who had to lay off people and are now having to compete with them, and are not pulling the permits, so it kind of levels the playing field for the roofer, plumber, or electrician; he does not have all the answers today, he is looking for a simple method of an answer that would make sense to the majority of the Board, to not go through this lengthy process of straightening it out; and it may be that there is not one out there. He stated he is certainly not asking to implement a plan today, but just provide an opportunity that if something came up with that works it can be done simpler.

Commissioner Fisher inquired if the Board could do that with the majority of the Board. Commissioner Nelson responded the Board would have to go through the full legislative intent and all of the different public notices. Commissioner Fisher inquired if it could be an emergency type.

Chairman Bolin stated what the Board is doing right now is for one-year and then it can be reviewed; inquired what is the pleasure of the Board on this Item.

Commissioner Nelson stated the amendment needs to include the wording related to cities.

Chairman Bolin inquired if Commissioner Infantini would like to amend her motion. Commissioner Infantini stated relating to the cities portion, she is okay with it.

Attorney Knox stated the clause that would be added is in the ordinance where it currently says a building permit prior to March 1, 2009; then would add; or upon majority vote of a city council where any city building permit is issued for a project, striking the wor;; and then continuing, that exceeds an average daily trip of trip generation rate of 1,200 trips.

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**PUBLIC HEARING, RE: ORDINANCE REVISING CHAPTER 62, ARTICLE V,
SECTION-4 EXTENSION OF IMPACT FEE MORATORIUM (CONTINUED)**

Commissioner Nelson stated he would like to make a motion to adopt and amendment that the Moratorium may be terminated at anytime upon the adoption of resolution, to that affect, by the Board of County Commissioners as a duly noticed public meeting; and again, all it does is it simplifies the process.

Commissioner Infantini stated she is not comfortable with having the opportunity to revoke something at a last minute notice, because some developers or builders could have something in process, knowing that they would have 12 months to act on that, and then all of the sudden the Board says just kidding there is only one more week to get something done; and she will not be supporting it.

Commissioner Anderson stated that is his concern; the industry out there has been told that there is one-year to give them time; and he does not want to give that uncertainty there where they might lose somebody at the whim of the Board without a lot of notice. He stated he is okay with the one year and it can be revisited in one year.

Commissioner Nelson stated the reality is three Board members could agree to end it tomorrow.

Commissioner Fisher inquired if it was agreed to end it tomorrow would some people have to be grandfathered in; and he is trying to see what the fairness of that would be.

Commissioner Nelson mentioned it does not change the position that the Board would be in if it decided to end the ordinance than any other time; this can be put in place and if for some reason the Board decides it is not a good idea, with three agreeing, and putting this in the ordinance does not change anything; and it is a simpler process and will make that a Motion.

Chairman Bolin stated there is a Motion on the floor; and inquired if there is a second. She stated motion dies for lack of a second.

**APPROVAL, RE: ITEMS ASSOCIATED WITH THE TRANSPORTATION ECONOMIC
STIMULUS PROJECTS**

Howard Tipton, County Manger, expressed his thanks to the Board for taking this Item out of turn; and the road projects take a long time to develop in a tight timeframe with the stimulus dollars.

John Denninghoff, Public Works Director, stated he believes everyone has been briefed on the Stimulus Projects; for the benefit of the public and those who are present, Stimulus One and Stimulus Two will be discussed today; Stimulus One is the list of projects that were funded through the first Stimulus Bill that was passed by Congress; it included sufficient funds to actually exceed the demands for the projects that were included in the Stimulus list of \$1.4 million; and approval is needed today for additional projects to be eligible for the \$1.4 million that could come to the County or unincorporated County projects. He stated there is a list of potential projects on the Attachment B with the Agenda paperwork, which needs to be the focus of the Boards

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**APPROVAL, RE: ITEMS ASSOCIATED WITH THE TRANSPORTATION ECONOMIC
STIMULUS PROJECTS (CONTINUED)**

discussion regarding Stimulus one; there was some interest of where the money came from, which projects did or did not go over from the original project list, which is included on Attachment A with the Agenda paperwork; and he will answer any questions if necessary. Mr. Denninghoff stated in addition to resurfacing and sidewalk projects, Intelligent Transportation Systems Projects (ITS) could potentially be approved for funding per an email received from Georganna Gillett, who is present today; and he indicated Florida Department of Transportation (FDOT) will provide the effort to design and construct ITS Projects in and for the County, so that it would relieve the Administrative efforts associated with ITS Projects; that is a latest breaking information as of yesterday; and it will have to come out of the \$1.4 million potential list. He stated in addition to that information there is also Stimulus Two, which is relatively new information that a lot of people do not know about; the Senate and House of Representatives have passed two different Bills for a second Stimulus Act; it differs in the amount and in the Senate version, it requires 90 days to have the project awarded to a contractor; and with that schedule in mind, FDOT has imposed a requirement on the County in order to meet the schedule for the 90 days, to turn in the completed plans and specification for projects that would be eligible for Stimulus Two. He stated it is an unusual situation, and it is unknown the amount of money that will be available because the Senate version has half the amount of money that the House of Representatives version of the Act has in it; the amount the Senate has is about half of what the County got in Stimulus One; and \$2 million would not be an unreasonable, low-end amount. He stated with the timeline plans, the specification plan could be difficult to get ready by March 1, 2010, which is less than one week away; there may be many jurisdictions that are unable to meet that timeline; what was done in response to that was to generate a list of potential projects, which is on Attachment C; and staff contacted consultants and inquired if the work could get done in time by the March 1, 2010 deadline. He stated the consultants have responded and are prepared to move forward, but there needs to be as much time given in order to get that done if that is the will of the Board; the list includes the design costs required for Stimulus One or Stimulus Two; Stimulus Two design costs are higher, consultants are bringing in what he will call contract employees who may have been former employees that have been laid off in order to be able to get it done in time, with working day, night, and over the weekend in order to meet the timeframe. He stated the County will not be reimbursed for the design costs associated with any of these projects; that is the risk the County has in moving forward with any of these projects; there is no guarantee that the County will make the Stimulus Two list or how much money will be available; and on Attachment C there is actually two lists, one for enhancement dollars of sidewalks; those funds are a portion of the Federal Stimulus Project funding, and cannot be used for resurfacing. He stated some of the sidewalk projects have design work already completed, but need to be tooled up to meet Federal requirements in order to qualify for the Stimulus funding and all of the costs are lists; the rest of the projects list is resurfacing; the Blount's Ridge project will not be eligible as it does not meet some of the major roadway requirements associated with the Stimulus mandates; and he is ready to answer any question at this time. He stated Stimulus One is \$1.4 million; any project that is selected for a Stimulus One project list then it will drop off the Stimulus Two list; and they are all almost included on both project lists.

Chairman Bolin stated the Board will be discussing this Item and she wants to make sure everyone understands this is trying to be done for the best of Brevard County and

**APPROVAL, RE: ITEMS ASSOCIATED WITH THE TRANSPORTATION ECONOMIC
STIMULUS PROJECTS (CONTINUED)**

its citizens; and she would like to open the discussion among the Board about how to use Stimulus money from Attachment B.

Commissioner Anderson stated yesterday he was trying to think of a way to do this; he asked Mr. Denninghoff to come up with a condition priority, which can be seen on the updated Attachment B to the right; and he inquired if Ellis Road is slated to be redone with the construction of going out to I-95. Mr. Denninghoff responded it is intended to be done, there has been no funding set aside for it, and the idea is for Ellis Road to be widened; a study was done and it indicated that it needs to be widened to four lanes; and will particularly need it if there is an interchange there, which would be the northerly terminus of the Parkway, with an interchange giving access from I-95 almost directly into the airport, so it does need to be done, but at this point there has been no funding allocated for the construction. Commissioner Anderson stated based on safety conditions and trim count, which the road needs to be repaired; and he feels more comfortable taking the politics out and deferring to the engineers to look at the list. He inquired is there time to put a finalized condition list together and bring it to the Board on Thursday, and the Board will vote on it; but otherwise, there will be five Commissioners with five different projects on the list.

Chairman Bolin stated what is being asked of Mr. Denninghoff is his professional opinion in looking at the list of roads are in the worst condition that needs immediate help. Mr. Denninghoff replied on the revised Attachment B that was sent out yesterday there is a condition priority' those with a one are the ones that are in the worst condition; he wants to stress that some times surface of a road can look bad, but structurally it is in good condition; and there are other situations where the surface can look okay, but structurally it is in bad condition; and that is sort of the situation on Babcock Street. He stated the roads with a one is Sykes Creek Parkway, Ellis Road, southbound lanes of Apollo Boulevard, and Evans Road.

Commissioner Fisher inquired if this making reference to the \$1.4 million that is available; stated the Board is trying to decide how to spend the available \$1.4 million; then later Attachment C will be discussed; and inquired with the \$1.4 leftover, where that goes. Mr. Denninghoff responded oddly enough there is more time associated with Stimulus One than with Stimulus Two at this point; and by this time next year, the Stimulus One projects need to be done.

Commissioner Fisher reiterated it looks like there are four priority one's, Sykes Creek Parkway, Ellis Road, Apollo Boulevard, and Evans Road; he does not know what those numbers total up to, but he guesses it is more that \$1.4 million, to help move this along \$247,000 Sykes Creek Parkway with Ellis Road at \$542,000 so that is \$800,000, and then Apollo Boulevard and Evans Road; and it looks like Apollo Boulevard would be more of a priority than Evans Road based on the congestion ratio.

Chairman Bolin inquired if Evans Road has a partner with the City of Melbourne. Mr. Denninghoff responded the City of Melbourne staff had indicated to him that they were going to propose to the City Council this evening, with the idea that they would contribute its full portion of the excess funds that were available, which total \$311,000; he has not received anything in writing from staff on this issue; and he does not know

**APPROVAL, RE: ITEMS ASSOCIATED WITH THE TRANSPORTATION ECONOMIC
STIMULUS PROJECTS (CONTINUED)**

what will happen with this yet. He stated as an alternative on Evans Road, the worst portion of Evans Road is from Hibiscus to 192; and half of the project could be done. Commissioner Fisher stated if the City of Melbourne comes in with the funding it goes from \$1.4 million to \$1.7 million. Mr. Denninghoff responded that is correct. Commissioner Fisher reiterated Sykes Creek Parkway at \$247 and Ellis Road \$542,000, which is \$800,000 between those two. Mr. Denninghoff responded that is correct. Commissioner Fisher reiterated Apollo Boulevard is costing \$492,000, leaving \$500,000.

Commissioner Anderson inquired if the Airport Authority had been spoken to. Mr. Denninghoff responded he has not spoken with the Airport Authority; the City of Melbourne's staff had; and it was indicated that there were no funds available to contribute towards Apollo Boulevard.

Chairman Bolin inquired where the Board stands with the monies.

Commissioner Fisher stated the Board should go Sykes Creek Parkway, Ellis Road, Evans Road, if the City of Melbourne participates; and if the City of Melbourne does not participate the Evans Road will be dropped and go to Apollo Boulevard.

Motion by Commissioner Fisher, seconded by Commissioner Infantini, to approve Stimulus One projects for excess remaining Stimulus Projects totaling \$1,428,278 in the order of Sykes Creek Parkway, Ellis Road, and Evans Road using the City of Melbourne portion of participations; and if participation is not provided, Evans will drop and Apollo Boulevard will be added. Motion carried and ordered unanimously.

Commissioner Fisher stated Stimulus Two is also getting funding, and if it is in the neighborhood of \$11 million, the Board should take Mr. Denninghoff's recommendation and go with those projects on the list and allow him to do the design; and the design is 20 times effective on Attachment C if funds are available.

Mr. Denninghoff stated the funds are available for the design portion out of the Capital Reserves for Constitutional Gas Tax; there is no money to do the construction and will have to come back to the Board with Stimulus Three. Commissioner Fisher inquired if there should be a gamble and to spend \$700,000 in design when it is not known if there will be \$12 million worth of construction available. Mr. Denninghoff replied yes, that is kind of the question; he will tell the Board that these designs will come in handy in a variety of ways when funding does become available; and those jurisdictions that have projects on the shelf and ready are reaping the benefits of that right now, because the project lists have been turned in and are moving forward.

Commissioner Anderson inquired if some of these are duplicates from the first list that will now drop off. Mr. Denninghoff responded yes, those duplicates would be dropped off; and this evening he will know the difference on Apollo Boulevard versus Evans Road.

Commissioner Nelson stated he only has one project on two lists out of about \$16 million; the Central Part of the County gets less than \$300,000; and he does not see this

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**APPROVAL, RE: ITEMS ASSOCIATED WITH THE TRANSPORTATION ECONOMIC
STIMULUS PROJECTS (CONTINUED)**

as being acceptable, because there are more roads that just did not get added to the list due to a variety of factors; but he cannot support it, and feels that it is terrible.

Chairman Bolin stated she has two roads on the lists and both are parts of Wickham Road; and there are roads falling apart in other locations.

Commissioner Anderson stated he is referring to Mr. Denninghoff's expertise because he does not know what roads are falling apart.

Commissioner Infantini stated if the original distribution of \$5.7 million is gone over again; it will show that District 3 received less than 10 percent, if that is divided by five, each Commissioner would have received theoretically 20 percent; the good of the County is being looked at, and not each individual District specifically making sure each get its share; and she wants more, but right now she is trying to look out for the entire good the County's roads that are in the worst shape.

Commissioner Nelson stated if all of the road dollars are gone back over and be divided up individually, because in the last \$200,000 million of Road Bonding, District 2 received \$10 million; if the shafted wants to be discussed out of this process the center part of the County has continually received a beating; the point is it has to balance the needs across-the-board; and it is not about being parochial, but the citizens still have to be considered. He stated the analysis of how these dollars were originally distributed is unfair; the unincorporated area gets treated unfairly in the distribution of road dollars; now it is going to be complicated further by building basically all of these roads in cities and the unincorporated areas of the County are not going to be treated fairly; the Board directly represents the unincorporated areas, and the cities get its own dollars in addition to what the County gives them; and this needs to be fair to the citizens of the County with road needs throughout the County.

Chairman Bolin inquired if there is a motion for Stimulus two. Commissioner Fisher responded no, he thinks there is a huge discussion going on with Valkaria Road to Micco Road not having problems; and stated maybe some of the dollars from Valkaria Road and Micco Road can help District two.

Commissioner Anderson stated he does not have a problem with that; Commissioner Infantini and he are suffering with Minton Road failing terribly; he is running into a problem like Commissioner Nelson, and the Board cannot use Municipal Services Taxing Unit (MSTU) dollars on Minton Road to fix it, because it is well within a city and it is falling apart due to a shoddy contractor ten years ago taking advantage of the County. Commissioner Fisher advised that does not effect Valkaria Road. Commissioner Anderson stated he does not think this should become political or parochial; he wants the road experts to determine what is best for the County; and inquired if Commissioner Fisher was talking about Babcock Road, because that is in Commissioner Infantini's District. Commissioner Fisher responded he is talking about south part of Valkaria Road to Micco Road; but he thinks Commissioner Nelson has more things in his District that are more pressing. Commissioner Anderson stated he and Mr. Denninghoff had spoken about it and it is a border road; he drove it to the airport and he did not think it was bad, but there may be things that he does not see failing that he may not be aware of.

**APPROVAL, RE: ITEMS ASSOCIATED WITH THE TRANSPORTATION ECONOMIC
STIMULUS PROJECTS (CONTINUED)**

Commissioner Fisher stated there are a lot of roads that are failing and it depends on the usage. He inquired if Commissioner Nelson would entertain the \$1.4 million in his District. Commissioner Nelson responded he is not sure what Commissioner Fisher is speaking of. Commissioner Fisher stated on Attachment C, the fifth one down is Babcock Street/Valkaria Road to Micco Road, which is allocating \$1.4 million; he is saying possibly taking that \$1.4 million and helping some of the pressing needs in District 2. Commissioner Nelson stated he also thinks that Commissioner Bolin is kind of in the same boat as he is in. Commissioner Fisher stated he is in the same boat; and all Commissioners are in the same boat as far as getting all of the dollars needed.

