

**INDEX TO MINUTES OF REGULAR MEETING**  
**OF BOARD OF COUNTY COMMISSIONERS**  
**OF JANUARY 17, 2006**

1. CALL TO ORDER .....6

2. INVOCATION .....6

3. PLEDGE OF ALLEGIANCE.....6

4. ADDITIONS/DELETIONS/CORRECTIONS TO THE  
AGENDA/EMERGENCY ITEMS.....6

6.A. APPROVAL OF MINUTES – DECEMBER 6, 2005.....7

6.B. APPROVAL OF MINUTES OF JOINT MEETING WITH  
PLANNING AND ZONING COMMISSION - DECEMBER 7,  
2005.....7

6.C. APPROVAL OF MINUTES – DECEMBER 13, 2005.....8

7. CONSENT AGENDA.....8

    7.A. *REPORT*.....8

    7.B. *APPROVAL OF WARRANTS – DECEMBER 30, 2005 TO JANUARY 5, 2006* .....9

    7.C. *2006 COMMITTEE APPOINTMENTS AND RE-APPOINTMENTS* .....9

<b>7.D. REAPPOINTMENT OF KEVIN DOTY AS CIVIC ASSOCIATION OF INDIAN RIVER COUNTY'S REPRESENTATIVE TO THE LAND ACQUISITION ADVISORY COMMITTEE (LAAC) .....</b>	<b>9</b>
<b>7.E. RESIGNATION FROM THE PUBLIC LIBRARY ADVISORY BOARD (PLAB) – MARGARET KAMAKARIS, DISTRICT 1 .....</b>	<b>9</b>
<b>7.F. REAPPOINTMENT TO THE ECONOMIC DEVELOPMENT COUNCIL (EDC) – PENNY CHANDLER, INDIAN RIVER COUNTY CHAMBER OF COMMERCE REPRESENTATIVE – HELENE CASELTINE, ALTERNATE .....</b>	<b>10</b>
<b>7.G. 2006 ELECTION OF PARKS AND RECREATION COMMITTEE (P&amp;R) CHAIRMAN SCOTT CHISHOLM AND VICE CHAIRMAN WILLIAM AHERNS .....</b>	<b>10</b>
<b>7.H. OUT-OF-COUNTY TRAVEL FOR COMMISSIONERS TO ATTEND THE NATIONAL ASSOCIATION OF COUNTIES (NACo) ANNUAL CONFERENCE AND EXPOSITION – AUGUST 4-8, 2006 - CHICAGO.....</b>	<b>10</b>
<b>7.I. WAIVER OF FORMAL BID PROCESS AND RE-AWARD THE ROOF REPLACEMENT FOR THE SOUTH COUNTY R.O. WATER PLANT TO COMMUNITY ROOFING SERVICES, INC. ....</b>	<b>11</b>
<b>7.J. 2006/2007 BUDGET WORKSHOP/HEARING SCHEDULE.....</b>	<b>11</b>
<b>7.K. FINAL PAYMENT AND RELEASE OF RETAINAGE – JOHNSON CONTROLS, INC. – HVAC CONTROLS (HURRICANCE FRANCIS RELATED) - SHERIFF'S OFFICE.....</b>	<b>11</b>
<b>7.L. RON FOULK'S REQUEST FOR FINAL PLAT APPROVAL FOR THE MAGNOLIA LAKES AFFIDAVIT OF EXEMPTION PROJECT (2004030147-56473/SD-05-01-03).....</b>	<b>12</b>
<b>7.M. BID No. 2006041 - OSLO ROAD/LATERAL "J" CANAL BRIDGE REPLACEMENT – LUCAS MARINE CONSTRUCTION, INC. ....</b>	<b>12</b>
<b>7.N. BID No. 7033 – WORK AUTHORIZATION DIRECTIVE FOR WATER, SEWER, AND RECLAIM WATER LINE REPLACEMENT/EXTENSIONS FOR SUNTRUST BANK (ROSELAND) WATER AND SEWER SERVICE BY THE DANELLA COMPANIES, INC. – WORK ORDER No. 2005-018 - UCP 2754.....</b>	<b>13</b>
<b>7.O. REVISION TO THE HEALTH INSURANCE SUBSIDY POLICY FOR RETIRED COUNTY EMPLOYEES, HIRED ON OR AFTER FEBRUARY 1, 2006.....</b>	<b>13</b>

**7.P. RESOLUTION 2006-003 - LOCAL AGENCY PROGRAM AGREEMENT FOR THE  
 FELLSMERE BIKEPATH PHASE II FROM CYPRESS STREET TO MYRTLE STREET  
 – PROJECT No. 9917 .....14**

**8.A.1 CONSTITUTIONAL OFFICERS AND GOVERNMENTAL  
 AGENCIES – SHERIFF ROY RAYMOND – STATE CRIMINAL  
 ALIEN ASSISTANCE PROGRAM (SCAAP) – DEPARTMENT  
 OF JUSTICE – BUREAU OF JUSTICE ASSISTANCE (BJA) –  
 JUSTICE BENEFITS, INC. INVOICE.....14**

**8.A.2 CONSTITUTIONAL OFFICERS AND GOVERNMENTAL  
 AGENCIES - SHERIFF ROY RAYMOND - FORFEITURE  
 TRUST FUND – DRUG ABUSE RESISTANCE EDUCATION  
 PROGRAM (D.A.R.E.) .....15**

**9.A.1. PUBLIC HEARING – RESOLUTION 2006-004 - REQUEST FOR  
 AUTHORIZATION TO SUBMIT A FY 2005-2006 GRANT  
 APPLICATION FOR 49 USC CH. 53, SECTION 5307 MASS  
 TRANSIT CAPITAL AND OPERATING ASSISTANCE –  
 FEDERAL TRANSIT ADMINISTRATION (FTA) .....16**

**9.A.2. PUBLIC HEARING – ORDINANCE 2006–001 – AMENDING  
 CHAPTER 302 (ANIMAL CONTROL AND KENNEL  
 REGULATIONS) – RESOLUTION 2005-005 – UPDATING FEES ...17**

**9.B.1. PUBLIC DISCUSSION ITEM – REQUEST TO SPEAK FROM  
 JOE PALADIN REGARDING MILLSTONE LANDING  
 TRAFFIC IMPACT FEES AND 27<sup>TH</sup> AVENUE CONCURRENCY  
 – SHELBY HOMES .....20**

<b>9.C.1.</b>	<b>PUBLIC NOTICE ITEMS - SCHEDULED FOR PUBLIC HEARING ON JANUARY 24, 2006 .....</b>	<b>24</b>
A.	<i>KEVIN BAILEY’S REZONING: REQUEST TO REZONE +/- .55 ACRES LOCATED NORTH OF 83<sup>RD</sup> STREET AND APPROXIMATELY 110 FEET WEST OF U.S. HIGHWAY 1 FROM OCR, OFFICE, COMMERCIAL, RESIDENTIAL DISTRICT TO CL, LIMITED COMMERCIAL DISTRICT. COMPLETE SERVICES OF INDIAN RIVER COUNTY INC., OWNER. FRANK JOHNSON, AGENT – (QUASI-JUDICIAL).....</i>	<b>24</b>
B.	<i>BYRON BEATTY’S REZONING: REQUEST TO REZONE +/- 17.53 ACRES LOCATED AT THE NORTHWEST INTERSECTION OF 16<sup>TH</sup> STREET AND 66<sup>TH</sup> AVENUE, FROM A-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT/5 ACRES), TO RM-6, MULTIPLE-FAMILY RESIDENTIAL DISTRICT (UP TO 6 UNITS/ACRE). BYRON BEATTY, OWNER. BRUCE BARKETT, AGENT. (QUASI-JUDICIAL).....</i>	<b>25</b>
<b>9.C.2.</b>	<b>PUBLIC NOTICE ITEM – SCHEDULED FOR PUBLIC HEARING ON FEBRUARY 7, 2005 .....</b>	<b>25</b>
	<i>RESIDENCY RESTRICTIONS FOR REGISTERED SEX OFFENDERS.....</i>	<b>25</b>
<b>11.I.1.</b>	<b>PUBLIC WORKS – TRAFFIC IMPACT CONSULTANT REVIEW – MCMAHON ASSOCIATES, INC. – COUNTY CODE REVIEW CONTRACT .....</b>	<b>25</b>
<b>11.J.1.</b>	<b>RFQ #2006036 UTILITIES SERVICES – ROCKRIDGE SUBDIVISION SEWER REPLACEMENT PROJECT UCP #2521 - RANKING OF ENGINEERING CONSULTANTS AND REQUEST FOR AUTHORIZATION TO NEGOTIATE AN ENGINEERING DESIGN CONTRACT WITH #1 RANKED ARCADIS G&amp;M, INC. ....</b>	<b>27</b>