Mel Scott, Assistant County Manger, stated he wanted to let the Board know that one of the unintended consequences of the Stimulus dollars is the criteria that these particular road projects have to meet to satisfy in this time crunch, so looking at it from an equity standpoint, north and south, it is easy to see that there are certain areas of the County that are not enjoying the benefits of the Stimulus dollars; and he wanted to make it very clear that, that is a function of the criteria and the strings that are attached to the Stimulus dollars, are in no way reflecting staff's or the Board's recognition of the need that exists throughout the County, in District 2, and in the north portions of the County. He stated if some other District 1 and 2 projects could be found, the best will be done to uncover those that have not previously been identified.

Commissioner Fisher inquired since the designs have not been done yet does it mean the projects are not shovel ready. Mr. Denninghoff responded to move forward with Stimulus Two it is to direct the consultants to move forward with the design on the condition that they have it ready on this coming Monday; and those are the design dollars being seen today, which are not reimbursed; it is a requirement in order to be eligible to receive the construction funds; construction will not be moved forward unless additional local monies are found or the County actually meets the requirements and receive the funding through FDOT for Stimulus Two; the project will not move forward without meeting those eligibility requirements of the critical timelines; and the design costs would be spent, but will not move forward to construction unless qualified and approved with FDOT. He stated FDOT will be carrying the ball on these projects once the plans and specifications are ready, which he is pleased about.

Chairman Bolin stated Wickham Road from the Pineda Causeway down to Post Road is a high priority in District 4; and inquired what the pleasure of the Board is at this time.

Commissioner Nelson stated he is going to suggest that the Board needs to look at identifying projects within each of the Districts that they are equally funded; if it is done by Commissioner/District and three of five want to put its money into their roads, each could do its own, because there are combinations of things like ITS projects that are ready to go that did not make the list; and in fairness to the citizens, it needs to be balanced. He stated the road systems have been approached as a worst-first-basis, with the problems being bad planning in portions of the County are receiving the benefit of it and other parts of the County are being left out of the discussions; and he knows it all cannot be funded, so it needs to be made fair and balanced among all districts for the contractors in the area to get the benefits from this. He stated his recommendation would be to take the \$12 million from the list and divide it by five and whatever that

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comes to, identify the projects, and give them to Mr. Denninghoff, which will become the list.

Commissioner Anderson stated he is fine with it; and he is going to lobby Commissioner Infantini on the Minton Road project.

Motion by Commissioner Nelson, seconded by Commissioner Fisher, to approve projects for Stimulus 2 Projects; approve the following items associated with the Transportation Economic Stimulus Projects, as necessary (1) Resolution for the Local Agency Participation (LAP) Agreements; (2) Permissioner to bid and award to the lowest responsible bidder for each project, and authorize the Chairman to execute contracts; (3) Authorize the Chairman to execute Interlocal Agreements with municipalities for the projects as applicable; (4) Design/Construction Management fees for the projects; (5) Use of Constitutional Gas Tax for the Design/Construction Management and Construction of the projects; and (6) Chairman to execute all Budget Change Requests. Motion carried and ordered unanimously. (See pages for Exhibits A through D.)

The Board recessed at 11:14 a.m. and reconvened at 11:31 a.m.

APPROVAL, RE: EXECUTION OF STATE NEGOTIATED OPTION OF PURCHASE OF BLUE CRAB COVE IN ACCORDANCE WITH BOARD APPROVED STAN MAYFIELD WORKING WATERFRONT GRANT CONTRACT

Ernest Brown, Natural Resources Management Director, stated the last time this Item came before the Board was January 26, 2010, with much discussion; the Board tasked staff to work with the owner to come up with a renegotiated price at a minimum to meet the average of the two appraisals that are in place; the current price that is agreed to by the State and the owner is \$2.825 million for the property; and he will refresh the Board's memory with a slideshow of the working waterfront ranked numbered two in the State for the Stan Mayfield Working Waterfront, who was a former Representative for Brevard County with the State Legislature. He stated Mr. Mayfield's design for this grant was to ensure that commercial fisheries operations were able to continue for the economic and cultural values for the communities served and the State as a whole; this particular grant is funded 65 percent from the State and the remaining balance of just under \$1 million is coming from Merritt Island Redevelopment Agency (MIRA) funds; both funds are dedicated and funded for the purposes of those individual programs; and the funding for the Florida Communities Trust Stan Mayfield Working Waterfront Grant will go to one of the 12 listed. He stated the location is on Merritt Island, which is the Gateway to Merritt Island, in particular the MIRA's Gateway out of Cocoa on State Road 520; it has been a historical working waterfront for many decades for commercial fisheries but also for boat building, marinas, and the like; this site in particular brings a great deal of economic value to the community; and the actual over-the-dock value in Brevard is about \$1.4 million. He stated Brevard is the seventh largest seafood producer in the entire State of Florida; Brevard County provides 25 percent of all of the Blue Crab along the east coast of Florida; and this particular acquisition would make sure it is maintained and invested

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**APPROVAL, RE: EXECUTION OF STATE NEGOTIATED OPTION OF PURCHASE
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into the future of what is an agricultural commodity into Brevard. Mr. Brown stated he does not want to belabor the point; and he will tell the Board that negotiations were successful with the price, down to the average of the two existing appraisals.

Chairman Bolin inquired if the price has been lowered it only requires a three-vote. Scott Knox, County Attorney, responded correct, it is a majority vote.

Dan Patrick stated he resides at the condominium adjacent to Blue Crab Cove; he stated until two weeks ago his term ended as he was the President of the Association of Island Point Condominium Association; and the Association decided that having a lawyer working for them for nothing was a good thing and that is why he is involved today. He stated he sent a letter last month to Commissioner Nelson on behalf of the Island Point Condominium Association, which has 185 units; with a unanimous vote of its board in support of the acquisition of the Blue Crab Cove by the County; and it thinks the way it will be developed would be beneficial to the residents; and the visual appearance can be improved as coming across the bridge. He stated the Island Point Condominium Association asks to be kept involved because it impacts residential life and would like to have some say and be consulted with as the planning goes along; and there is a proposed marina there and if there is impact of the marina he requests the Island Point Condominium Association be notified of it and its impacts be noted as it is developed in a way it is consistent with residential life.

Joe Spaziani stated the last time he came before the Board was with Bone Shakers Tavern; and he appreciated the Board's support at that time. He stated he believes this is a great extension to the waterway park that comes into the entrance to Merritt Island; everyone at Island Point supports it, because there was a small poll taken at its last meeting; and all 50 people present were in support of this project.

Kathy Bird stated she is known as the messenger; the last time this was before the Board there was some discussion and she does not think there has been any change with jobs being added into the contract; she wanted to bring up hotels because she has seen the site plan layouts; in the southeast section, she was told it will be used for parking, but it is not restricted to remain parking; and due to the owners wishes it is up to him and what he would like to have as the criteria of a working waterfront. She inquired what can be build on that large area, which the hotels actually fit a working waterfront criteria; and as Tom Norwood had stated at a previous meeting with the Bone Shakers Tavern, that was the intent; and she believes it was going to be called the Blue Crab Inn, so be it a hotel or an Inn it still meets the criteria. She stated when the Blue Crab Cove was before the Board, she was fine with it then as it is right next to the Interstate where the commercial activity should be; however, most hotels actually have bars and restaurants; she thinks the Board is going to find itself in a conflict if it said no to Bone Shakers, but there will still be a bar; the owners actually called this future hotel/bar Bone Shakers; in fact, the owner Duane Watson and the Griffis family yet the illusion is given that the front-man is Ric Griffis, who is the son of Duane Watson, who is a developer; he will put up a hotel; and inquired if Island Point Condominium knows about that. She inquired if that has been discussed in the traffic pattern; stated from what she recalls there was a bit uproar of what does on Marteese Road; if everything is put on

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this site-plan for the profit margin; there is a problem with parking spaces and the parking ratio has historically been two votes for one parking spot; and hopefully it will get to three to four votes to one parking spot, so with three to four votes to one parking spot, think of it in terms of the consumer, because Stan Mayfield had it for the intent of commercial fisheries; and as this big funding went through the legislative cycle there were huge development perks on the uplands, which is a purchase of the shoreline easements, so this becomes a boat ramp acquisition program. Ms. Bird stated if this is a boat ramp acquisition program, there are recreational boaters who expect the trailers and boats on that site for the boat ramp that is hoped to have, but what is unique about this site is the two buildings for seafood retail; and with Brevard County being a significant retail source there is an opportunity with waters that could get very unique and proactive on a design to get a fisheries unit, because what is happening today are the outlets for that harvest, but there have not been any jobs written into it. She stated the philosophy must always be jobs first instead of a park inventory to an already very heavy inventory of parks in this particular planning area, with what the philosophies are; and inquired why jobs are not being put into this contract.

Tom Norwood stated he represents Ric Griffis the present owner of the property; Mr. Griffis owns the property and the corporation that owns the property; and he wants to clear up anything that may be in question; he has been associated with this property since his father bought it in 1939; and it was sold in 1993, so he is very familiar about how this property came together and how it is going right now. He stated the property had been sold to Town Reality and there would be a tower located on the property if economics would not have changed the plans, because it is a Planned Unit Development (PUD) with 66 units being authorized as commercial property, but that is not where it is headed now; now it is heading towards the working waterfront and this will probably be the last example with visible property; there are 55,000 cars a day that pass this property and see it all the time; and will be a beautiful place to represent the County and to preserve the property as a working waterfront. He stated Mr. Griffis could not be present today, because this is the first time in about five working days that he has had any crabs and he is processing about half of a ton of them right now; it is a very busy time for him; and he asked him to convey his apologies for not being in attendance today and encourages this projects. He stated this is a good project for all and if there is anything going on about a hotel he does not know anything about it and he does not think Mr. Griffis knows about anything going on either; he only heard about a hotel from Ms. Bird today; and he will leave it at that and he is not criticizing Ms. Bird's information, where she got it, and if she thinks he said anything about it then he denies he said it. He stated he has talked about things that were historical when first speaking about this and they have made Ms. Bird think he was talking about something that was going to happen in the future; and it is not anything like that going on. He stated this is a good project for all concerned, including the citizens of the State of Florida as well as the citizens in Brevard County; and he sincerely encouraged the Board to vote yes for the project.

Jerry Butz stated he is present today to voice his support for Blue Crab Cove. He stated public land when properly utilized is a catalyst, it is a catalyst for exceptional events and ordinary people to get together in community to do exceptional things. He stated he is a free market guy and a strong believer of a free enterprise with a product he will majorly

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sell it, but he does have to be honest at this point; he currently owns a local business and he could not have succeeded to where he is today without the support of local government and the strong public sector enabling his private enterprise to succeed. He noted Rockledge City staff, local law enforcement, Lee Wenner Park, and Brevard County Parks and Recreation; these developments and resources are critical and are a catalyst for his business to succeed; and his business was purchase eight years ago and it is a boaters exchange that sells and services boats; and he and his wife have worked diligently to grow its private enterprise into a positive factor into the community and are blessed with a wonderful facility and the best team of employees in Brevard County serving local citizens through the love of boating. Mr. Butz stated this past year his business grew by over 20 percent to spite the tough economic times; the root cause of this success is the people in the community need to recreate, they need to get out of its offices, spend time with family, de-stress, unwind, cool-down, and enjoy life. He stated public land is a catalyst; catalyst for ordinary people to do exceptional things with friends, families, and fisherman returning to the ramp bringing in that first Marlin, the mom holding a birthday party at a pavilion in a public park, the dad launching the family boat and taking his kids tubing on the river, the teenagers loading into a Jon Boat, so they can motor-off to an island and camp overnight, a local yacht club holding a major sailboat regatta; and public land is that catalyst that enables ordinary people to do exceptional things. He stated for the past three years he has been organizing a world class international sailing event, to bring people to Cocoa from around the country; it is all brought about by the anticipation of the upcoming Summer Olympics in London 2012; the whole world is sailing and gearing up, for a newly introduced Olympic even; the event is known as Match Racing, with two identical sailboats on a course, racing against each other, dueling it out to gain advantage, and win the race; it is very exciting to watch, particularly the people on the shore and is very easy to understand, fun to participate in; and people from around the world are looking for opportunities to participate in this event such as competitors, fans, officials, instructors, and sailors who travel from far away to earn Match Racing points, to learn the sport, and to gain the experience. He stated partnering with Brevard County Parks and Recreation and Lee Wenner Park in Cocoa, as the catalyst; he has been the host of a major event of the Match Racing Circuit; twice a year people have been coming to Brevard County from Texas, California, Rhode Island, Wisconsin, and Connecticut to participate in the Cocoa Match Race, to utilize the resources, to stay in the hotels, to eat in the restaurants, and its take-away is consistent by enjoying the steady breezes, love of the warm protected waters of the Indian River, adoring the friendly people, who are impressed with the great facilities; and it is the catalyst that enable ordinary people to exceptional things. He stated last month he got a call from Richard Reichelsdorfer who is the Executive Director of Sheboygan Sailing Center that spends the Winter down south, because it is too cold in Sheboygan to sail, with Miami being Mr. Reichelsorfer's current home it simply too unfriendly for its purposes; and not enough public land to enable them to hold the weekly training matches for Olympic hopefuls. He stated Jack Masson and he could not pull together a strategy quick enough, so they had to stay in Miami, but the message is clear; the Natural Resources, coupled with the public lands and friendly people, is paradise for northerners looking for a winter home; public lands are the catalyst for the ordinary people to do truly exceptional things. He stated for the past two months he has been putting together a group of local investors to purchase the unbuilt Marina next door; this

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group of businessmen are locals and are not deep pocketed Miami investors, they are planning on building the Marina, and leveraging the fact that there will be a public park next door; and with this Marina, it will be a nice compliment to Blue Crab Cove, to make the corner of Merritt Island the Central Park of Brevard, the Lambo Field of east Florida; and public lands where ordinary people are doing exceptional things.

Chairman Bolin stated she received a letter from Commissioner Charles Bronson, Florida Department of Agriculture and Consumer Services, dated February 17, 2010; she has provided each Commissioner a copy this morning; and it is written by a fellow Brevard County resident. She stated she would like to read aloud a couple of sentences from Mr. Bronson's letter "I would like to congratulate Brevard County on the successful award of the Stan Mayfield Working Waterfronts Grant. This grant program is a key instrument in securing the future of Florida's seafood industry. Specifically, Brevard County produces more than 25 percent of all the Blue Crab along Florida's east coast; this activity, ensures the industry remains viable and is a key to the long-term success of the resource of our economic diversity. I would like to express my support for the Blue Crab Cove project and hope that the project will provide the long-term and sustainable foundation that Brevard's seafood industry needs".

Commissioner Infantini stated she understands three votes only are needed at this time; her concern is buying more private lands land and it is being put into the public government ownership; Brevard County owns so much land in the way of parks right now and with severe budget crunches, to be using another million out of the Merritt Island Redevelopment Agency (MIRA) fund is taking money that has been taken from the General Fund, which is money that has been coming out of the General Fund that could be used for the core functions of government that is not available now because some may be getting ready to vote for the waterfront; and she is not in support of this and this property has not changed hands in the last ten years. She stated property records reflect that it was purchased in 1996 and it has not changed hands and she does not see a deep desire for people to go in and build on it right away; and if it were such a necessary item she thinks private corporations would go out and buy this land for \$3 million, even through the Property Appraiser has it assessed at \$1.3 million; and she is very much against it.

Commissioner Anderson stated he agrees and he understands the concern of the residents of Merritt Island; if Blue Crab are such a gold mine then he would buy it tomorrow and start processing Blue Crab; and unfortunately, they are not and the demand for them is not that large. He stated yesterday there was research done on this property and he does not know what the appraiser was looking at, but certainly there is a big discrepancy between the Property Appraiser's web site and what the appraiser came back with; he does know the Property Appraiser's site is not even close to accurate and there are two separate parcels there; one was listed for a total market value at \$1.1 million and the smaller parcel at \$75,000, with a combined total of \$1.2 million; and it is nice to stay that this is state and grant money and not General Funding money; and there is a big discrepancy between \$2.9 million and \$1.2 million and based on that that he will not be supporting this.

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Commissioner Nelson stated this project has the support of the entire legislative delegation; and taxes will be paid on the business, which is the difference. He stated Brevard County has one of the largest public lands on the east coast, which is the Kennedy Space Center and there is support with the commercialization and the protection of it; he stated the reality is, when free market is mentioned the value is greater for residential than it is going to be for commercial; and all farm land and aquaculture can be gotten rid of, with the question left being who is going to fee the County. Commissioner Nelson stated in reality, the legislature believed it to be important enough to protect these kinds of lands and created the program to support it with grant dollars; and he believes Brevard County deserves to get its fair share of grant dollars from the State or any other source, because if Brevard County does not somebody else is going to. He stated he knows of discussions with Mr. Brown and Jerry Sansom, Vice Chair of Florida Inland Navigation District, and they will support up to 25 percent of the acquisition costs, which is \$700,000, so the local portion of this is going to end up being less than \$300,000; it is a great and positive step for Merritt Island; and that location has been looked at in the past and was almost lost; the Planning Unit Development (PUD) still exists; he thinks there was a question in the appraisal that indicated the site plan was not submitted; and that was inaccurate because this was part of a modification of an existing PUD, so it does continue to exist and the potential for condominiums is still there. He stated with the issue of hotels, he would never ever support hotels in that location; it is inconsistent with the program and with what this Board has indicated as its use; to him it is a non-issue, because it is not going to happen; this is the most positive thing this Board can do for Merritt Island; and this Board is the City Council for Merritt Island, whether it is liked or not, he is just the representative and everyone of this Board is part of the group that needs to look at Merritt Island and help the City of Merritt Island to succeed; and this is one way to do it. He stated he is very proud to support this acquisition and he thinks staff has done a remarkable job, with some very difficult circumstances, to get to this point; the community has stepped up; and he appreciates what Mr. Spaziani, MIRA, and all of the condominium folks have done. He noted as he makes this motion, he wanted to make sure that the Board understands this has to go back to MIRA for a the finalization of a couple of steps that includes the approval of an Assumption of Agreement and an Interlocal Agreement with the Board of County Commissioners.

Motion by Commissioner Nelson, seconded by Commissioner Fisher, to execute Florida Communities Trust (FCT) Option Agreement for the purchase of Blue Crab Cove per Grant Contract dated May 19, 2009, with renegotiated purchase price of \$2,825 million per Board direction of January 26, 2010; and authorize staff to negotiate an assumption agreement for approval by MIRA and the Board prior to exercising the option agreement on or before June 30, 2010. Motion carried and ordered; Commissioner Infantini and Commissioner Anderson voted nay. (See page _____ for Option Agreement for Sale and Purchase).

Commissioner Infantini stated the other item of concern that she has is who is going to pay for the development and reconstruction of the property, because right now most of the docks appearances that she has seen are dilapidated and needs to be rebuilt; the

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boat ramp needs to be rebuild and she is concerned there will be more General Funds monies given to the MIRA to finance the rebuilding of this; and the \$3 million is just a drop in the bucket, because next it will have to be torn down and rebuilt; and she does not know where the money is going to come from, with the core functions needing the money for government. She stated she likes having pretty things like trees and bridges, but right now there is not enough money to finance all the things wanted and focus on the needs with caution knowing there is a budget shortfall coming up this year; and she does not know where they are going to get the money to pay for the things wanted, while there is not enough for the things needed.

Commissioner Fisher stated he needs some clarification because he keeps hearing statements about coming out of General Funds; and he thought it was MIRA money.

Mr. Brown stated it may be best answered by the either the County Manager or the County Attorney, as it relates to how MIRA works to its funding sources and process.

Scott Knox, County Attorney, stated MIRA is a Community Redevelopment Agency (CRA) and the money that would normally be collected by the County in the MIRA redevelopment area goes to MIRA, as a redevelopment agency, instead of the County.

Commissioner Infantini stated the General Fund. Attorney Knox responded right. Commissioner Infantini stated instead of going to the General Fund it goes to MIRA, for the last 20 years all of the appreciation and value has gone to MIRA; if that was done in the South Beaches the property values were 25 percent of what they are currently; if all the appreciation and property values were set aside in the South Melbourne Beach area for the last 20 years just to develop it; and she can promise asking for sand renourishment would not be asked for.

Commissioner Fisher inquired if there was a CRA discussion about six months ago; and what was the determination of that CRA meeting. Stockton Whitten, Assistant County Manager, replied there are about 14 CRA's, which is a part of an annual discussion, with regards to how those are going to be handled within the budget and whether or not they will continue, which was approximately seven months; and the Board either took no action or took some motions. Commissioner Fisher stated he thinks what is kind of confusing is this Board has made a decision that CRA's were unimportant to the cities that had them; and that is a funding mechanism that is allowed by the State and this County has participated. He stated his concern is the lease arrangement and inquired if all the players understand that this agreement does not have the details in terms of the lease and he is hoping that the seller understands that when they lease the property back there is an expectation in the lease from him that he will be paying fair market value for that.

Mr. Brown stated he would like to clarify that point of interest; there has to be a lease assumption agreement that articulates the particulars of the lease and the negotiation process between the existing lease holders and the County; and if that is something that is not acceptable to the Board or to the current lease holders then the deal dies. He stated three different documents will have to come back before the Board; one, being

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the Interlocal for MIRA committing to the funding, two is the Lease Assumption Agreement that all parties including Florida Communities Trust have to be accepting of as to how those leases are formerly constructed in the operations, and the third is the Management Plan, which is a contract between the State and the County, which will articulate how the improvements will be made through Grants and not an encumbrance upon the future of General Funds of Brevard County.

Commissioner Fisher inquired if this Commission ultimately decides whether the lease is favorable or not. Mr. Brown responded yes; and it will first go through MIRA and MIRA will serve up the recommendations to the Board for its final decision. Commissioner Fisher inquired if there are any General Fund dollars that are going to make any repairs, because individuals have said they are looking forward to the County owning for the change in the look; and if there is not any Grant money they will not see any changes in the look. Mr. Brown replied that is correct; the entire proposal will be conditioned upon availability of Grant funds or other funds, as approved by the Board, which could include MIRA monies in the future as articulated in the Agenda Report, with the plan to have Grant funds to do the improvements and it may be some time before those improvements are made.

Commissioner Nelson expressed hi thanks to Commissioner Fisher for clarifying the issue on CRA's because there are 14 CRA's and 13 of them are in cities; and arguably there would not have been any appreciation in value if there had not of been a slum and blight study done; and improvements made to increase the value of those properties, which is why the redevelopment agencies are used, to encourage the improvement of the community. He mentioned if Commissioner Infantini would like for the County to do a slum and blight study on South Beaches he guesses it could be done, but in all reality there are some areas of the communities that are in old and tired condition; and CRA's are the mechanism for allowing those to improve and if not, there will be no addition to the General Fund. He advised it is beneficial on so many different levels and he appreciates being able to move forward, because it is protecting resources in the State of Florida. He stated he spoke with Debbie Mayfield; she is extremely excited about the possibility of this being acquired because that will mean that two communities that she represents will have benefited from the Program that her husband put before the legislature in extremely difficult conditions; and was able to be get it passed. He stated this could not have been afforded if it had not been for the down-turn in the economy and this is an opportunity for Brevard County to acquire this and put it to commercial use and perpetuity instead of it being turned into residential, which has a greater service needs; and he would like to see the project moved forward.

Commissioner Infantini stated if somebody is selling a piece of property, that theoretically means they do not want the property anymore, but to turn around and lease it back to them, because it looks to her like the current lease is set at about \$20,000 per year, which is about one percent of the selling price; and inquired why would it be leased back to the same person it was bought from and why not put it back to the general population to see who would like to occupy the structure if indeed this Board makes the decision to purchase it, it should be put out to bid so anybody could have the option to lease it. Mr. Brown responded the current Option Agreement that is before the Board

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today includes the assumption of the two leases that are on the property, so that is not a situation that can be adequately addressed at this time; he will tell the Board that a condition of the Commercial Working Waterfronts Grant is to ensure that there are commercial working waterfronts on the property; for the County to kick the current functioning viable enterprises that bring tax revenue in to employ people in this County off there in the hopes to find somebody else to do it will likely create a significant lag in operation of the facility. Commissioner Infantini replied it only represents one percent of the purchase price; would the County be renegotiating the lease or would it be accepted at that rate, because it is not a very good return on the investment. Mr. Brown replied he is not a certified appraiser nor a certified broker in the State of Florida, so he cannot speak to the efficacy of that particular argument; he can tell the Board that the Lease Assumption Agreements will be negotiated and MIRA will be taking the lead on that negotiation process; and brought back to the Board with any changes.

Commissioner Anderson stated what he spoke of earlier was given to the Clerks office, so if any of the Commissioners want it, he can provide them with a copy of his memorandum for the record; and he wanted to mention it, so they know he is not cheating them out of anything. He stated in going back to the lease situation; he inquired at what point can the County try to get somebody else, because in his eyes the County is paying \$1.6 million more for this property than it is worth; and he does not know if that is right or not; it is nice to say that it is Grant money; and he is glad the legislators are excited. He inquired when can there be recruitment to get other individuals available, because there could be someone willing to pay \$25,000 and that would be more revenue. Mr. Brown replied he is not a certified broker in the State of Florida, nor is he a certified Property Appraiser, and he cannot speak the detail of that or the appraised values, which has not only been certified by the State but also confirmed by two other appraisals as to the current standing price. He stated to answer the question of when can it be put out for Request for Proposals (RFP), as it currently stands now the assumed leases, which were constructed by private parties on the property between those private businesses for the continued operation regardless of whether this sale transpires; it is five years leases with options and the elements of it would need to be part of a discussion with those current lease holders, as to whether or not they would be willing to entertain any modification off of that. He stated if the Board wants to modify the options, it would have to be voluntarily modified by the current lease holders. Commissioner Anderson stated the current lease holder has a five-year deal right now. Mr. Brown advised with options to renew. Commissioner Anderson inquired if at some time that lease is going to come back to the Board. Mr. Brown responded yes. Commissioner Anderson stated if three Commissioners on this Board want to go buy this that is fine, and if a motion were made to do a two and one-half year option for renegotiation. Mr. Brown stated the most appropriate time to do that motion would be when the lease assumption agreements are being evaluated. Commissioner Anderson stated if he does not want to muddy the water today, he could just state that is fine, because it appears to him today that three Commissioners are going to let this move forward; and when it came back to the Board, he can make the argument that negotiations need to be made, because at least one Commissioner is not going to sign off on a lease agreement that has a five-year option with options. Mr. Brown stated he can assure Commissioner Anderson that the conversations that are held in this

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chambers will be abundantly clear to the leaseholders and that the Commissioner will be apart of the negotiation process that MIRA has with those lease holders.

Commissioner Infantini stated it should be noted that this lease was entered into on the first day of February, 2010; inquired if someone knew that this property was about to be sold why would it be encumbered with a five-year lease; is it because it was thought to be such a done deal with locking the County in; and again, she is suggesting that the County not affirm this contract with this lease attached, because it is now encumbered by a five year lease that was just created 22 days ago.

Mr. Brown stated the reality is those private enterprise business structures were actually promulgated by the sudden and untimely death of Mr. Pete Silverman, who was the proprietor of Doc's Bait House, which resulted in the property owner and the associated business operations to restructure its corporate relations; and that was the impotence of that in association with the County's request to reduce the price by \$75,000.

Attorney Knox stated for clarity of the Board, with the Agreement being entered upon is an option; it has 60 days from the day that it is signed, with the option, to determine if the option is going to be exercised or not; one of the contingencies in the Agreement is that the County negotiate an Assumption Agreement that is satisfactory to the Board, with that Assumption Agreement pertaining to specific leases being spoken of by Commissioner Infantini; and if the Board is not happy with the terms of the Assumption Agreement, as they may or may not modify the leases that exist, then going forward with this deal does not have to be done.

Commissioner Nelson stated the discussion between the two structures and the business associated with those structures need to be separated in the actual crabbing industry, because a co-op has been talked about to actually encourage additional landing of product through this site; and he thinks everyone is kind of hung up on the restaurant and the bait shop, but there is also the commercial aspects of crabbing. He stated an expansion will be experienced in this industry, at this location, which is really the primary purpose of the grant itself; it is not to buy a restaurant and a bait shop; and it is to encourage the actually landing of marine products through this site.

Mr. Brown stated the way the grant is written, the property has to be available to all commercial licensed fisherman; the development of this property will accommodate the grant, which does not currently exist as privately held; those commercial fisherman are able to use it, but it is up to the private industry to determine who comes on it and who goes off of it. He stated the development of this is to ensure that it is available to all commercial fishermen within Brevard County and will elevate some of the pressures of nearby boat ramps, because the commercial fishermen tend to crowd the public boat ramps in others, because they have no other place to operate its commercial enterprises; and this would facilitate the on and off load of its equipment and storage.

Commissioner Nelson commented about the Agreement itself and he is going to mention the Beltway, but from a different perspective when dealing with an agriculture organization and the County offsetting the loss of its value through \$1.8 million worth of

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improvements that Brevard is paying for; the concept of when negotiating a structure of a deal it varies based on the circumstances related to the deal that is being negotiated; there were two commercial businesses in operation; actually three when considering the Crab Landings in the case of the Platt Ranch structure when talking about its impact to that business, with the donation costing some money, because it was part of the structure that would be donated if certain things were done; and he thinks this is part of any kind of financial arrangement with the initial owner to be looking at all aspects of how that relationship exists; and he does not see it as unusual or even uncommon to be talking about leases in this perspective with the Platt and the impacts to the Ranch.

Commissioner Anderson stated he does not disagree and it is the principles that he is going to change; the Platt deal was for a legitimate government function to build a road; he does not think this fits any criteria with the principles that he ran for office in with a legitimate government function. He mentioned he may be wrong and he may be wrong in the eyes of a lot of voters in his district and they can get rid of him in three years, which is fine; and he is not going to bend his principles in this.

Commissioner Fisher stated he wanted to mention the lease, he thinks it is important to understand that usually when buying a piece of real estate, that is income producing property, and has a lease agreement on it; it is more favorable as a purchase versus going and buying a building and it is vacant with no lease agreement; and the income will be known.

Attorney Knox stated before leaving this issue, he wanted to make sure he understands the motion; and he inquired was it prior to execution or prior to exercise at the option intended. Commissioner Nelson inquired based on the discussion which it should be. Attorney Knox responded it should be prior to the exercise of the option.

Chairman Bolin noted for the Clerk's office to make the motion state prior to the exercise of the option.

RESOLUTION AND CONTRACT FOR SALE AND PURCHASE WITH NORTHPORT HEALTH SERVICES OF FLORIDA, L.L.C., RE: PROPOSED SALE OF WEST MELBOURNE HEALTH CLINIC/NURSING HOME PROPERTY

Commissioner Fisher stated he was asked by the Board to negotiate this deal; since June the Board has been in negotiations with a lot of conversations and meetings; and finally came up with a favorable sale.

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to adopt Resolution documenting the terms of the sale as required in Section 125.38 of Florida Statutes, and executed the Contract for Sale and Purchase with Northport Health Services of Florida, L.L.C. for sale of West Melbourne Health Clinic/Nursing Home property. Motion carried and ordered unanimously. (See page _____ for Resolution No. 10-029 and Contract for Sale and Purchase.)

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Commissioner Anderson stated one thing that was pointed out to him was there are a lot of jobs at that facility; this is a good thing with this economy the way it is; and it is being sold to the proper people to help maintain jobs that will benefit the entire County.

Commissioner Nelson expressed his appreciation to Commissioner Fisher for doing an excellent job; for the record, the County had no money in this project to begin with; the County is walking away with \$2.6 million and an Agreement for Northport Health Services of Florida, L.L.C. to not sell it for three years; and he thinks that is pretty remarkable and it certainly locks it in with all of the job opportunities associated with this project. He stated seniors do not handle being relocated and it would not have been a pleasant experience for some seniors to handle.

Commissioner Fisher stated it is really more than \$2.6 million, because if the last eight months were looked at, the County has received \$361,000 in rent payments, so it is really at \$2.9 million.

Commissioner Infantini stated she is very happy to have this Contract in place because it does provide jobs; the one clause that she would not mind changing is the length of time to wait before it can be sold; inquired if the property can come back to the County as a small appreciation factor if it is sold, because her concern is it is located on Interstate 192 and it has enormous commercial value; and when the market turns around and it is decided to get out of the rehab business, that it would be sold at a profit and she thinks the County would look really silly and would like one clause changed to give the County first right of refusal and have a set-cap at how it would appreciate. Commissioner Fisher replied it is not a good idea, because information shows they are paying the County more than what typical nursing homes sell for and he does not want to change a Contract that can give ammunition to rethink the offer that is on the table; the bank will not agree to a longer term; and if it is wanted to be sold for a profit that is okay, because the County did not pay anything for this and at the end of the day the County is getting \$2.9 million for it, which is a good deal and he does not want to give opportunities to rethink its position.