**12. COUNTY ATTORNEY – DRI VESTING – REQUEST FOR INDEPENDENT LEGAL OPINION ON DRI VESTING - WATERWAY VILLAGE.....27**

**14.A. EMERGENCY SERVICES DISTRICT - NONE.....28**

**14.B. SOLID WASTE DISPOSAL DISTRICT - NONE .....28**

**14.C. ENVIRONMENTAL CONTROL BOARD - NONE .....29**

January 17, 2006

**REGULAR MEETING OF THE BOARD OF COUNTY**  
**COMMISSIONERS**

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1840 25<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, January 17, 2006, at 9:00 a.m. Present were Chairman Arthur R. Neuberger, Vice Chairman Gary C. Wheeler, and Commissioners Sandra L. Bowden, Wesley Davis and Thomas S. Lowther. Also present were County Administrator Joseph Baird, County Attorney William G. Collins II, Executive Aide to the Board Kimberly Massung, and Deputy Clerk Maria I. Suesz.

**1. CALL TO ORDER**

Chairman Neuberger called the meeting to order at 9:00 a.m.

**2. INVOCATION**

Pastor Ray Scent, Gathering of Devoted Servants, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Commissioner Thomas S. Lowther led the Pledge of Allegiance to the Flag.

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

Chairman Neuberger requested the following changes to today's Agenda:

1. Corrected Backup – Item 9.A.2., correction on p.131; words “Court Cost Ordinance” replaced with “Animal Control and Kennel Regulations Ordinance”.
2. Addition to Backup – Item 9.B.1 - Letter and backup dated January 5, 2005 from Joseph Paladin.
3. Add Item 12.A. – County Attorney – DRI Vesting – Request for Independent Legal Opinion.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously approved all the above changes to the Agenda.

**6.A. APPROVAL OF MINUTES – DECEMBER 6, 2005**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of December 6, 2005. There were none.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of December 6, 2005, as written and distributed.

**6.B. APPROVAL OF MINUTES OF JOINT MEETING WITH PLANNING AND ZONING COMMISSION - DECEMBER 7, 2005**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Joint Meeting with the Planning and Zoning Commission on December 7, 2005. There were none.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously approved the Minutes of the Joint Meeting with the Planning and Zoning Commission on December 7, 2005, as written and distributed.

**6.C. APPROVAL OF MINUTES – DECEMBER 13, 2005**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of December 13, 2005. There were none.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously approved the Minutes of the Regular Meeting of December 13, 2005, as written and distributed.

**7. CONSENT AGENDA**

**7.A. REPORT**

The following report has been received and is on file in the office of the Clerk to the Board:

1. Notice of Regular Quarterly Meetings – St. Johns Water Control District

**7.B. APPROVAL OF WARRANTS – DECEMBER 30, 2005 TO JANUARY 5, 2006**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for December 30, 2005 through January 5, 2006, as requested.

**7.C. 2006 COMMITTEE APPOINTMENTS AND RE-APPOINTMENTS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved those representatives and members up for re-appointment and to seek replacements for those positions marked “Vacant” on the listing, as recommended in the memorandum of January 11, 2006.

**7.D. REAPPOINTMENT OF KEVIN DOTY AS CIVIC ASSOCIATION OF INDIAN RIVER COUNTY’S REPRESENTATIVE TO THE LAND ACQUISITION ADVISORY COMMITTEE (LAAC)**

The re-appointment was noted for the record.

**7.E. RESIGNATION FROM THE PUBLIC LIBRARY ADVISORY BOARD (PLAB) – MARGARET KAMAKARIS, DISTRICT 1**

The resignation was noted for the record.

**7.F. REAPPOINTMENT TO THE ECONOMIC DEVELOPMENT COUNCIL  
(EDC) – PENNY CHANDLER, INDIAN RIVER COUNTY CHAMBER  
OF COMMERCE REPRESENTATIVE – HELENE CASELTINE,  
ALTERNATE**

The reappointment was noted for the record.

**7.G. 2006 ELECTION OF PARKS AND RECREATION COMMITTEE  
(P&R) CHAIRMAN SCOTT CHISHOLM AND VICE CHAIRMAN  
WILLIAM AHERNS**

The 2006 Elections were noted for the record.

**7.H. OUT-OF-COUNTY TRAVEL FOR COMMISSIONERS TO ATTEND  
THE NATIONAL ASSOCIATION OF COUNTIES (NACo) ANNUAL  
CONFERENCE AND EXPOSITION – AUGUST 4-8, 2006 - CHICAGO**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously authorized for out-of-county travel for Commissioners and staff to attend the 71<sup>st</sup> National Association of Counties Annual Conference and Exposition to be held August 4-8, 2005 in Chicago, as recommended in the memorandum of January 10, 2006.

**7.I. WAIVER OF FORMAL BID PROCESS AND RE-AWARD THE ROOF REPLACEMENT FOR THE SOUTH COUNTY R.O. WATER PLANT TO COMMUNITY ROOFING SERVICES, INC.**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously authorized waiving the formal bid process and authorized the Purchasing Division to issue a purchase order in the amount of \$96,275.00 to Community Roofing Services, Inc. of Vero Beach, as recommended in the memorandum of January 9, 2006.

**7.J. 2006/2007 BUDGET WORKSHOP/HEARING SCHEDULE**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved the budget workshop dates (July 12-13, 2006) and the dates for the budget hearings (September 6 & 13, 2006) for the 2006/2007 budgets, as recommended in the memorandum of January 10, 2006.

**7.K. FINAL PAYMENT AND RELEASE OF RETAINAGE – JOHNSON CONTROLS, INC. – HVAC CONTROLS (HURRICANCE FRANCIS RELATED) - SHERIFF'S OFFICE**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved final payment of the retainage in the amount of \$12,301.00 for the Agreement with Johnson Controls (Orlando branch), as recommended in the memorandum of January 11, 2006.

**7.L.      *RON FOULK’S REQUEST FOR FINAL PLAT APPROVAL FOR THE  
MAGNOLIA LAKES AFFIDAVIT OF EXEMPTION PROJECT  
(2004030147-56473/SD-05-01-03)***

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously granted final plat approval for Magnolia Lakes, as recommended in the memorandum of January 3, 2006.

**7.M.      *BID No. 2006041 - OSLO ROAD/LATERAL “J” CANAL BRIDGE  
REPLACEMENT – LUCAS MARINE CONSTRUCTION, INC.***

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously authorized the Chairman to execute the Contract Documents with Lucas Marine Construction, Inc., as recommended in the memorandum of January 10, 2006.

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

**7.N. BID No. 7033 – WORK AUTHORIZATION DIRECTIVE FOR WATER, SEWER, AND RECLAIM WATER LINE REPLACEMENT/EXTENSIONS FOR SUNTRUST BANK (ROSELAND) WATER AND SEWER SERVICE BY THE DANELLA COMPANIES, INC. – WORK ORDER No. 2005-018 - UCP 2754**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved Work Order No. 2005-018 authorizing Directive with The Danella Companies, Inc., so that the Department of Utility Services may begin work on the above-captioned project, as recommended in the memorandum of January 5, 2006.

WORK AUTHORIZATION DIRECTIVE IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**7.O. REVISION TO THE HEALTH INSURANCE SUBSIDY POLICY FOR RETIRED COUNTY EMPLOYEES, HIRED ON OR AFTER FEBRUARY 1, 2006**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved to amend the policy to eliminate the health insurance subsidy for employees hired on or after February 1, 2006, as recommended in the memorandum of January 9, 2006.

**7.P. RESOLUTION 2006-003 - LOCAL AGENCY PROGRAM  
AGREEMENT FOR THE FELLSMERE BIKEPATH PHASE II FROM  
CYPRESS STREET TO MYRTLE STREET – PROJECT No. 9917**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution 2006-003 authorizing execution of a Local Agency Program Agreement for the Fellsmere Road (CR-512) Bike Path/Sidewalk, between Myrtle Street and Cypress Street, with the State of Florida, Department of Transportation, and providing for an effective date.

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

**8.A.1 CONSTITUTIONAL OFFICERS AND GOVERNMENTAL  
AGENCIES – SHERIFF ROY RAYMOND – STATE  
CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP) –  
DEPARTMENT OF JUSTICE – BUREAU OF JUSTICE  
ASSISTANCE (BJA) – JUSTICE BENEFITS, INC. INVOICE**

**Harry Hall**, Comptroller of the Sheriff's Office, updated the Commission on the State Criminal Alien Assistance Program (SCAAP), a Federal program through the State, that funds participating jurisdictions by partially reimbursing costs incurred by incarceration of undocumented criminal aliens at correctional facilities. He advised that of the amount given the County, \$12,034.88 needed to be paid to the consulting firm, Justice Benefits, Inc., leaving the

County with a net total of \$42,669.12. He requested the Board to grant approval to accept the funds from the State and to pay the invoice.