AUTHORIZATION, RE: DECLARE PROPERTY AS SURPLUS, ORDER APPRAISALS AND AWARD TO HIGHEST AND BEST BIDDER FOR PROPERTY LOCATED ON SOUTHEAST CORNER OF WICKHAM ROAD AND PINEDA CAUSEWAY

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to declare remainder of property as surplus, staff to order appraisals, to proceed with the bid process, and award the sale to the highest and best bidder (not less than the appraised value), for property located on the southeast corner of Wickham Road and the Pineda Causeway in Section 30, Township 26 South, Range 37 East. Motion carried and ordered unanimously.

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AWARD OF RFP #P-4-09-18, RE: REPLACEMENT OF 9-1-1 SYSTEM NETWORK AND CUSTOMER PREMISE EQUIPMENT – MAPPING SYSTEM ONLY

Steve Stultz, Central Services Director, stated this Item, VII.B.2, Award of RFP #P-4-09-18, Re: Replacement of 9-1-1 System Network and Customer Premise Equipment – Customer Premise Equipment only, and VII.B.3, Award of RFP #P-4-09-18, Re: Replacement 9-1-1 System Network and Customer Premise Equipment – Networking System only are all related; and he thinks Bob Lay, Emergency Management Director, has information with how these terms tie in to make a complete 9-1-1 system.

Commissioner Bolin mentioned she has Speaker Cards for the combined Items.

Mr. Lay stated it is unusual to have three Agenda Items together such as this, but they are all part of the same Award of Request For Proposals (RFP) for the replacement of the 9-1-1 System in Brevard County; this was broken down in to three areas Mapping, Customer Premise Equipment, and Networking; and the important thing about the 9-1-1 System is the effect has an impact on over 630,000 residents, tourists, and transits in Brevard County everyday. He stated it is a significant system, it operates at 99.999 percent accuracy, which has to be kept at that level; it is a system that is depended upon; and it is a system that will continued to be depended upon as moving into the future. He stated Grant Funds of a little over \$2 million are available to Brevard County and there are some Capital Improvement Funds available for a total of a little over \$6 million collectively for this RFP; and advised this is very important because the current system is over seven years old and will start to fail. He stated this system is known as the next generation 9-1-1, and the RFP has been looked at by the Selection Committee, Protest Committee, back to the Selection Committee, and back to the Protest Committee; and now it is ready to be before the Board today. He stated the mapping component consists of mapping software and the ability to update the maps and to make sure that the mapping data is available at the 11 public safety answering points within the County; there are multiple ones within each of the districts as well, which most are located within the cities, with the primary being at the Sheriff's Office and the secondary at the Emergency Management Office for Fire Rescue; there is equipment associated with the Customer Premise Equipment, such as the switches and hardware associated with it to manage the data flow; and the third part is the Networking of local and wide area network to connect all of the Individual PSAP System configurations Mapping Systems together.

Commissioner Infantini inquired with the Selection Committee scoring with cost and cost details at 35 percent, she sees the cost at 35 percent and in some cases some people get 25 or 20 percent; and inquired how the scoring is to be completed with regard to cost, is it the lowest cost bidder getting the 35 percent and then the next lowest cost bidder gets some percentage of that amount. Mr. Stultz responded that is correct, the lowest cost would get the highest points; throughout this RFP there were various facets regarding what was being provided for that specific cost from some of the vendors, so it was really not possible for the Selection Committee to get to a purely objective evaluation, even on the costs; so therefore, he thinks a variation will be seen and the individual scoring for the cost by the Selection Committee is a subjective score; for example, on the mapping system he thinks one of the proposals had really been dependent upon their software application being applied or installed on a third-party hardware; and he thinks there is still a question at this time that came out in the Protest Committee meeting, as to whether the hardware provider will allow it, without the

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software being supplied for testing and certification, that it will operate effectively and efficiently on the hardware. Commissioner Infantini stated each of the individuals or corporations that submitted a bid; and inquired if they submitted according to the requirements that were specified or did those specifications change, because she is trying to understand how the whole evaluation process took place. She mentioned there was a discussion on another issue when County funding was available for non-profits; the scoring was not what it was thought to be; and she wanted to make sure she has a good understanding of the process. Mr. Stultz responded on the attached documentation to the Agenda Items there will be some comments from the consultant who is actually involved with putting together the RFP package and assisting with the analysis of the proposals as they were submitted; and it was the way the RFP was structured and the way the responses were submitted, that it was a business decision on the proposers part to submit a component of the mapping system that was dependent upon acquiring the access of something else that was being provided by somebody else, so therefore, there are some additional costs that the consultant will verify that would be associated to connect those parts together if that was the intent of going strictly to the lowest cost proposals. Commissioner Infantini stated the RFP that went out to the bidders was not just for the one component part, it was for the whole package. Mr. Stultz explained the intent of this RFP when it went out was to try to get responses back on the mapping, customer Premise Equipment, and Networking, with the ultimate intent to open up the responses, to get more companies to respond, and be able to get better pricing for each component.

Erik Lindborg stated he represents AT&T; and is going to defer for questions.

Thomas Gill stated he also represents AT&T and will defer for any questions.

Floyd Self from Messer, Caparello, and Self, P.A.'s representing Intrado, which is the losing RFP respondent on the Networking System, stated Intrado was in fact the lowest, responsive bidder for the Network piece of the proposed contract, but contrary to the County's objective pricing policy Intrado did not receive the maximum number of points that it was proposing, but in fact, AT&T did; and as going through the process it was discovered there was an instruction to the scoring committee that they should pursue subjective pricing of the price proposals. He stated subjective evaluations are appropriate usually in situations of getting more, better, or different than what is actually part of what is being asked for, but in this particular case, there is no legal justification at all for imposing subjective evaluation criteria on the pricing proposal; if the scoring sheets in the package is looked at; it will show that there were five different evaluation criteria's for the network component of this proposal; and in fact, if the four that are not pricing will be seen that the cumulative point total difference of two points between AT&T scoring 293 points and Intrado scoring 291. He stated Intrado thinks the subjective issue of evaluating the responsiveness of the proposals was addressed through the four subjective criteria points given and evaluating whether or not the bids were responsive. He mentioned what is heard from staff today is AT&T provided the quote for only the Complete Network Solution, which as stated is a RFP and to evaluate now the responses on the basis of whether or not they provide a complete network solution. He stated as an RFP, vendors have an opportunity to kind of pick and choose what it is they

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want to respond to; the County has the opportunity to pick and choose from the responses to assemble a complete solution to whatever it is the County is looking for at the best price, which is not what has happened. Mr. Self stated as evaluating RFP's the ultimate legal is to look at what the proposals themselves say; interestingly, what actually happened in this case is AT&T provided two different proposals; he thinks it is important to take AT&T at its word for what was put into the proposals; and through the protest process, it has been heard there were some costs built into the network proposal; and he feels the proposals should be accepted at face value to save \$1.4 million. He stated it is important to follow the purchasing policy, evaluate the proposals on the basis of the objective criteria, award the networking contract to Intrado, and the rest to AT&T.

Stockton Whitten, Assistant County Manager, stated Intrado does not provide the complete network solution even though it was the lowest bidder; to say that Intrado will save \$1.4 million without having the whole package is not know how cost effective it will be.

Commissioner Infantini inquired why was there an offer for three different bids when a package is wanted, because it just seems like a frivolous act; each section should be evaluated on each offer; and the lowest bid price offer should be accepted such as, with Intrado being the lowest for networking out of the four to five votes. She stated when she re-tabulated and gave the best score that was awarded for the lowest price, she does not understand what the criteria is; and how can bids be bid upon if the process is not going to be honored.

Mr. Whitten stated the option is to bid and the lowest price bidders package does not work for all three of the parts; this is a proposal and they are always structured for a complete solution and can be given or components can be given for determinations made on the entire service; and Intrado is proposing a solution that will have to attach on to somebody else's solution.

Commissioner Infantini inquired if Intrado's package would work with AT&T's package. Mr. Self responded Intrado's package would work with the AT&T's network package; the RFP was not written to require a complete solution; the RFP was to enable to respond to piece-parts, which is what Intrado did; and there are no requirement stated in the RFP for a complete solution.

Mr. Whitten mentioned the answer was the product would work. Commissioner Infantini inquired was he not asked to provide the County with a product that would work. Mr. Whitten replied the product would work and there is no contractual relationship or business relationship with AT&T in streaming together the 9-1-1 system, with the promise that the product works together technically; and inquired if business relationships can be forced to work together and the costs of that are his issues. Commissioner Infantini inquired if Intrado has the ability to do the other half of the proposal, so that in coming back Intrado could offer the same thing that AT&T is offering or with another vendor that Intrado works with. Mr. Self responded the only entity that can provide the wide area network is AT&T, but again, if the issue was a complete RFP

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solution then the County should have bid it that way; and it is not in the and the County is putting together piece-parts for the other components and Intrado was found to be in compliance in terms of the evaluation of the technical specifications, so the evaluation committee said yes, it will work; and Intrado has the commitment to make its part work and interconnect with whoever the other vendors are with respect to the other pieces that are provided.

Mr. Stultz stated the RFP actually asks for responses for a complete solution of all three components or it allows for a solution of each one of the individual components; he believes Mr. Self's client basically provided a response that was for one part of the networking system and based upon business decisions made as it was in essence based upon an assumption that they could utilize a third party; but their proposal response did not include any indication that they had the means at the time of the submittal that Intrado could do it.

Commissioner Anderson stated he would like to hear from AT&T.

Karen Walker stated she is the Attorney for AT&T; this matter has been reviewed by multiple entities before coming before the Board; it has been reviewed by the Selection Committee multiple times; it has been reviewed by the Protest Committee twice; the expert consultant the Board hired in this matter, with all concluding that the network solution should be awarded to AT&T; and there is a reason for that contrary to what Mr. Self argued, the RFP did not provide for an objective evaluation of cost. She mentioned this is not buying widgets; this is buying a service to deliver emergency 9-1-1 calls; it has to work; and each service system is different and the RFP put the bidders on notice that cost alone would not be evaluated, technical solutions would be evaluated, and the cost component was described as cost and cost details; and it is important to not know only what the price was, but what the County will get for that price, because it has to work. She stated in this case, the Protest Committee, in response to the protest filed by Intrado, inquired if it was possible to do an apples to apples comparison of price; the consultant was brought back in, the matter was sent back to the Selection Committee, which gave the highest score to AT&T; it was sent back to the Selection Committee a second time inquiring if it could be rescored; and unanimously the Selection Committee said no. She explained the reason is Intrado's bid was a piece of a piece; and it has been explained that this provided need was for three different components of the total system. She stated AT&T can deliver the call from the user to PSAP, which are the people that answer the call and send the emergency responders; Intrado cannot deliver the call based on its solution the whole way; it can only deliver a part of the way; and what AT&T has proposed is an entire network solution where the call can go from point A to point B, with no missing components. She stated the care costs that are not reflected if trying to put the pieces together; there would be no way to do that based on what has been bid in this RFP process; and AT&T can provide the whole package and she wants the Board to award the whole package to AT&T.

Commissioner Fisher inquired if AT&T can partner with Intrado. Ms. Walker responded she would like to defer to the people that actually work for AT&T to answer, because she does not believe it is that simple.

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(CONTINUED)**

Mr. Lindborg stated Intrado would have had a business decision to make to come to AT&T either on a wholesale or retail basis to complete its solution; from a technical standpoint, two networks can be brought together, but there is no known cost; and those agreements are not in place, in terms of a wholesale, or intercarrier agreement between Intrado and AT&T. He stated Intrado made a business decision to work with themselves and other contractors, to bring a complete and comprehensive solution; he cannot speak to the business rational of the response that the competitors delivered; and it is technically possible, but there was no business arrangement to facilitate and no known determined costs.

Howard Tipton, County Manager, mentioned since all sides are being heard, there is a consultant present that is representing the Board's interest that was hired from L. Robert Kimball and Associates; and he thought it might be a good time to bring him forward.

Dennis Cleary stated he is present today for any questions that the Board may have; this technology is changing daily and it is moving into an environment when finished the network and all of the equipment will be capable of driving video, text messaging, and single still pictures out to the 9-1-1 centers; the call set up times are going to be drastically reduced, with this new network, which is an important issue for him, because call set up time saves lives; and he would not want anybody suffering when the technology can be offered and available today, as a service to the residents and visitors of Brevard County. He stated by bringing in two network providers there is no issue with regard to it, but technically, coming together, he has no issue with regard to integration, which does pose some problems; and what he does have issue with is managing from a County standpoint multiple service level agreements between the two network providers could require a staff of people that are possibly employed by the County; it could require another company to independently come in and manage those network service level agreements; and it is going to cause a lot of finger pointing, which does not need to be in place in a mission critical environment.

Motion by Commissioner Fisher, seconded by Commissioner Nelson, to accept the findings and recommendations of the Selection Committee and Protest Committee for award of an Individual PSAP System Configuration Mapping System solution proposed by AT&T in response to Request for Proposal #P-4-09-18; and authorize the Chairman to execute the subsequent negotiated agreement. Motion carried and ordered unanimously.

Commissioner Infantini inquired if the Board was going to vote on something with a higher priced item; and was it because the whole product was not provided for by Intrado. Mr. Self responded Intrado provided the network piece and AT&T provided the wide area networks that connect the customer premise equipment together, which Intrado did not bid on; and the piece that was provided was an end-to-end solution.

Mr. Whitten stated this issue is what it takes to integrate; entering into a business relationship, integration hurdles, and the technical aspect of the coming together of \$1.4

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**AWARD OF RFP #P-4-09-18, RE: REPLACEMENT OF 9-1-1 SYSTEM NETWORK
AND CUSTOMER PREMISE EQUIPMENT – MAPPING SYSTEM ONLY
(CONTINUED)**

million; and he inquired if it is a 9-1-1 system that is reliable, so that when a call comes in, the calls will get to the PSAP's.

Chairman Bolin stated coming from the Emergency Management area she can attest how important this issue is; and this is not the area to try using different things to hope the connections are made, because this is not area to do so due to the safety and welfare of the citizens of Brevard County to get that telephone call to dispatch an ambulance to a certain destination point for emergency care. She stated she is 100 percent in favor of having one unit and one person to call and if there is a problems it is there responsibility to get it solved immediately.

Commissioner Anderson stated he concurs with Chairman Bolin, however, there is an issue whether there is actually \$1.4 million savings or not; and it is unknown if it would have been or there had of been; but he is not willing to take that risk of a death due to a 9-1-1 call issue. He supports AT&T's concept, because he likes only one person to be responsible in case of technical issues.

Commissioner Nelson stated this is highly technical and there were technical individuals from the Sheriff's Office, Titusville Police Department, Palm Bay Police Department, and Melbourne Police Department looking at this; and in the end, those individuals came to the conclusion to follow staff's recommendation.

**AWARD OF RFP #P-4-09-18, RE: REPLACEMENT OF 9-1-1 SYSTEM NETWORK
AND CUSTOMER PREMISE EQUIPMENT – CUSTOMER PREMISE EQUIPMENT
ONLY**

Motion by Commissioner Fisher, seconded by Commissioner Nelson, to accept the recommendation of the Selection Committee for award to AT&T to provide customer premise equipment for the County's 9-1-1 call system in response to Request for Proposal #P-4-09-18; and authorize the Chairman to execute the subsequent negotiated agreement. Motion carried and ordered unanimously.

**AWARD OF RFP #P-4-09-18, RE: REPLACEMENT OF 9-1-1 SYSTEM NETWORK
AND CUSTOMER PREMISE EQUIPMENT – NETWORKING SYSTEM ONLY**

Motion by Commission Fisher, seconded by Commissioner Nelson, accepted the findings and recommendations of the Selection Committee and Protest Committee for award of a 9-1-1 Networking System solution including ESINet and Wide Area Network components proposed by AT&T in response to Request for Proposal #P-4-09-18; and authorize the Chairman to execute the subsequent negotiated agreement. Motion carried and ordered unanimously.

The Board recessed at 1:10 p.m. and reconvened at 1:12 p.m.

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RESOLUTION AND AGREEMENT WITH SPACE COAST QMA INC., RE: USE OF QUARTER MIDGET AREA AT SPACE COAST COMMUNITIES SPORTS COMPLEX IN SHARPES

Terry Lane, North Area Parks and Recreation Operations Manager, stated this Item is for use of the Space Coast Communities Sports Complex in Sharpes for a Quarter Midget Track.

Commissioner Infantini inquired if All Terrain Vehicles (ATV) can use this track. Mr. Lane responded no.

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to adopt Resolution and execute the Agreement with Space Coast QMA Inc., a non-profit corporation, to provide quarter midget activities at Space Coast Communities Sports Complex in Sharpes; and delegated the County Manager or designee the authority to execute renewal options as outlined in the Agreement. Motion carried and ordered unanimously. (See page _____ for Resolution No. 10-030 and Agreement.)

RESOLUTION AND LEASE AGREEMENT WITH WICKHAM PARK SENIOR CENTER ASSOCIATION, INC., RE: OPERATION OF WICKHAM PARK SENIOR CENTER

Chairman Bolin stated she has speaker cards on this item; and she will noted there will have to be a four vote on this Item.

Greg Minor, South Area Park and Recreation Operations Manager, stated this request is for the Board to enter into a lease agreement with Wickham Park Senior Center, which is located at Wickham Park. He stated he would like to give the Board a little bit of history with the Wickham Park Senior Center building; it is a referendum item that originally an existing building was going to be renovated by Henegar's Center; it initially started off as a renovation after some studies were done on the building, there were serious structural problems, asbestos, and lead paint; and based on a feasibility cost, it was prudent to rebuild, refurbish, or renovate the building there; and it was decided to build a new building to meet the intent of the seniors. He stated there were some discussions about different locations; and it was the Board's decision to relocate the new Wickham Park Senior Center to Wickham Park.

Emmee Harmon-Hanna, Wickham Park Senior Center President, stated this is one of the most active, beautiful, and successful new Senior Centers in Florida; she is ecstatic to be apart of it; and she wants to thank the Board and the taxpayers for providing the funds. She stated the old Senior Center was close to 80 years old, with a handicapped toilet and a Porta-Potty outside; 372 members came to this new Senior Center, with six programs; and eight months later there are 2,051 members, with 32 programs. She stated people come to the Senior Center saying they have heard about the Senior Center and want to see what it is about; they are given a tour and are told about the Senior Center; and most individuals join after the tour. She stated some of the 32 programs are ran by Parks and Recreation, but most are ran by the seniors at the Senior Center. She mentioned there was a volunteer dinner during the holidays that had 94 participants; this Center has been a life changer for a lot of people, because it is a place to find new friends, hangout, and a place to give the later years more meaning and value. She stated blood pressure can be checked, muscles can be toned, and the brain

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stimulated; there is a lot of information available in the library, on the visual television, or from the talented instructors; and everyone works hard planning more trips to take and adding more programs. She stated the next major event will be a St. Patrick's Day dinner; all Board members are invited for corned beef and cabbage; and she would love to see everyone there and she looks forward to the future. She stated the best thing about the Senior Center is the people inside.

Kathy Pichardo, Wickham Park Senior Center, Vice-President, stated she helps Ms. Harmon-Hanna with all of her duties and achievements she is trying to make; and she is doing a fabulous job. She stated the entire Board of the Wickham Park Senior Center is working extremely hard to service all of the seniors in the community. She stated as a County Commissioner, she once served in another state, it was a huge priority for her to take care of the seniors; she has seen a lot of the Board members, which are not yet seniors, but will be some day, as she has grown to be a senior herself; and what is being done with the seniors at the Senior Center is very diligent with having something to do. She stated she deals with Program Managers that try to help the seniors and charge very little monies; the Senior Center sustains itself very well; hopes to be more productive in future funding; and right now the funds are good and have a very good bank account, which is intended to be kept that way. She stated without a lease she feels the Senior Center cannot operate in a very good manor; and moving forward with knowing that is the beginning of a very good way to do business.

Sandi Stein stated she is a fairly new member of the Senior Center; she lost her job in May due to the economy; and the Senior Center has truly been a lifesaver for her. She stated she volunteers and it keeps her from being depressed, because she is meeting new people; when she was working she was with the same people everyday, and there was not much opportunity to meet other people; and she feels good about herself now after loosing her job and meeting the new individuals at the Senior Center. She stated interactions with people keep a person healthier and that will save the County money, because a lot people cannot afford medical help, and that leaves the government to have to pay for it; and this Senior Center will help individuals with blood pressure checks, exercise classes, and that will help them to feel better and stay healthier.

Gloria Robinson stated she has been a resident of Brevard County for 46 years and she has watched the County grow considerably; she walks around Wickham Park every morning for exercise; and she watched the Senior Center be built. She stated children are very important to the growth of the country and the future of the country; the senior citizens are at the other end of the spectrum and they too are vulnerable; the seniors need education, health care, entertainment, and kept active; and Wickham Park Senior Center does that for senior citizens. She stated she appreciates having the Senior Center and hopes the Board will consider signing the lease today.

Fayrene Miller stated she did not think she would use the Wickham Park Senior Center, because it is 35 miles away from her home; it is a thrill for her to be there everyday; and now she is on the Board of Directors of the Senior Center and she would like to see this lease be signed today as a community service for the next five years.

Motion by Commissioner Nelson, seconded by Commissioner Fisher, to adopt Resolution and execute Lease Agreement with the Wickham Park Senior Center Association, Inc., a non-profit corporation, for the operation of the Wickham Park Senior

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RESOLUTION AND LEASE AGREEMENT WITH WICKHAM PARK SENIOR CENTER ASSOCIATION, INC., RE: OPERATION OF WICKHAM PARK SENIOR CENTER (CONTINUED)

Center. Motion carried and ordered unanimously. (See page for Resolution No. 10-031.)

Commissioner Infantini stated she is glad there is one facility that is being extremely well used.

Chairman Bolin stated she is very pleased as the Commissioner for the area; and she will be present for the corned beef and cabbage dinner.

APPROVAL, RE: ITEMS ASSOCIATED WITH THE TRANSPORTATION ECONOMIC STIMULUS PROJECTS (CONTINUED)

Howard Tipton, County Manager, stated each Commissioner should have two pieces of paper in front of them; one being an amendment to Attachment C; and two, a revised Attachment B, for the stimulus discussion where staff needed to come to the Board for additional direction.

John Denninghoff, Public Works Director, stated a couple of things have happened since this Item was previously talked about; he called George Lovett, Director of Transportation Development, and they spoke about modifying some information; Mr. Lovett agreed to the changes to the Intelligent Transportation System (ITS) Projects under the Stimulus Two list; the direction from the Board was to try to come up with a list of projects that had sort of an equal distribution; and the only way to do that under Stimulus Two was to add more projects. He stated Florida Department of Transportation (FDOT) has agreed it would take the design aspect of the projects; the Boards funds would be directed that way; and a list was created of all bids over \$10 million worth of projects that are on the revised attachment C, that are divided between each district with the cost of construction \$2 million to \$2.5 million for each of the districts; at this point, this is about as balanced of an approach to Stimulus Two; it gives direction and consultants to proceed with all of the resurfaces; and at this point, this is about as balanced as could be for Stimulus Two. Mr. Denninghoff stated when the Board gives its direction, the consultants will proceed with all of the resurfacing and sidewalk projects that are listed on Attachment C; and the ITS projects will be listed as a project and FDOT would proceed with the designs coming out of Stimulus Two funds. He stated he found out a piece of information that he was unaware of until right after this Item was talked about by the Board earlier and that is the Stimulus One timeline is the same as it was for Stimulus Two; the thing that is critical about the timeline completion forces the County into the higher cost of the design; and the important part of revised Attachment B is that the design costs are bit higher. He stated the idea, at this point, would need a motion to approve the Budget Change Requests (BCR) required for the designs and for the Chairman to be authorized to execute the BCR's, as stated in the Agenda Item for the Attachment B and C of the design clause; except for the ITS County will not be using the ITS designs. Mr. Denninghoff mentioned the next step for the Board to approve is to provide the project lists to FDOT and to the Transportation Planning Office (TPO); and then again it will be in front of the TPO on March 11, 2010; and commitments are made

**APPROVAL, RE: ITEMS ASSOCIATED WITH THE TRANSPORTATION ECONOMIC
STIMULUS PROJECTS (CONTINUED)**

on the designs to get these projects done, the intention is to submit all of these at the same time to FDOT to meet the requirements for the overall stimulus act.

Commissioner Nelson stated the ITS for Eyster Boulevard to Peachtree Drive shows districts two and four; and he inquired if it is 50 percent of the cost. Mr. Denninghoff responded the cost is split 50/50; and the district boundary is about halfway on that distance.

Chairman Bolin inquired about the revised Attachment B; it stated Evans Road to US 192 to Nasa Boulevard resurfacing; and stated she is seeing it again on Attachment C. Mr. Denninghoff stated yes, and he is glad that she mentioned it, because if the direction of Stimulus One is recalled on Attachment B was that if the City of Melbourne contributed its \$311,000 then Evans Road would be done; and if the City of Melbourne does not contribute the \$311,000 then Apollo Boulevard would be done. He stated he called Howard Rawls, Deputy City Manager of the City of Melbourne, and Mr. Rawls is going to report the information to the City Council; and he expects they will be inclined to using the \$311,000 on Lake Washington. He stated on the other hand if the Board approves the Stimulus Two lists, with Attachment C and does Evans Road and Apollo Boulevard, then its intention was to contribute the \$311,000 off of the Stimulus One, so they would get both projects and contribute \$311,000 to it; and tonight when he finds out what the City Council does, he will know which way the County is going with Stimulus One; but if Stimulus Two is approved the way it is listed then, it probably will not make any difference.

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to approve revised Attachment B and revised Attachment C. Motion carried and ordered unanimously.

**APPROVAL, RE: LEGISLATIVE INTENT AND GRANT PERMISSION TO
ADVERTISE AN AMENDMENT TO CODE OF ORDINANCES OF BREVARD
COUNTY, PERTAINING TO PERMITS, FIREARMS, FIREWORKS, AND
WEAPONS**

Jack Masson, Interim Parks and Recreation Director, stated this is a request to approve legislative intent and grant permission to advertise an amendment to Brevard County's Code of Ordinances regulating firearms.

Commissioner Anderson inquired if Mr. Masson would give more explanation to the request. Mr. Masson responded the County Attorney's office was notified according to State Statute 790, which regulates the use of firearms or possession of firearms; specifically in the State Statute 790 it does not exempt County parks for the possession of firearms, however, it does in professional sport venues and school athletic events; basically a person can have a firearm when attending Viera Little League, but a person cannot have a firearm at the Space Coast Stadium; and he recommended advertisement for the amending of the Ordinance.

APPROVAL, RE: LEGISLATIVE INTENT AND GRANT PERMISSION TO ADVERTISE AN AMENDMENT TO CODE OF ORDINANCES OF BREVARD COUNTY, PERTAINING TO PERMITS, FIREARMS, FIREWORKS, AND WEAPONS (CONTINUED)

Scott Knox, County Attorney, stated the State Law preamps the County from regulating the firearms and carrying the firearms; and there are some antiquated provisions in the Ordinance that still seems to try to that, so it is eliminating them to conform to State Law.

Mr. Masson stated it is also suggested that discussion with the Legislative Delegation be pursued also.

Motion by Commissioner Anderson, seconded by Commissioner Nelson, to approve legislative intent and permission to advertise an amendment to the Code of Ordinance of Brevard County, amending Chapter 78, Article III, Division 1, Section 82 pertaining to permits; amending Chapter 78, Article III, Division 2, Section 115 pertaining to firearms, fireworks, and weapons; repealing Chapter 238, Section 1 pertaining to discharge of firearms on highways; providing for severability; providing for inclusion in the Code; providing a conflict provision; providing for area encompassed; and providing for an effective date. Motion carried and ordered unanimously.

APPROVAL, RE: BOND COUNSEL RETAINER AGREEMENT AMENDMENT

Scott Knox, County Attorney, stated this Bond Counsel Agreement amendment with Holland and Knight, LLP is brought up annually and is coming up for renewal at the beginning of April; the renewal process has been advanced to today's date, with the theory that there is a possibility that the Board might decide to go out for Request for Proposals (RFP); Mr. Rick Stevens is present today who is the Attorney who represents Holland and Knight, LLP; and Mr. Stevens has been involved with the County for a number of years.

Commissioner Infantini stated she would like for it to go out for RFP. Chairman Bolin inquired if that is a motion. Commissioner Infantini responded yes.

Motion by Commissioner Infantini, seconded by Commissioner Anderson, to approve Option 2, declining approval of amendment to the Bond Counsel Retainer Agreement with Holland and Knight, LLP; and authorize staff to seek RFP's for County Bond Counsel services. Motion carried and ordered unanimously.

APPROVAL, RE: BREVARD COUNTY 2010 FEDERAL BUDGET REQUEST PRIORITIZATION

Chairman Bolin stated she has a speaker card on this item.

Howard Tipton, County Manager, stated previously legislative priorities for the Florida Legislature and Congresswoman Kosmas's office have been presented to the Board; and are now following up with Senator Bill Nelson and Representative Bill Posey giving those priorities as well. He stated he is asking the Board to confirm that these are the

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**APPROVAL, RE: BREVARD COUNTY 2010 FEDERAL BUDGET REQUEST
PRIORITIZATION (CONTINUED)**

priorities to send to Senator Bill Nelson and Representative Bill Posey on behalf of the community.

William (Tuck) Ferrell stated he is present for any questions.

Motion by Commissioner Fisher, seconded by Commissioner Infantini, to rank the County's 2010 Federal Budget Requests in priority order for Senator Bill Nelson as 1.) one being Interstate 95 Visitor's Center, 2.) St. Johns Heritage Parkway between Malabar Road and U.S. 192, 3.) State Road 405/State Road 407 Traffic Management Improvement, and 4.) Beach Renourishment; and prioritized Federal Budget Requests for Representative Bill Posey as 1.) being Beach Renourishment; and 2.) being St. Johns Heritage Parkway between Malabar Road and U.S. 192. Motion carried and ordered unanimously.

**CITIZEN REQUEST, RE: TAMMY WILLINGHAM – CODE VIOLATION SECTION
62-1341(5)(b), BUILDING SETBACK IN RU-1-9 ZONING CLASSIFICATION**

Mel Scott, Assistant County Manager, stated this is a circumstance where the Board will hear of a request to have a Board of Adjustment variance fee waived; there is a circumstance that has occurred between neighbors when a gazebo was being constructed; Tammy Willingham had notified Code Enforcement about the gazebo's construction encroaching into a site setback; and the property owner responded by modifying the plans and moving the gazebo back. He stated recently Ms. Willingham was called in to Code Enforcement about a long-standing shed that has been in her backyard that also encroached into the setback; he thinks it is an older shed that has been there for some time; and he believes the Board will hear some hardships in this citizen request that speaks to the inability to pay the fee and to have the Board of Adjustment entertain this request and potentially grant that variance.

Robert Bickford stated he is an acting Attorney for Ms. Willingham on a pro-bono basis; this is basically a retaliatory action by a neighbor who was building a party deck against Ms. Willingham's fence; the party deck was elevated so that they could see over Ms. Willingham's privacy fence; Ms. Willingham asked that the party deck be moved back; the request was refused, so she called Code Enforcement and inquired if the party deck was supposed to be build this close to her fence or built on her fence; and Code Enforcement informed her of a permit that is required for the party deck, plus moving the party deck back. He stated in retaliation, the neighbors inquired about the shed in Ms. Willingham's back yard and then called Code Enforcement about the shed; Code Enforcement came to look at Ms. Willingham's property and she was told the shed itself is in good condition; there is no question about its condition or if it is a hazard or causes health problems; and the problem is the shed does not have the setback of seven and one-half feet from the property line on the two sides. He stated one side the shed would have to be moved over two feet to meet the seven and one-half feet and another side would have to move five feet; the problem with that is it is a continuous shed and it is not something that can simply be taken apart and moved; it has to be physically lifted and moved over, which is a great expense to do so; a crane will have to be brought in to move the shed and the crane would have to reach across the roof of the house into the

backyard just to pick it up to move it the two feet and the five feet; and on top of exploring that option, it was found that the crane would actually have to cross over a power line in order to get to the back yard, which the crane operator obviously does not want to do. Mr. Bickford stated what Ms. Willingham is really looking at is the shed was actually there when she moved into the house in 1986, so it has been there at least for 24 years without any kind of a complaint or a problem; she actually bought the house in 1990; it obviously has not been a problem for 25 years; and this is a retaliatory action that is going to cost Ms. Willingham a considerable amount to fix if it can be fixed. He stated the crane movers do not even want to touch this project and that makes it a violation that cannot be fixed and it will come down to condemnation of the shed, so a variance is being asked for the setback rule of the seven and one-half feet, or if there could be a fee waiver if the setback is possible. He reminded the Board that he is present on a pro bono basis; Ms. Willingham herself suffered a very serious accident in December; she was attacked by a dog while on her bicycle, and sustained a great deal of blunt head trauma, with internal bleeding on the brain as a result of hitting the pavement, which is why she is not present with him today; she is cognitive; but she is not at a point where she is well spoken at this time. He stated Ms. Willingham is not working, because of the injury; she is a private individual, a independent contractor, and as far as cash goes, just to pay the mortgage is tough much less dealing with the shed and zoning issues at this point.