The Chairman was concerned with the high cost of the consulting fee and Mr. Hall explained that the consulting firm would be providing a level of service that his staff would not be able to perform.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved payment to Justice Benefits, Inc. in the amount of \$12,034.88, as requested in the memorandum of January 10, 2006.

**8.A.2**      **CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - SHERIFF ROY RAYMOND - FORFEITURE TRUST FUND – DRUG ABUSE RESISTANCE EDUCATION PROGRAM (D.A.R.E.)**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved the use of \$10,600 from the Law Enforcement Trust Fund to support the Drug Abuse Resistance Education program (D.A.R.E.), the National Night Out program and the Florida Missing Children’s Day ceremony, as requested in the memorandum of January 10, 2006.

**9.A.1. PUBLIC HEARING – RESOLUTION 2006-004 - REQUEST  
FOR AUTHORIZATION TO SUBMIT A FY 2005-2006 GRANT  
APPLICATION FOR 49 USC CH. 53, SECTION 5307 MASS  
TRANSIT CAPITAL AND OPERATING ASSISTANCE –  
FEDERAL TRANSIT ADMINISTRATION (FTA)**

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

Community Development Director, Bob Keating, recommended that the Board authorize staff to submit an application for Federal Mass Transit Funds. He stated that the grant money goes to the Council on Aging to provide fixed route transit services within the county and should provide for eight buses. He also explained that the County's cost would be \$412,899, which is currently budgeted. Director Keating, in conclusion, recommended that the Board adopt the proposed resolution authorizing the filing of FY 2005/06 Section 5307 Grant Application, prior to which a public hearing should be conducted pursuant to the requirements of the Federal Transit Agency.

Commissioner Bowden inquired whether the buses were replacements or new ones and Director Keating replied they were replacements.

Commissioner Wheeler inquired whether or not the County's portion comes out of the General Fund, to which Director Keating replied that it did.

The Chairman opened the public hearing.

**Ray Scent**, 1615 71<sup>st</sup> Court, spoke on behalf of people who do not have alternative transportation and depended on the bus. He explained that transportation is not readily available at the time it is most needed, which is during peak hours, to and from work. Adding more buses

might help if the scheduling time is reviewed and changes made to accommodate working people.

The Chairman asked MPO Staff Director, Phillip Matson, to provide an update on the recent study that was conducted.

Director Matson informed the Commission that staff successfully applied for a grant from the Department of Transportation (DOT), with 50% of the operating money to be supplied by DOT to expand the hours of operation to include night service on selective routes and that the program would be launched on a selective basis.

There were no additional speakers and the Chairman closed the public hearing.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted Resolution 2006-004 authorizing the filing of a FY 2005-06 Grant application for 49 USC CH. 53, Section 5307 Mass Transit Capital and Operating Assistance.

**9.A.2. PUBLIC HEARING – ORDINANCE 2006-001 – AMENDING CHAPTER 302 (ANIMAL CONTROL AND KENNEL REGULATIONS) – RESOLUTION 2005-005 – UPDATING FEES**

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

Emergency Services Director, John King, stated Animal Control is a significant part of the County's health, safety, and welfare. He stated that staff was seeking to amend the Animal Control Ordinance in three (3) areas:

(1) To clarify the language that requires pet owners to provide food, shelter and water for their animals;

(2) to amend provisions on the handling of dangerous dogs. He believes certain cases should be treated differently, for example, when cited for violation on someone's property as opposed to violation on a sidewalk; and

(3) to amend citation fees to offset cost especially when dealing with repeat offenders.

The Chairman opened the public hearing.

**Ms. Joan Carlson**, Director, Humane Society of Vero Beach, spoke in favor of the changes to the Ordinance and also for the increase in fees. She strongly believes that Animal Control has two roles, to enforce the law and to educate, which should help people to be more responsible with their pets. She also hoped the Commission would vote in favor of the proposed amendments.

Commissioner Wheeler complimented Ms. Carlson on the outstanding facilities she operates and thanked her for her contribution to the community.

There were no additional speakers and the Chairman closed the public hearing.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously adopted Ordinance 2006-001, amending the County's animal control ordinance; providing findings; providing intent and purposes; providing a title and citation; providing for construction and interpretation; providing definitions;

amending certain definitions; amending provisions for vaccination and licensing of certain animals; amending certain provisions concerning owner responsibilities; providing for restriction on animals in vehicles; amending procedures for redemption of animals; amending certain provisions regarding rabies control; providing for imposition of restrictions on dogs involved in attack or bite incidents; amending certain provisions concerning dangerous dogs; providing for mandatory impoundment in certain circumstances; providing for mandatory microchip implantation in specified circumstances; amending certain penalty and enforcement provisions; providing for applicability; providing for severability; providing for repeal of other conflicting ordinances; providing for inclusion in the code of laws and ordinances of Indian River County; providing for filing with the Department of State and providing an effective date.

The Board also unanimously adopted Resolution 2006-005, amending the existing fees, penalties, and procedures related to the enforcement of the animal control ordinance; amending existing civil penalties for violations of specific sections of the animal control ordinance; and amending the existing fees and costs for administering dangerous dog requirements.

**9.B.1. PUBLIC DISCUSSION ITEM – REQUEST TO SPEAK FROM  
JOE PALADIN REGARDING MILLSTONE LANDING  
TRAFFIC IMPACT FEES AND 27<sup>TH</sup> AVENUE  
CONCURRENCY – SHELBY HOMES**

**Joseph Paladin**, President, Atlantic Coast Construction, 730 Commerce Center Drive, Sebastian, presented facts surrounding the vesting of concurrency on Shelby Homes' Millstone Landing project on 27<sup>th</sup> Avenue and the effects of the existing level of service. He discussed the initial process of the application and subsequent actions taken by County staff. He felt vesting was done incorrectly; was not valid; and, the concurrency should be put back in place so all developers and builders can fairly work towards getting a building permit to continue building. Since Millstone is to be developed in phases, he wanted to see Millstone vested for Phase I only (copy of presentation on file).

The Board sought answers from County Attorney Collins on what could have gone wrong in what appeared to have been a simple process. Attorney Collins felt it was all timing; the acceptance of the application one day and the institution of the "pending ordinance" the next. He also clarified that the application was put on hold, not denied.

Further discussion ensued and Community Development Director, Bob Keating, gave a walk-through of the timeline for the application outlining the program. Among other questions from the Board, clarification was sought on whether there was anything in writing and did the applicant agree to accept less capacity. Director Keating said they had nothing in writing and the applicant had verbally agreed to accept less.

Attorney Collins also supported the normal routine of the application and could not see any attempt to circumvent because no one knew beforehand of the "pending ordinance".

Discussion continued between the Board and staff regarding the denial process and whether there was anything in writing to substantiate the requests. County Administrator Baird

reminded them that the applications were made ahead of the “pending ordinance” and staff could not apply the rule retroactively.

The Board sought further clarification on the availability of concurrency and eventual rejection of the application as well as the appeal process. Confirmation was also sought on whether it was put on hold or rejected. Administrator Baird said it was put on hold.

**Spencer Simmons**, Simmons Homes, 118 43<sup>rd</sup> Avenue, joined the discussion. He questioned the Board on the provisions of LDR 910.05 regarding the administration of concurrency; did not understand the actions taken by staff; and, felt that the rules were made to fit people staff wanted to work with.

Administrator Baird acknowledged Mr. Simmons’ frustration but supported staff’s handling of the matter under the rules at the time. Director Keating vouched that the actions were appropriate. Further discussion encompassed the importance of informing the Commission beforehand, of foreseeable problems and whether the decision to put on hold or in denial status was done in accordance with our Ordinance.

**Mr. Robert Shelley** of Shelby Homes related his work with the County, which began over two years ago. He reminded the Board of significant contributions Shelby Homes has made to the County through major road improvements (turn lanes to 27<sup>th</sup>), intersecting roads in the community, and donation of about \$3 million worth of land for schools to be built. He, therefore, resented Mr. Paladin’s comments that they were out-of-towners coming in to use up all the capacity. He felt they should not be adversaries but should try to come together with a solution. He also provided a walk-through of his application from inception to present and felt they followed all the requirements and had done nothing wrong.

Commissioner Davis did not want to blame anyone but felt we needed to look at changing certain provisions regarding denying an application or putting it on hold.

**Mr. Shelley** defended the reason his application was put on hold.

Administrator Baird commented on procedures usually followed by staff in processing such applications.

(CLERK'S NOTE: THE CHAIRMAN CALLED A SHORT RECESS AT 10:28 A.M.  
AND RECONVENED AT 10:39 A.M. WITH ALL MEMBERS PRESENT.)