Mr. Scott inquired if it is the pleasure of the Board to find a way to accommodate the request and have the fee waiver for the variance; stated the Policy would have to be amended, which the Board has already adopted, that allows for certain fee waivers; and inquired if there could be some direction from the Board to abate this violation until criteria can be in place for qualifying for, the fee can be waived, and appear in front of Board of Adjustment.

Motion by Commissioner Infantini, seconded by Commissioner Anderson, to direct staff to provide the Board with an amendment to the current Fee Waiver Policy for the Board of Adjustment that would have criteria in place that Ms. Willingham can qualify for relating to a shed that does not meet current setback requirements; and to abate all current fines incurred by Ms. Willingham. Motion carried and ordered unanimously.

Commissioner Anderson inquired what the current criteria is. Mr. Scott responded Board Policy BCC-40 essentially puts together several criteria's that has to be met. Commissioner Anderson stated there has to be some type of hardship provision done on a case-by-case basis for the Board; and stated he is okay with that; it just bothers him about these sheds that have been sitting there since 1986 and the Board is talking about them now; at some point there should be a statue of limitations; and it is too bad it was missed. Mr. Scott replied that will certainly be apart of the brainstorming that staff will take to see if it can be done.

CITIZEN REQUEST, RE: ALFRED AGARIE – CONTRACT WITH TRUCKING SERVICE

John Denninghoff, Public Works Director, stated this Item has previously been before the Board about the procurement concerns that were brought up regarding acquiring fill material for John Rodes Park; there was some confusion as a result of use of fax

CITIZEN REQUEST, RE: ALFRED AGARIE – CONTRACT WITH TRUCKING SERVICE (CONTINUED)

machines and which fax number was utilized; and as a result of the Board's direction at that point, the quotes were awarded to Alf's Trucking Inc., and they delivered approximately 20,000 cubic yards of A-3 material to John Rodes Park. Mr. Denninghoff stated there was a stockpile of A-1 material that had been set aside for use, which was included in one of the quotes; the A-1 material was tested and it had passed the required specification associated with the quote and what the engineer had established for the project; that A-1 material had to be placed on top of the first 20,000 yards of material that was delivered, so there was a sequence that had to take place; during the time that the 20,000 yards of material was being delivered, and Alf's trucking either moved the stockpile of material or mixed it with other materials; it was very apparent to staff when looking at the material; and the material quality was other than it was originally tested. He stated the material was retested, it takes approximately eight days to get the testing done, and the out-of-pocket cost is about \$150 to get each pile tested; after testing it the second time, the material failed, and at that point, the stockpile and the quote itself was considered to no longer be available for us; again, went out for two quotes, because more fill was needed in the A-3 variety, as well as the A-1; and at that time asked for a quote from the suppliers to provide the furnished-onboard material, which means the County provides the trucks and if the County would have done that, that would be Mr. Agarie's Alf's Trucking Inc. would have provided the trucking at that point regardless if he was provided the dirt or if somebody else is providing the dirt. He stated prices for material to be delivered to the construction site was asked for; when doing so, the intent was to get the best price possible for delivery of this construction material for the project, as such, the County received the quotes and the low quote for the material to be delivered to the site by the material supplier; and in this case it was not Alf's Trucking Inc. it was a combination of two other providers, and the difference in cost, if using Alf's Trucking Inc. for delivery of the material, amounts to a \$31,100 savings by doing so using the lowest quote. He stated he believed Mr. Agarie is essentially asking the County to go ahead and utilize his Contract with the County for delivery of materials and he can assure the Board it is not an exclusive Contract; it is available for use as needed, or he assumes that Mr. Agarie is going to ask the Board to disregard the test results and do more testing and try to give him another chance of the original A-1 material quote. He advised the Board it takes eight days to get the tests done and if the County were a regular contractor and Mr. Agarie was going to supply the materials the County would have something to say about him changing the materials and slowing the project down. Mr. Denninghoff mentioned he has copies of the test reports if the Board would like to see them, plus, a rundown of the quotes available to furnish onboard and delivery of material.

Alfred Agarie stated he has been a citizen of Brevard County for 20 years, a business operator for the past 10 years, and has provided trucking services to Brevard County for the past four years; and he does not think that he has had a complaint filed on himself for not keeping his end of the bargain for making reliable and honest service to the Brevard County. He stated based on what Mr. Denninghoff has stated, the fill dirt that is in question was bid for two sections, one being for 20,000 yards of material, and the other for 10,000 yards of material; when hauling the 20,000 yards of material, he kept questioning when the testing for the 10,000 yards of material will be tested; and his staff told him there has to be some preparations made; two weeks later he called Charlie Burton, Construction Manager, and inquired if it was time to haul the 10,000 yards of

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CITIZEN REQUEST, RE: ALFRED AGARIE – CONTRACT WITH TRUCKING SERVICE (CONTINUED)

material; Mr. Burton told him that he had gone to Mr. Agarie's place and got a sample to send off to make sure the same test product will be received, because a test was made in December and both tests for A-1 and A-3 materials came back fine; and he inquired to Mr. Burton why did he go back to the site without contacting him, because on that November 10th meeting he had told Mr. Burton that whenever it was time to test, send a representative to the site, and let him know because there was a problem that the representative from the County went to the site, to take a sample, and created conflict for the City of Palm Bay to buy this fill dirt from him, even though, he has a Contract from both sides, and Mr. Burton told him that he was not there and needed to take a sample. Mr. Agarie stated a few weeks later he was told by Mr. Burton that the sample was not qualified; what he did in response to that was to get his own tests done on February 17th by getting five people from the City of Palm Bay, including Joe James, Superintendent of the Palm Bay, to witness him taking two samples and sent it to the same place that the County required for testing; and it is shown in the documentation he provided for the Commissioners, with those two samples coming back positive, and they surpassed the requirements of the quality for the park. He stated something is happening, this is not a dealing of business aspects, it is getting personal; and he does not know if it is a prejudicial situation or what; and it should just never have happened, because he has never given Road and Bridge any form or reason for acting towards him like this. He stated he has been hauling dirt to Rodes Park since 2008; in 2008, he had told Mr. Burton when he called him that fill dirt was selling for \$5.50 a yard at that time; he gave a price of \$4.25, because he located the fill dirt; and when he sent Mr. Burton to the site to get a sample the same thing happened in March 2008 when there were negotiations with Gutler to buy the dirt. He stated it is just not business ethics, because everyone is business people trying to make a decent living; inquired why should he be getting this unloyal type of procedure happening to him; and then the same thing happened again to him in November with his Contract with the City of Palm Bay for 80,000 yards of dirt; and he had one bid for the County, and sent one representative to get a sample and tried to renegotiate with the City of Palm Bay to get a sample again. He stated that is not right, everyone is a human citizen right here in Brevard County, and trying to make an honest living; and inquired what is it that he is doing wrong to be penalized. He mentioned the fill dirt before November 10th was bid in one category of 30,000 yards of fill; when the County had to rebid on two different categories; one was 20,000 yards for A-3 and the other was 10,000 yards for A-1; he feels he lives up to the standards of hauling the materials; then the County went behind his back and took a sample after he told the County more than once to please not go to the site because of the past experiences; and he stated the County did not contact him. He stated he has with him today the results of the sample he took and it was sent to the same place and it came back positive from two different spots; and he does not want to blame anybody.

Commissioner Anderson stated what it really comes down to is this A-1 material; and inquired what was the date of the first sample of the A-1 material. Mr. Denninghoff responded there are test results from December 16th, which was the original test, that passed for the A-1 material; when going to actually obtain the material it was seen that the material had changed in quality; and staff pulled a sample on January 22nd and it came back significantly lower in quality and did not meet the specification requirement. Commissioner Anderson inquired what the testing dates are of the A-1 material for Mr. Agarie's testing. He replied his samples were pulled February 17th with five witnesses,

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just to make sure, and to help clear his mind of this dirt; and the City of Palm Bay is forcing an issue to get a lake done in fast time, because it is right behind a corporation; and four or five antenna's are being installed. Mr. Agarie stated the dirt is moved from down in the hole to a large stockpile of 80,000 yards of fill. Commissioner Anderson stated the story is consistent; but inquired why two weeks after being notified there was retesting done, with the sample showing it is passing. Commissioner Anderson inquired if Mr. Denninghoff has seen a copy of the testing. Mr. Denninghoff responded he received a copy of it yesterday and he believes the test does indicate a passing requirement; he would like to point out that Mr. Agarie did not bother inviting the County to come and witness the test, so he does not know what he tested, he does not know whether is was Palm Bay folks there that witnessed it or not; he is not questioning what Mr. Agarie is saying, but the bottom line is if materials were being received on a daily basis and the quality of the material changed, there would be a stop to receiving material and test it to find out whether is was passing or not; and if it was not passing, the materials would be discontinued from the contractor and to terminate the Contract and go to another supplier, just as what was done with this case. Commissioner Anderson inquired what prompted the second test on January 22nd. Mr. Denninghoff responded the test was actually pulled on January 14th and staff received the report on January 22nd; what had prompted the testing was the appearance of the material was substantially different than what it had been previously; the people who are experienced regarding fill material have a good idea whether or not something has changed in a significant way; this material had changed, it was different, it was apparent to the County, and staff pulled the sample for testing just as if it was coming off of a truck at the construction sites, which would have been found in non-compliance based on that same procedure.

Chairman Bolin inquired if the first test was done on December 16 from a pile in a certain location; and inquired why did the pile of material get moved to a new location; stated on January 14 the pile of material was at a different physical location to test that the material was different; she is hearing Mr. Agarie had individuals come on February 17th, but she has no idea if Mr. Agarie moved it from here-to-here-to-here; and inquired where was this new pile. She advised she has no clarification that it is the same pile, because Mr. Agarie kept moving things on it; there may have been five people who have justified the dirt being seen coming out of a mound; but there is no proof that it is the same one that Mr. Burton had tested, because the piles keep moving around.

Commissioner Infantini inquired if Mr. Agarie moved the pile. Mr. Agarie responded yes; he explained what had happened was that when Mr. Burton came in December there were two different piles; one was in the front consisting of 40,000 to 50,000 yards of fill material, but the lake that was being dug was not done; the City of Palm Bay needed to get this material because it was selected, put aside, and down in the hole, but City of Palm Bay wanted to get it out, and it had to be transported out of the hole, which was about a quarter of mile to the front where there was a big stockpile; and the material was taken and put in one section and apparently what had happened was a mistake of testing from a huge pile consisting of 80,000 yards of material, which was the wrong spot. Mr. Agarie stated that is why he mentioned that if there was a need for testing to let him know because of this large pile, which has four corners and samples can be taken from different corners; and there will be different results. Commissioner Infantini

CITIZEN REQUEST, RE: ALFRED AGARIE – CONTRACT WITH TRUCKING SERVICE (CONTINUED)

stated it appeared there is an element of distrust going on when there was no notifications of the testing's; it appeared to be in the best interest that each time there is a test taken there is mutual notification of such happening, to ensure that the wrong piles are not being tested. She recommended with going forward, having both parties present during the testing

Mr. Denninghoff stated he appreciated Commissioner Infantini's recommendations; he advised the Board that when the sample was pulled, he was told where to take the sample from, which is where the sample was taken from; and Mr. Agarie knew where the sample was being pulled from.

Commissioner Anderson inquired what are the number results of the Saturated Hydraulic Conductivity test. Mr. Agarie responded the numbers on one pile showed the percolation rate was 7.9 and the second test shows 12.0, which the requirement is in the normal range of 6.0 to 12.0, which is the range of water going through the soil per hour. Commissioner Anderson stated the County's first sample was at 14.1 and 15 is the best. Mr. Denninghoff stated it is possible to get better than 15, but it is really hard. Commissioner Anderson stated the County's second sample was a 3.0 that is a huge difference. Mr. Denninghoff noted that is correct. Commissioner Anderson inquired what are Mr. Agarie's numbers. Mr. Agarie responded on the second line one is for A-3 and the other is for A-1 material. Commissioner Anderson stated A-3 is the lower quality of 2.1. Mr. Agarie responded that is correct and it is pretty much a basic fill material, but if both of these were recommended by the tests that he had made for A-1. Commissioner Anderson stated he is not disagreeing with either party; he is just confused; and if he goes to his kids sandbox tomorrow and pulls dirt of there at three different times, he thinks he should be getting the same number every time since there has been no disturbances made. Mr. Agarie stated it would be very close. Mr. Denninghoff stated it should be of reasonable consistency, with getting a consistent result, which is why when the material was seen it had changed in consistency,; and there needed to be more testing done, because the ball fields will not drain properly, the grass would not grow properly, and the best price was needed to be successful in those areas. Commissioner Anderson stated he cannot explain what happened; the taxpayers need some high quality A-1 on John Rodes ballfield he understands for drainage purposes; his point is there needs to be a check-and-balance, so nobody accuses anybody of anything, however, moving that pile was not the most prudent thing to do without notifying County staff that it was being moved by Mr. Agarie. Commissioner Anderson stated he should have had Mr. Burton watch him whenever he moved a pile, because the appearance is that it is a different pile of dirt; and if it was tested on a different corner of the pile, which is a different issue.

Chairman Bolin stated Mr. Agarie may have a seat now; this is a citizen request; and the Board has an option to or not to take action on this item.

Commissioner Fisher inquired what was the citizen request. Chairman Bolin responded to honor a contract.

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CITIZEN REQUEST, RE: ALFRED AGARIE – CONTRACT WITH TRUCKING SERVICE (CONTINUED)

The Board acknowledged the citizen request of Alfred Agarie regarding the current contract for trucking services with Alf's Trucking, Inc., but took no formal action.

Commissioner Fisher stated he wanted to make sure that Mr. Agarie understands and the contract he had with the County is a contract that is not a continuing service contract; the work can be bid out at anytime,

Mr. Denninghoff advised that is correct; it can be quoted out as a separate item as apart of a procurement for another purpose, such as, this, or utilize Mr. Agarie's services as suits the County's advantage; it is not a sole source or exclusive contract where his materials have to be used; Alf's Trucking Inc. has been used a lot; and there are a lot of other trucking companies out there that would love to have that business, but in this case, the County tested and found other suppliers with fill material would provide it at a lower trucking cost; and in the end it save the County \$31,100.