Discussion continued and County Traffic Engineer, Chris Mora, provided comments on traffic studies.

**Beth-Ann Krimskey, Esquire**, Ruden McCloskey et al, 145 NW Central Park Place, Port St. Lucie, representing Shelby Homes. She stated that while she appreciated the opportunity for herself and Mr. Shelley to address the Commission they were not waiving any rights by doing so at this time. Also they did not believe there was a pending appeal in relation to the concurrency determination that took place on December 12, 2005; there was no appropriate action for the Board to take at that time and this was not a fact-based hearing. The key point is that the determination was made; the final certificate was issued on December 12<sup>th</sup>; and, as County Attorney Collins pointed out to the Commission, there is a very specific procedure in the Code (910.12) relating to concurrency determinations. Concluding, she again thanked the Commission for the opportunity of having the public discussion and stated, for the record, that there was no authority at that point to take any action on the appeal.

Commissioner Lowther reiterated that this does bring forward the issue of how important it is for the Board to possibly look at the "boulevard effect" for 27<sup>th</sup> Avenue; and, to design something that the residents of Indian River County would be happy with. He agreed with

Commissioner Davis that the applications were in before the pending ordinance doctrine was set. He thinks we need to be pro-aggressive and begin to do things that look good and appeal to Indian River County.

Commissioner Davis' concern was not about the appeal or the timeframe but about putting the application on hold until capacity became available.

Commissioners agreed that staff followed the rules; however, they were not happy with the outcome.

**John Higgs**, 45 Waxmyrtle Way, Vero Beach, Chairman of Indian River Neighborhood Association, commented that over a year ago he and others pointed out to the Commission that the pace of development in Indian River County was unsustainable and if we did not take time-out to review the situation we would have a terrible problem, and such prediction was now apparent. He offered suggestions that were limited specifically to Mr. Paladin's initiative. He questioned the Commission's reliance on staff's opinions and staff's understanding of the requirements for builders. He recommended that a party, independent of staff, the Commission, and the developers, review the situation on whether it was legal; and how to prevent future occurrences.

**Mr. Simmons** commented on Mr. Paladin's statement regarding the developers giving back capacity.

**Mr. George Christopher** felt all appearances of favoritism should be avoided as we were walking through a field of legal eggshells. He also related certain incidents and his understanding of the matter.

**George Sigler**, 155 31<sup>st</sup> Avenue, Vero Beach, addressed the Commission regarding his permit for converting a house on 27<sup>th</sup> Avenue. He believed that the decision on the concurrency was wrong and the Commission should vote to widen the roads at 27<sup>th</sup> Avenue and court appearances should be avoided.

**Dian George**, 1515 27<sup>th</sup> Avenue, spoke briefly. She was concerned about an article she read, in the morning papers, which stated, “we should be able to trust our elected officials to do what they said they were going to do.” She did not support the widening of 27<sup>th</sup> & 43<sup>rd</sup> Avenues.

When asked if the boulevard effect would work, Director Davis responded it could work with circular driveways but may require some modifications to individual driveways.

Further discussion ensued between staff and the Commissioners regarding the designs.

**Mr. Paladin** rejoined the discussion and defended the individual needs of the people on 27<sup>th</sup> Avenue. He also explained that he had no personal gain on 27<sup>th</sup> Avenue and any personal gain he may have had on any of his projects he had brought forward to the Commission before he proceeded.

NO ACTION REQUIRED OR TAKEN.

**9.C.1. PUBLIC NOTICE ITEMS - SCHEDULED FOR PUBLIC HEARING ON JANUARY 24, 2006**

**A. KEVIN BAILEY’S REZONING: REQUEST TO REZONE +/- .55 ACRES LOCATED NORTH OF 83<sup>RD</sup> STREET AND APPROXIMATELY 110 FEET WEST OF U.S. HIGHWAY 1 FROM OCR, OFFICE, COMMERCIAL, RESIDENTIAL DISTRICT TO CL, LIMITED COMMERCIAL DISTRICT. COMPLETE SERVICES OF INDIAN RIVER COUNTY INC., OWNER. FRANK JOHNSON, AGENT – (QUASI-JUDICIAL)**

**B. BYRON BEATTY'S REZONING: REQUEST TO REZONE +/- 17.53 ACRES LOCATED AT THE NORTHWEST INTERSECTION OF 16<sup>TH</sup> STREET AND 66<sup>TH</sup> AVENUE, FROM A-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT/5 ACRES), TO RM-6, MULTIPLE-FAMILY RESIDENTIAL DISTRICT (UP TO 6 UNITS/ACRE). BYRON BEATTY, OWNER. BRUCE BARKETT, AGENT. (QUASI-JUDICIAL)**

The Chairman read the notices into the record.

**9.C.2. PUBLIC NOTICE ITEM – SCHEDULED FOR PUBLIC HEARING ON FEBRUARY 7, 2005**  
**RESIDENCY RESTRICTIONS FOR REGISTERED SEX OFFENDERS**

**11.I.1. PUBLIC WORKS – TRAFFIC IMPACT CONSULTANT REVIEW – MCMAHON ASSOCIATES, INC. – COUNTY CODE REVIEW CONTRACT**

County Traffic Engineer, Chris Mora, had no presentation but provided a follow-up to the Planning & Zoning Commission's request and the Board's request that they get a traffic impact analysis done by an outside traffic-engineering consultant. He had received a proposed contract from McMahon & Associates to do a review of our entire traffic impact study process to make sure we are doing it in accordance with best practices (trip generation etc.).

Commissioner Lowther referred to item C of McMahon's Comparative Review, (page 179 of back-up) which requested three other Florida counties be reviewed and compared to Indian River County's requirements and procedures as they pertain to the County's areas of

concern, and questioned whether we were going to also listen to the Consultant if he comes forward with additional types of communities.

Mr. Mora responded that they recently had a meeting and decided to have the Consultant look at five different local Florida governments, including one out-of-state examples of traffic impact procedures.

**Mr. George Christopher** commented that although we would be looking at other counties the test would be what are the best practices for Indian River County and not what other communities are doing. He requested that the meeting with staff and consultants be opened to the public and he be given prior written notice.

The Chairman informed him that those meetings are always open and agreed to his request for prior notice.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved Alternative No. 1 to accept the study proposal and authorized the County Administrator to sign the proposed contract with McMahon Associates, Inc., as recommended in the memorandum of January 9, 2006.

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

**11.J.1. RFQ #2006036 UTILITIES SERVICES – ROCKRIDGE  
SUBDIVISION SEWER REPLACEMENT PROJECT UCP  
#2521 - RANKING OF ENGINEERING CONSULTANTS AND  
REQUEST FOR AUTHORIZATION TO NEGOTIATE AN  
ENGINEERING DESIGN CONTRACT WITH #1 RANKED  
ARCADIS G&M, INC.**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously authorized staff to proceed with negotiations with Arcadis G&M, Inc. for a contract for the design, permitting and construction oversight for the construction of a Rockridge Vacuum Sewer System. Should the Utility Department fail to reach an agreement with Arcadis, the Utility Department reserves the right to negotiate with Option 2, Baskerville-Donovan, Inc., as recommended in the memorandum of January 8, 2006.

**12. COUNTY ATTORNEY – DRI VESTING – REQUEST FOR  
INDEPENDENT LEGAL OPINION ON DRI VESTING -  
WATERWAY VILLAGE**

Attorney Collins informed that, at the last Planning Committee meeting, Waterway Village came in for Phase II of their approved Development of Regional Impact (DRI). He said they were looking for a preliminary plan approval for that phase and the Planning & Zoning Committee was divided as to whether or not this project should go forward without a

concurrency review. An initial motion to table failed by a vote of 3-4 and County Administrator Baird suggested a compromise that Phase II be approved on the condition that no further Phases be approved until the Board obtained an independent legal opinion. Attorney Collins recommended that the Commission authorize him to seek an independent legal opinion on the matter.

The Chairman liked the idea of reviewing them occasionally.

Commissioner Lowther asked for confirmation that this was our only DRI. He also commented on the thorough process and stages of working with a DRI.

Attorney Collins agreed it goes through a much more rigorous review, not only local but at the regional level.

Further discussion on the subject ensued between the Commissioners.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized the County Attorney's office to obtain an independent legal opinion as to whether development of regional impacts vests for purposes of concurrency when their final development order is issued or, whether subsequent concurrency analysis is required at each subsequent phase of development approval for development of regional impacts, as requested in the memorandum of January 16, 2006.

**14.A. EMERGENCY SERVICES DISTRICT - NONE**

**14.B. SOLID WASTE DISPOSAL DISTRICT - NONE**

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

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

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 11:37 a.m.

ATTEST:

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

\_\_\_\_\_  
Arthur R. Neuberger, Chairman

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

BCC/MIS/2006Minutes