Commissioner Fisher stated one of the misunderstandings is there is a contract in place; he inquired if that contract is in place to protect both parties and if it is a locked in contract; and can it be rebid by Mr. Agarie at anytime. Mr. Denninghoff replied in this case Mr. Agarie could have rebid the trucking as associated with the delivery cost if he had chosen to; he used the same price as what his contract had in it; Mr. Agarie could have charged less for the fill material, but he charged the same thing that he quoted to the County previously; and the total net result was \$31,100. Commissioner Fisher stated he wanted to make sure under this contract, for example, gas prices jump to \$10, Mr. Agarie's contract with the County is, that he can haul it at \$2.50 a yard; and with the price of gas going up, Mr. Agarie would have to honor the \$2.50 a year price, or he could have increased it. Mr. Denninghoff stated Mr. Agarie can just say that he does not want to provide the service if his costs go up dramatically, so there is that option to bail on the contract at anytime; if Mr. Agarie wants to provide the service for the County then he has to provide the service at the contracted amount, otherwise, the County will have to go out through a quote process or bid process to procure those services in an alternative manor. Commissioner Fisher inquired if that is what was done by Mr. Denninghoff going out for the bid process and findings that the savings would be \$31,100 by not using the current vendors. Mr. Denninghoff responded that is correct. Commissioner Fisher stated Mr. Agaire has the ability to bid and rebid, even though he has a contract with the County. Mr. Denninghoff responded in this case, Mr. Agarie could have bid it at a different number from the price quote. Commissioner Fisher inquired if Mr. Agarie was given the chance to rebid. Mr. Denninghoff replied yes, he was provided the opportunity to give a quote on this; and again, Mr. Agarie can actually default on default; if the business environment has changed so much that he no longer wishes to provide the trucking service to the County under the bid contract amount, not the one for this specific project; Mr. Agarie can do so; and it is understood that prices change, then the County would have to go out and seek those services again and it could be Mr. Agaire again if he wins the bid. Commissioner Fisher inquired what is the advantage of having a contract with the County if it can be bid, rebid, or not bid at all. Mr. Denninghof stated the advantage is there are a lot of projects that go on in different locations; for the County to not have to go out and quote and requote for every time there is a project; it is an advantage for the County and for the quoter, because there doesn't have to be a bid

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CITIZEN REQUEST, RE: ALFRED AGARIE – CONTRACT WITH TRUCKING SERVICE (CONTINUED)

put in every time there is a project, so it is a mutually advantageous thing; and it is not at all unusual with a large project for the County to go out and get separate quotes separate from that bid, because a large contract all changes with trucking services and fill materials change with the economy situations being unique to that particular project.

PROPOSED ORDINANCE TO AMEND SECTION 106-7, RE: OPERATION OF GOLF CARTS

Penny Demi stated she is the Secretary-Treasure for the Crystal Lakes Property Owners Association; she and Jill Addison are present today on behalf of the residents in this community who would like to be able to drive golf carts legally. She stated it is a really small community, with only seven streets and five of them dead ending at the river, so there are no through streets in the community; and mostly the golf carts are used for going in and about the neighborhood for attendance of organized events. She stated some residents use golf carts to get down to the docks with boating and fishing equipment, which are down on the rivers edge. She mentioned there are several elderly residents in the community that go out and about to neighbor's houses as well. She understands safety is a concern and the community is very close and they police its own area, by looking out for each other, and are real cognizance of somebody doing something wrong. She stated she understands there are certain requirements with the Ordinance that have to be met with golf carts; the community has taken it upon themselves to make sure those standards are met, which are to have the review mirror, proper tires, and correct steering for safety purposes. She stated there is a 25 miles-per-hour posted speed limit; at anytime in the neighborhood children can be found playing outside or people walking dogs; and the golf cart use is taken very seriously.

Commissioner Infantini stated a few residents in the South Beaches area and Melbourne had been given tickets while riding golf carts; there was a good bit of public out-cry, so she held a meeting at a Community Center, with the expectation of 50 to 60 people attending, but 165 came, showing support, and it was standing room only. She stated what she told those folks was if each separate little community would go out and get petitions signed of greater than 50 percent of the people that live in houses there, she would come before the Board, and seek permission for them to be able to have the use of driving golf carts; not on State Road A1A, because it is a State Road and the County has no governess; but all of these community roads are 25 miles-per-hour. Commissioner Infantini stated only those communities that returned petitions, representing greater than 50 percent of its population of its neighborhood should be looked at. She stated there was a little out-cry that came out because, she heard a couple of people were trying to take out pedestrians or bikers; she has let those individuals know there will be tickets if that is continued; and now it has become much safer and much more responsible as a result of that.

Commissioner Anderson stated he has several neighborhoods that have requested the same thing; if it is done for Ms. Demi's neighborhood then there are equal clauses in this country that means it will have to be done for everybody, which means everybody would get to do it; and he cannot tell them no if someone is told they can. Commissioner Anderson inquired if there is an ability to supersede State motor vehicle laws; and if

PROPOSED ORDINANCE TO AMEND SECTION 106-7, RE: OPERATION OF GOLF CARTS (CONTINUED)

there are any kind of liabilities that occur if somebody gets killed on a golf cart. Scott Knox, County Attorney, responded the State Laws allow the County to designate golf roads for golf courses and such, however, he will check to make sure nothing has changed; and the liability issue only jumps in if the County is somehow operationally involved in the running of the golf carts, which would not be it would just be designate. Commissioner Anderson stated the only way he would be supportive of it is if it will be opened up to every unincorporated area; and give everybody the ability to do it, because it is all or none with him.

Ms. Demi stated there has already been a precedent set by allowing an ordinance in Barefoot Bay, Suntree, and Viera. Commissioner Anderson responded he was not affected in his district until recently; now that this is coming out he has 50,000 residents, which half of them have golf carts, and want to ride them; and the Sheriff's Department is going to be really busy patrolling roads. Ms. Demi inquired if since it was done for others, can it be done for them. Commissioner Anderson stated if he does it for Ms. Demi's community it has to be done for everybody. Ms. Demi stated it has already been done for them. Commissioner Anderson responded that is true, but there are different circumstances, for instance, June Park may be able to ride on New York Street or Vermont Street, but once going onto Milwaukee Avenue it will be illegal, so extra people will have to be hired to patrol the area. Commissioner Infantini stated there has already been designated streets in Barefoot Bay. Commissioner Anderson stated he is supportive of the cause and he is warning the Commission that once this gets started it will have to follow through with the entire County.

Commissioner Fisher mentioned he has a golf cart in his garage; his son was riding it and the police stopped him one time; the police informed him of a State Statue that says golf carts cannot be ridden on roads; and he inquired what the State Statue on that is. Attorney Knox responded F.S. 316.212 is pretty broad in terms of discretion; and it gives to the County to allow golf carts to go on County roads or city roads. Commissioner Fisher stated a City of Titusville's Police Officer told him that it was illegal to be driving that golf cart on the road. Attorney Knox stated Titusville does not have an ordinance saying a person can drive it on that road; and the Police Officer is right. Commissioner Fisher stated there would have to be a separate ordinance to allow it. Attorney Knox stated that is correct. Commissioner Fisher stated one of the fears in Suntree with the golf community is on the beaches there are golf carts trying to scoot across A1A, to get to the beach. Ms. Demi advised potentially yes. Commissioner Fisher stated he does not want to encourage that activity, which is his only concern; and in a golf community he is not saying that Suntree Boulevard is not a dangerous road itself, but he thinks it is one of the problems with trying to ride it on the beach. He stated if going from subdivision to subdivision a person would have to get on A1A. Ms. Demi stated yes, if a person wanted to go to some of the other subdivisions, but she is only requesting to be able to go within her little community of Crystal Lakes. Commissioner Fisher inquired if some of these subdivisions abut each other. Ms. Demi responded yes, but she is not requesting to ride along A1A at all, they just want to ride within the subdivision. Commissioner Fisher stated even though the warning came from the police, his golf cart is still driven in his neighborhood; and inquired if the Sheriff's Department has been there citing them. Ms. Demi responded yes, the Sheriffs are writing tickets for \$169 and three points against a person's license. Commissioner Fisher inquired if this is just from

PROPOSED ORDINANCE TO AMEND SECTION 106-7, RE: OPERATION OF GOLF CARTS (CONTINUED)

driving the golf cart from neighbor to neighbor. Ms. Demi responded yes. Commissioner Fisher stated the Sheriff is present and he would like for the Sheriff to come to the podium.

Sheriff Parker stated the Deputies do not like writing tickets, especially for golf carts, but what happens is, the Sheriff's Office is complaint driven and 50 percent plus one may have brought this to this point here; there are probably some people around that are unhappy about golf cart use, which is typically what will happen, people will call in and say that they want the law to be enforced because that is what the Sheriff is paid to do; and right now it is not allowed to ride golf carts in this area. He stated typically warnings are given and then after a period to time citations are written if that does not take care of the problems. Commissioner Fisher inquired if it would be a major problem if an ordinance passed like this. Sheriff Parker responded the Sheriff's Office will continue to support the Commission in whatever it decides; but in reality, it does have the ability to become unmanageable. Commissioner Anderson inquired if another entity of law enforcement can issue citations. Sheriff Parker responded no, once the road has been exempted for golf carts; it is incumbent upon all the Deputies, Police Officers, Troopers, or Fish and Wildlife Commission Officers to understand the laws of that area.

Commissioner Infantini stated the South Beaches area is separate and distinct from any other community; it only has A1A as a connector road and other areas have more than one way in and out with a lot of little back streets and are bordered by the Indian River; it is not going to run into this type of situation in any other community that she is aware of, so that is why she is suggesting it would be okay, but not going North because once there starts to be other roads like Riverside Drive and Merimar Avenue involved that is different; and people will still use there golf carts to get all of its stuff across A1A. Commissioner Anderson stated he has Brandywine in his area and the residents have already contacted him and there is only one way in and one way out; but it is a huge community with fatalities at the main entrance there, which is why the sidewalks are there and even though it says 25 miles-per-hour, it does not mean people will do the speed limit; and if this is moving forward he wants Brandywine to be a part of this exception.

Jill Addison stated she wants the Board to know that the Florida Statue does talk about things such as safety, speed volume, and character motor vehicle traffic, which would differentiate neighborhoods; her community is a cul-de-sac community which does not have large amounts of traffic; it is a very small community that polices the neighborhood themselves. She stated she is asking to extend the existing Ordinance that is in effect for Barefoot Bay and Suntree to her neighborhood, because they just want to be able to legally drive its golf carts within its own community.

Larry Payne stated he is present today to support Ms. Demi and Ms. Addison; there are four dead-end streets, with about 165 people; and he was one of the first people to come up with over 50 percent of the petitions. He stated he noticed a sign, on a street, that said watch out for golf carts while on his way to the meeting today; it is the same thing that wants to be done in this neighborhood, to go from neighborhood to neighborhood by using the bike path; and he understands the crossing of A1A is understood as a completely different issue and there are no crosswalks designated a this time, which

PROPOSED ORDINANCE TO AMEND SECTION 106-7, RE: OPERATION OF GOLF CARTS (CONTINUED)

could be a future thing as the population is increasing dramatically. Mr. Payne stated he would like for the Board to consider golf cart use in the area.

Commissioner Nelson stated certain streets have been restricted and are now starting to see it spill out into the other streets, such as when he was on Wickham Road the other day when stopped at an intersection, a golf cart with three teenagers in it two were sitting, and one was standing were the golf bags are supposed to be, they come across the intersection and keep on going down the road; and that would have not happened if previously if the rules were empowered. He stated he is struggling with that issue of knowing they will be crossing A1A to go to the beach; it is only going to take one of those golf carts to get involved in an accident and everyone here will be wondering what the Board was thinking was. He stated golf carts can be made legal for street use and be brought up to a certain standard, but at this point he is not okay with it, but he is okay with the discussion; and he is struggling with the impact of going beyond what the original vision was, with the buffer being taken away from those major streets, with the youth and some seniors not paying attention. He stated if and when it comes back to the Board, there are no guarantees from him about what he will agree upon with this.

Commissioner Infantini stated the last thing that she wanted to see is a bunch of golf carts that are street legal driving on A1A; she already has a long enough drive and if everyone is encouraged to go out and get street legal golf carts; it is going to lower the speed limit of 45 miles-per-hour to 35 miles-per-hour; and she stated please do not do that.

Commissioner Anderson inquired who was the first to have golf carts in its community. Commissioner Nelson responded Suntree. Commissioner Anderson stated Barefoot Bay was able to get approval for golf carts, because Suntree had it; now the folks here today are thinking the same way and he is not going to piecemeal this; if it is going to be done, staff needs to erect an ordinance allowing golf carts on the streets that are designated safe for golf cart travel; Heild Road, June Park, and Brandywine have already asked him; and he stated to go ahead and put them in now, otherwise the Board will be back again addressing this same item two months from now. He stated it might as well be done, because to him it is all or nothing.

Commissioner Fisher mentioned letting staff study it some.

Commissioner Anderson replied he agreed.

Commissioner Infantini stated there is not much of a study at least with the communities that brought back the greater than 50 percent of petitions; and she is not suggesting going in and making a rule for everybody.

Commissioner Anderson stated he guaranteed in West Melbourne he will have over 50 percent. Commissioner Infantini mentioned in Ms. Demi's community it is a majority of the community wanting it. Commissioner Anderson stated it is a lot different, but how many people are in that community; if there are 25 people it is a problem and 50 percent is different than 1,000 people; and all he is saying is if it is going to be done, there is the

PROPOSED ORDINANCE TO AMEND SECTION 106-7, RE: OPERATION OF GOLF CARTS (CONTINUED)

equal protection clause; and suggested a motion for staff to study it, to find out what roads are available for golf cart operations.

Motion by Commissioner Anderson, seconded by Commissioner Fisher, to direct staff to provide a report the Board concerning County roads where golf carts can be permitted. Motion carried and ordered; Commissioner Infantini voted nay.

Motion by Commissioner Infantini, to grant permission for the beachside communities that are listed on this Agenda Item and for other communities to adopt same afterwards.

Motion died due to a lack of a second.

DISCUSSION, RE: SOLUTIONS TO CHRONIC CODE ENFORCEMENT COMPLAINTS

Commissioner Infantini stated in the past Code Enforcement has been beat up time and time again for being overzealous; this is opposite of that, which is Code Enforcement reacting to the rules that the Board has set in place and whenever there is a complaint it is investigated; what is not in place is a number of unjustified, unsubstantiated complaints by a named complainants, so the person goes on complaining and it is not anonymous; but there have been numerous unfounded complaints, with the individuals calling the Sheriff's Department who writes down the individuals who have called; and she would like for this to end, because the individuals are working hard to stay in business that the complaints are against. She stated there needs to be a cap made of how long and how many complaints a person can make on a business owner, which are unsubstantiated; and that is her recommendation.

Jim Sheridan stated he inquired if a policy can be created for those who abuse Code Enforcement and the Sheriff's Office. He stated he has with him over 50 complaints to the Sheriff's Office and over 70 complaints to Code Enforcement from one person; if a person calls over three times maybe a discrepancy to terminate a person's ability to complain about the same issue. He stated his issue has been going on for over one and one half years and nothing has been done about it; he feels the person calling in the complaint is not being reprimanded and is coming up with more ways to come up with ideas to shut the business down. He stated he does believe in freedom of speech; he fought for these right in the United States Navy; he does understand when rights have been misused; and that is why he is asking the Board for a cap on this type of issue.

Commissioner Infantini stated the business was zoned Business Commercial (BU) prior to the person purchasing the townhouse behind where the business is located, which is relevant information; she stated the complaints started to the day before the business of the Perfect Pear opened, which is a wonderful grill in the South Beaches located in the Beachwood's. She noted the first complaint that came in was actually the owners of the Perfect Pear, because they were being harassed by a neighbor; and from that point forward, for the next year and one half have been coming in to her office complaining; and Code Enforcement was sent out to sit and watch to see if there is smoke coming out

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DISCUSSION, RE: SOLUTIONS TO CHRONIC CODE ENFORCEMENT COMPLAINTS (CONTINUED)

its exhaust. Commissioner Infantini stated she drives by the Perfect Pear every single day, at different times of the day, and she has yet to see smoke; the Perfect Pear installed an extra exhaust system; then complainants came in about the noise; and at some point the complaining needs to stop. She stated there needs to be some type of remedy for the Perfect Pear to continue in business.

Commissioner Anderson stated he thought there was a Policy on unfounded complaints. Mel Scott, Assistant County Manager, advised it is only of anonymous; in this incident it is a named complaint, which will need Board direction to broaden that clause. Commissioner Anderson stated even if it is a named complaint and it is unfounded, it should stop, because it is causing a lot of taxpayer money to go out and try to servile somebody that is not doing anything wrong.

Commissioner Fisher inquired what is the current rule for anonymous complaints. Mr. Scott responded the current rule for anonymous complaints is two times per year; if it is unsubstantiated after going out and finding it to be an unfound complaint resources will not be dispatched out to look into it a third time; and if the same Policy could be mirrored or named complaints would be helpful.

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to direct staff to expand Policy to include named complaints that are unsubstantiated to occur no more than two times per year. Motion carried and ordered unanimously.

Commissioner Nelson stated it is hard to catch somebody doing something wrong at times; and there needs to be some desecration.

Scott Knox, County Attorney, stated the Policy as it is written allows the Code Enforcement Director to have some discretion; and he or she may feel there may need at times to have more investigations; and if that is the case, they can still go out because it is not an automatic, that at two it stops.

Commissioner Nelson stated he is okay with that.

Commissioner Fisher stated for an example, it is a boom box thing; Code Enforcement cannot get there to hear it, but maybe law enforcement was called; and he inquired if the law enforcement report was honored.

Bobby Bowen, Code Enforcement Manager, stated in this particular situation he would have halted it along time ago.

Commissioner Infantini inquired can this be retroactive per the Perfect Pear. Mr. Scott responded there are ample records in this regard.

CITIZEN REQUEST, RE: THERESA CLIFTON – CULVERT REPLACEMENT OF COX ROAD

Commissioner Nelson stated he knows Theresa Clifton came before the Board previously; the County has always tried to help Central Brevard Humane Society (CBHS); it is an asset with service of delivery for Animal Control; and the facility is in his district and he has tried to help when possible, with the Board helping in a couple of occasions too. He stated the CBHS is down to the last issue needed and is down to putting pipe in after some renovations; it is all a volunteer and donation based organization; the cost to do this piping is about \$72,000 of which \$36,000 is material and the other \$36,000 being the labor, which is Charlie Burton, Construction Manger's group, which will be the ones doing the work; and his suggestion is if CBHS will buy the piping then Mr. Burton's group can do the construction. He stated Mr. Burton is funded by the General Fund; the impact to the County would be there would have to be no new dollars found; but at the end of the year Mr. Burton may have less than he would have collected, because he is a business that takes money in from different projects. He stated he sees it as a Countywide service; it has helped during the Animal Services issues and continue to work with the County's Animal Services people; his thoughts are to allow Road and Bridge Construction to do the installation if CBHS buys the piping; and that will help be in support of the services provided in the last several years.

Commissioner Fisher stated he is okay with helping them, but he is not sure of the timing of it; he stated he was under the impression that the County's Road and Bridge people will be laying culvert and pipe; and at that point in time it would be extending to a private individual or a non-profit agency. He stated his understanding is the road is being asphalted not piped and culvert; the reason is important to him, because he has been waiting on Marina Park work and Truman Scarborough Way; and both of these projects are behind and are State grants with Marina Park; and he needs Road and Bridge to come do those jobs next and they cannot be pulled off of those two jobs to do the CBHS first. He stated the first time Ms. Clifton came before the Board she led him to believe they were laying pipe down that road and that is not the case.

Commissioner Nelson stated what he thinks was believed was there was going to be a resurfacing project that probably had some pipe work with it; but the reality is that is not going to happen, there is a contractor doing that work; and there would have to be rescheduling. He inquired if Ms Clifton is under any timeline to have this project completed. Ms. Clifton responded only when the north culvert cracks and other than that she is not under a timeline. Commissioner Nelson stated even if the north culvert cracks there is still the ability to kind of work around it. Ms. Clifton stated yes, there is still the main culvert; the Sheriff offered if it helps the bottom line dollar he can supply some manned labor to do the actual work as well, so it will help cut down on the labor costs. Commissioner Nelson stated it was never his intent to bump any of the projects that are already in aligned.

Ms. Clifton stated the CBHS appreciates all that the County has been done for them in the past, to enable them to open the low-cost spay and neutering facility. She stated about three weeks ago a partnership started with north and south Animal Care Centers; Tuesday's have been dedicated for them to bring the animals that have been adopted to the shelter to spay or neuter, so they go home quicker; and as of today, 60 animals have been done and when complete they go back to its shelter and are ready for adoption, which will help the bottom line for the animals that still need to come in. She stated in

CITIZEN REQUEST, RE: THERESA CLIFTON – CULVERT REPLACEMENT OF COX ROAD (CONTINUED)

the next year a great reduction should be seen with the number of animals that the kill-number will be greatly reduced from; she is very excited about that; and was just a little stressed about what to do with the culverts. Ms. Clifton stated there is a lot of pride in being self perpetuated on its own financial merit; it is unfortunate that this occurred, because otherwise she would not need to come before the Board and ask for permission with a little help with her project; and does not want to bump any of the County's projects.

Chairman Bolin commented on the excellent work being done at the CBHS and the partnership is wonderful with the County. She has gone through this same thing in her district by doing a good deed with physical labor; the County will be owning the results of that labor for very long period of time and if something happens to it, the fingers are pointed back to the County; and it could go into the future as an expense to the County, because there is no way to declare that is was not faulty labor by the County, but it is area that she does not want to get into because others will want the County to help them too and she is not in favor of doing the assistance in this form, but will consider help in other forms just not in this type.

Motion by Commissioner Nelson, seconded by Commissioner Anderson, to approve Road and Bridge to perform the work of replacing three culverts that connect the Central Brevard Humane Society property to Cox Road in Cocoa when it can be worked in the County's schedule, with Central Brevard Humane Society to provide the materials and Road and Bridge to provide the labor. Motion carried and ordered; Commissioner Bolin voted nay.

Commissioner Fisher stated it is unknown of the timeline.

John Denninghoff, Public Works Directed, stated it will be at least six weeks.

RESOLUTION, RE: SUPPORTING PROPOSED LEGISLATION TO IDENTIFY SHERIFF, TAX COLLECTOR, PROPERTY APPRAISER, SUPERVISOR OF ELECTIONS AND CLERK OF THE CIRCUIT COURT AS LEGISLATIVE BODY OF ITS RESPECTIVE EMPLOYEES RELATED TO COLLECTIVE BARGAINING ISSUES AND NOT THE BOARD

Howard Tipton, County Manager, stated there was a change that occurred in the late 1990's for all of the Constitutional Officers; it was prohibited for its employees to unionize; there was a case that came before the courts and in the 1990's it changed; and on the surface it sounds simple for the Sheriff and Clerk of the Court employees that can now organize, but because they do not make the final decision on its budgets, it become very difficult to determine who in fact should be making that decision; it has kind of languished who is actually going to be the negotiating party to implement the contracts for the Tax Collector; and it could be the Department of Revenue, for the Clerk of the Courts it will likely be the State, and for the Sheriff it will be the Board. He stated the proposal today is supported by the Sheriff's Association as well as the Florida Association of Counties to support legislation that identifies the Constitutional Officer as

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RESOLUTION, RE: SUPPORTING PROPOSED LEGISLATION TO IDENTIFY SHERIFF, TAX COLLECTOR, PROPERTY APPRAISER, SUPERVISOR OF ELECTIONS AND CLERK OF THE CIRCUIT COURT AS LEGISLATIVE BODY OF ITS RESPECTIVE EMPLOYEES RELATED TO COLLECTIVE BARGAINING ISSUES AND NOT THE BOARD (CONTINUED)

the elected official with the authority to make union negotiating decisions; it does not mean ultimately that the approving authority should not have a lot of input in during the negotiating session also, it could mean that it does not approve what has been negotiated; but there has to be some identification of whose actually in charge of negotiations in these union issues.

Commissioner Infantini stated she is not sure if she understands completely, but her concern is Sheriff Parker making a binding agreement with this union and deciding each Deputy is going to be paid \$100,000 a year, which she thinks would be wonderful except she does not have the ability to fund that; and what she worries about is being removed from the equation, the decision would be binding and then it will have to go to the Governor's Office to seek remedy. She stated she is concerned about being put in a position that cannot be met. She inquired what if Jim Ford, Property Appraiser, unionizes before he retires and the Board is bound to pay whatever; and stated she is not currently in support of this unless Sheriff Parker can give her a better reasons.

Sheriff Parker stated for more than 100 years, basically Sheriffs and other Constitutional Officers have basically ran its agencies; it does not give them carte blanche to say they are going to pay \$100,000 a year per person; he stated if he did that, the Board would remedy it by not approving a budget that would support that; he has recourse that would allow him to take it to the Cabinet and tell it the Board is not approving the \$100,000 a year position, but the Cabinet would quickly remedy that with it being an unreasonable situation; that is how it has worked for many, many years; and it has never been an issue. He stated the Constitutional Officers have been elected by the citizens of Brevard County to operate and run its offices, which is his responsibility and he is not throwing responsibilities onto the Board when things get tough; it is his job to make the tough decisions; and then hopefully come before the Board with a product that makes good sense. He stated this started basically with a skirmish between a collective bargaining unit and a Sheriff on the West Coast of Florida who did not like the answers the Sheriff was giving; as a result, it rose to a perk hearing, which sided with the collective bargaining agent, which really went against the Constitution of the State and against precedent; and as a result, it has been told to him by State Officials that what has to happen is fighting it constitutionally and creating a statute that basically defines what precedent has been. He stated if there is an impasse situation, negotiation situation, or anything to do with the employees of that elected office for accountability, to the elected officer, which is how it works here, because if the accountability is taken away then why was the person elected in the first placed. He stated that is how it is supposed to work and it does not give him the ability to just sign something and the Board then having to cash the check, because the Board can still budget based on what is reasonable for the County; and there is not any of kind of issues or problems such as that because it is very rare to have situations for the Sheriff to go to the Cabinet, which is generally a result of public safety being diminished due to a decision.

Chairman Bolin stated with Sheriff Parker it is a one-on-one relationship, with regards to some of the other Constitutional Officers who go directly over the Board by submitting its

RESOLUTION, RE: SUPPORTING PROPOSED LEGISLATION TO IDENTIFY SHERIFF, TAX COLLECTOR, PROPERTY APPRAISER, SUPERVISOR OF ELECTIONS AND CLERK OF THE CIRCUIT COURT AS LEGISLATIVE BODY OF ITS RESPECTIVE EMPLOYEES RELATED TO COLLECTIVE BARGAINING ISSUES AND NOT THE BOARD (CONTINUED)

budget, but the Board does not really have much control over it, which is what scares her. Sheriff Parker advised in most of those types of cases it is actually even less scary, because for an example of his conversation with Scott Ellis, Clerk of Courts, telling him that it really does not effect his office because it does not have a collecting unit; Mr. Ellis is funded separately, and it does not really effect him; and things could change if there was collective bargaining in the future. He mentioned what it really comes down to is does the Board want to be at the negotiating table, making all of the personnel and policy decisions for the Sheriff's Office; and as the Florida Association of Counties has basically said no, they do not believe it is appropriate and that is why there are elected Constitutional and Charter Offices, to be accountable to the people, because the second the Board makes those decisions the Board is accountable for the Sheriff's Office and no longer is he. Chairman Bolin stated that is not the way it is now currently. Sheriff Parker responded affirmatively. Chairman Bolin stated there has been a wonderful working relationship together; and she inquired for how many years. Sheriff Parker responded forever; and it will continue, which is the way it is in most counties, and this is a situation where a small group of people got frustrated with the Sheriff and wanted to go to somebody else; and he thinks, quite frankly, they will regret that decision down-the-road as well; and just because it goes straight to the County Commission does not mean money gets easier. Chairman Bolin stated her statement of concern is if it is not broken in Brevard County does it really need to be changed to this. Sheriff Parker replied in his opinion the Board needs to support the resolution as just one of 60 or so resolutions that other counties are all passing to support the effort to say the Board supports this legislation which defines the elected Constitutional and Charter Officers are the elected heard of their agency; and they will handle all personnel matters and impasse decisions and not go to another authority to maintain what has always existed. He mentioned if there is no law in this matter, there could be further attacks on it, and the Board may be in further position of negotiating and creating operational procedures.

Scott Knox, County Attorney, stated he thinks this is an attempt to get the legislature to reverse a rogue decision by an administrative agency in Tallahassee that established the County as the presiding body of these negotiations as apposed to the actuals who operate the departments like the Sheriff. He stated it is kind of a unique situation where the agency really did not do what has been going on for years and years.

Sheriff Parker stated he would like to add the perk ruling needs a lot of credit for reversal with some issues and debates of whether it is a flawed ruling or not, but in any case if some action is not taken it is sure to get a secondary ruling.

Commissioner Fisher inquired if the Tax Collector has unionized employees and was unhappy and ended up going into a union; and inquired if that was true. Attorney Knox responded he actually does not recall it. Commissioner Infantini stated yes, the Tax Collector did unionize; it now has Lisa Cullen as the Tax Collector; and she negotiates with them. Commissioner Fisher stated currently now when Ms. Cullen has an issue what happens. Sheriff Parker responded it is very similar to him, for example, if he had a negotiator on staff they will negotiate, in good faith, a contract with the union; if there is

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RESOLUTION, RE: SUPPORTING PROPOSED LEGISLATION TO IDENTIFY SHERIFF, TAX COLLECTOR, PROPERTY APPRAISER, SUPERVISOR OF ELECTIONS AND CLERK OF THE CIRCUIT COURT AS LEGISLATIVE BODY OF ITS RESPECTIVE EMPLOYEES RELATED TO COLLECTIVE BARGAINING ISSUES AND NOT THE BOARD (CONTINUED)

no consensus it will go to impasse; the civilian employees in the Sheriff's Office went to impasse and were not happy because there were no civilian pay increases; the final offer was status quo; and that decision is negotiated and then if it is not agreed upon it goes to a mediator, who basically makes a recommendation to the authority to the elected office, and they then have final authority. Commissioner Fisher inquired if this resolution was not passed then Ms. Cullen would come to this Commission. Mr. Tipton responded he believes Ms. Cullen is a part of the Department of Revenue.

Commissioner Nelson stated this reflects collective bargaining, but the reality is elected Constitutional Officers have the ability to set salaries and benefits independently; it is important to give the Sheriff and other Constitutional Officers clear direction on what its responsibilities are; if the bigger picture of the what the Board's responsibility is, it does not change even if a non-collective decision could have an officer that goes crazy with salaries for employees; and presents the bill to the Board; and the choice is still to fund it or not. He stated this clarifies and gives the Constitutional Officers guidance; and it encourages resolution of the issue without bringing the Board in.

Motion by Commissioner Nelson, seconded by Commissioner Anderson, to adopt Resolution supporting the proposed legislation to identify the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and the Clerk to the Circuit Court as the legislative body of its respective employees related to collective bargaining issues and not the Board of County Commissioners. Motion carried and ordered unanimously. (See page _____ for Resolution No. 10-032.)

APPROVAL, RE: LOCAL PARTNER AGREEMENTS FOR 2010 FEDERAL GRANT

Chairman Bolin stated this Item was brought to her office from the School Board; and it is applying for a Federal security grant.

Motion by Commissioner Nelson, seconded by Commissioner Anderson, to approve Local Agency Partner Agreements for the 2010 Federal Grant. Motion carried and ordered unanimously. (See page _____ for Grant Agreements.)

APPROVAL, RE: BREVARD COUNTY 2010 FEDERAL BUDGET REQUEST PRIORITIZATION (CONTINUED)

Howard Tipton, County Manager, stated he is not happy about saying this, but the Board needs to go back and revisit the 2010 Federal Budget Request for Prioritization Item; and as much as he would have liked to take the generally given guidelines, the actual forms require prioritization of each of the projects. He stated for Representative Bill Posey's Office they are already prioritized as Natural Resources Office, Beach Renourishment as number one, and Transportation Planning Office (TPO) the St. Johns Heritage Parkway would be number two. He stated for Senator Bill Nelson's

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**APPROVAL, RE: BREVARD COUNTY 2010 FEDERAL BUDGET REQUEST
PRIORITIZATION (CONTINUED)**

prioritization direction is needed for Beach Renourishment, the I-95 Visitors Center, Traffic Management Improvements for State Roads 405 and 407, and St. Johns Heritage Parkway; and he apologized to the Board for not initially getting this information.

Commissioner Fisher stated Senator Bill Nelson owes Brevard County all of the projects; and would like for the Tourist Development Commission (TDC) to get some of the State and Federal dollars.

Mr. Tipton stated all of the listed items will be sent; it is just in a manner of what order, because if it is not prioritized it is not going to get into the mix; and if beach renourishment is number one, then the other items need to be given a number for order.

Chairman Bolin stated the Board will do this by piecemeal; she inquired if the Board is okay with number one being beach renourishment. Commissioner Infantini and Commissioner Anderson responded no.

Motion by Commissioner Fisher, seconded by Commissioner Anderson, to rank the County's 2010 Federal Budget Requests in priority order for Senator Bill Nelson as follows: 1.) I-95 Visitor's Center, 2.) St. Johns Heritage Parkway between Malabar Road and U.S. 192, 3.) State Road 405 and 407 Traffic Management Improvements, and 4.) Beach Renourishment. Motion carried and ordered unanimously.

Upon motion and vote, the meeting adjourned at 3:32 p.m.

ATTEST:

SCOTT ELLIS, CLERK

MARY BOLIN, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA