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February 7, 2006

**MEETING OF THE BOARD OF COUNTY COMMISSIONERS  
OF INDIAN RIVER COUNTY**

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, February 7, 2006, at 9:00 a.m. Present were Chairman Arthur R. Neuberger, Vice Chairman Gary C. Wheeler, Commissioners Sandra L. Bowden, Wesley S. Davis, and Thomas S. Lowther. Also present were Administrator Joseph A. Baird, County Attorney William G. Collins II, Executive Aide to the Board Kimberly Massung, and Deputy Clerk Patricia Ridgely.

**1. CALL TO ORDER**

Chairman Neuberger called the meeting to order.

**2. INVOCATION**

Rev. Gary Moore, Community Church, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Commissioner Davis led the Pledge of Allegiance to the Flag.

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

Chairman Neuberger announced the following requested changes to the agenda:

Defer Item 6.B., approval of January 17, 2006 minutes, to February 14, 2006;

Add Emergency Item 7.CC., Out-of-county travel to Tallahassee for Commissioner Davis and County Administrator Baird; (Clerk's note: Not added, see below.)

Correction to Item 9.C.2., hearing date corrected to February 14, 2006, not February 7, 2006;

Additional Backup for Item 11.C.2.; and

Add Emergency Item 11.C.3., New County Administration Building Change Orders 001 and 002 with Turner Construction Company.

There were questions regarding the emergency nature of Item 7.CC. In response to questions from Commissioner Bowden, Commissioner Davis advised that Representative Stan Mayfield had arranged a meeting with the Secretary of Florida Department of Transportation (FDOT) to discuss some of the State and Federal highways. It was not on the agenda initially because he was unsure whether he would be able to travel due to family illness.

Vice Chairman Wheeler would not agree to put this matter on the agenda as an emergency item because he believed the Commission and the Metropolitan Planning Organization (MPO) should have input in this matter; that another appointment could be arranged; and that appropriate staff should attend.

County Administrator Baird explained that this opportunity arose from a conversation with Representative Mayfield several days prior and that he should have kept the Commission informed of it. County Administrator Baird suggested he could speak with the FDOT Secretary on a conference call rather than a meeting in person.

Commissioner Lowther, Chairman Neuberger, and Commissioner Bowden indicated their support to add the item to the agenda. Commissioner Bowden wanted to have more information should something like this come up again as an emergency add-on item.

County Attorney Collins reminded them that changes to the agenda require the unanimous vote of the Commission.

Chairman Neuberger asked for separate motions.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, requested changes to the agenda, with the exception of adding Item 7.CC., were unanimously approved.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Commission by a 4-1 vote (Vice Chairman Wheeler opposed) did not add Item 7.CC. to the Agenda. (Clerk's Note: Unanimous vote required.)

**5. PROCLAMATIONS AND PRESENTATIONS – CHAMBER OF COMMERCE REGIONAL ECONOMIC DEVELOPMENT STRATEGIC PLAN**

**Helene Caseltine**, Economic Development Director for the Indian River County Chamber of Commerce, advised that they have been working on this plan since mid 1990s and the document before them represents 1 year's work. She asked for the Board's endorsement of the regional strategic plan. She listed other endorsements for the plan which included Indian River Community College Board of Trustees, the Chamber's Board of Directors, the County's Economic Development Council, St. Lucie County's Chamber of Commerce, and the Martin

County Development Board. (The formalized economic development plan is filed with the backup in the Office of the Clerk to the Board.)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board endorsed the plan, A Regional Approach to Economic Diversity, as presented.

**6.A. APPROVAL OF MINUTES – JANUARY 10, 2006**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting on January 10, 2006. There were none.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Meeting of January 10, 2006, as written and distributed.

**6.B. APPROVAL OF MINUTES – JANUARY 17, 2006**

Deferred to February 14, 2006.

**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:

2006 Indian River County Hospital District Meeting Schedule.

**7.B. APPROVAL OF WARRANTS**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved the list of Warrants issued by the Clerk to the Board for the period January 13-19, 2006, as requested.

**7.C. APPROVAL OF WARRANTS**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved the list of Warrants issued by the Clerk to the Board for the period January 20-26, 2006, as requested.

**7.D. INVESTMENT POLICY AND INVESTMENT REPORT – 1<sup>ST</sup> QUARTER FY  
2005-2006**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously accepted the Investment Advisory Committee's Quarterly Report, as recommended in the memorandum of January 23, 2006.

**7.E. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT – TRAFFIC  
EDUCATION PROGRAM TRUST FUND**

ON MOTION by Vice Chairman Wheeler, SECONDED  
by Commissioner Bowden, the Board unanimously  
accepted the annual report as submitted in the backup, as  
recommended in the memorandum of January 16, 2006.

**7.F. 2006 ELECTION OF UTILITY ADVISORY COMMITTEE (UAC)  
CHAIRMAN ANDREW ALLOCCO AND VICE CHAIRMAN MARK  
GROSSMAN**

Election noted for the record.

**7.G. APPOINTMENT OF DENNIS RYAN TO THE SCHOOL PLANNING  
CITIZEN OVERSIGHT COMMITTEE BY THE CITY OF VERO BEACH**

Appointment noted for the record.

**7.H. 2006 ELECTION OF PROFESSIONAL SERVICES ADVISORY  
COMMITTEE (PSAC) CHAIRMAN RODNEY PARADISE AND VICE  
CHAIRMAN WARREN DILL**

Election noted for the record.

**7.I. INDIAN RIVER COUNTY APPOINTMENTS TO THE ECONOMIC OPPORTUNITIES COUNCIL (EOC) – JERRY MORGAN, ANJANI CIRILLO, AND SUE RUX**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously appointed Jerry Morgan, Anjani Cirillo, and Sue Rux, as recommended in the memorandum of January 23, 2006.

**7.J. 2006 ELECTION OF COUNCIL OF PUBLIC OFFICIALS (COPO) CHAIRMAN TOM WHITE AND VICE CHAIRMAN JOEL TYSON**

Election noted for the record.

**7.K. 2006 ELECTION OF LAND ACQUISITION ADVISORY COMMITTEE (LAAC) CHAIRMAN JANICE BRODA AND VICE CHAIRMAN TALMAGE ROGERS**

Election noted for the record.

**7.L. 2006 COMMITTEE APPOINTMENTS BY THE INDIAN RIVER COUNTY  
SCHOOL DISTRICT**

Appointments for 2006 noted for the record as follows:

MPO Citizen Advisory Committee	Michael Durwin
MPO Technical Advisory Committee	Kathleen Geyer
Parks and Recreation Committee	Dale Klaus
School Planning Citizen Oversight Committee	Peter Robinson
School Planning Working Group Committee	Dr. Dan McIntyre and Mrs. Susan Olson

**7.M. 2006 ELECTION OF CODE ENFORCEMENT BOARD CHAIRMAN KARL  
ZIMMERMANN AND VICE CHAIRMAN JOSEPH GARONE**

Elections noted for the record.

**7.N. 2006 ELECTION OF METROPOLITAN PLANNING ORGANIZATION  
TECHNICAL ADVISORY COMMITTEE (MPOTAC) CHAIRMAN BOB  
KEATING AND VICE CHAIRMAN CHRIS MORA**

Elections note for the record.

**7.O. RESOLUTION NOS. 2006-011 THROUGH 2006-015 PROPERTY ACQUISITIONS – TAX ROLL REMOVAL & TAX CANCELLATIONS (FRED & EDWARD PETERSON - R/W 66<sup>TH</sup> AVENUE & RETENTION POND, CROSSROADS PLAZA OF SEBASTIAN, LLC – R/W COUNTY ROAD 512, LAKESIDE FELLOWSHIP BAPTIST CHURCH – 66<sup>TH</sup> AVENUE, RANCH ROAD LAKE LLC – R/W PROPOSED 57<sup>TH</sup> STREET, WAYNE COLLIER – R/W 58<sup>TH</sup> AVENUE SOUTH OF OSLO)**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution No. 2006-011 canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (Fred & Edward Peterson - R/W 66<sup>th</sup> Avenue & Retention Pond)

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution No. 2006-012 canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (Crossroads Plaza of Sebastian, LLC – R/W County Road 512.)

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution No. 2006-013 canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida

Statutes. (Lakeside Fellowship Baptist Church – 66<sup>th</sup> Avenue.)

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution No. 2006-014 canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (Ranch Road Lake LLC – R/W Proposed 57<sup>th</sup> Street)

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution No. 2006-015 canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (Wayne Collier – R/W – 58<sup>th</sup> Avenue south of Oslo.)

**7.P. BRIAN DAVIS - SAND MINE – CASH DEPOSIT AND ESCROW AGREEMENT**

Commissioner Davis announced a voting conflict on this as Brian Davis is his brother. (Voting Conflict form is on file with the backup in the office of the Clerk to the Board.)

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously (by a vote of 4-0, Commissioner Davis abstaining) approved the proposed Cash Deposit and Escrow Agreement SP-MA-

04-08-46 (2002040059-40549) and authorized the Chairman to execute same, as recommended in the memorandum of January 31, 2006.

COPY OF CASH DEPOSIT AND ESCROW AGREEMENT IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**7.O. RESOLUTION No. 2006-116 – REQUESTING AUTHORIZATION FOR  
THE GENERAL SERVICES DIRECTOR OR HIS DESIGNEE TO  
EXECUTE HOLD HARMLESS AGREEMENTS ON BEHALF OF THE  
BOARD OF COUNTY COMMISSIONERS CONCERNING DISPLAY OF  
ART IN COUNTY-OWNED BUILDINGS BY EXHIBITORS THROUGH THE  
CULTURAL COUNCIL OF INDIAN RIVER COUNTY**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution No 2006-116 granting authorization to the General Services Director or his Designee to execute hold harmless agreements on behalf of Indian River County to allow exhibitors, through the Cultural Council of Indian River County, to display art in County-owned buildings.

**7.R. RESOLUTION No. 2006-117 – 5<sup>TH</sup> AMENDMENT TO 99 YEAR LEASE**  
**(ST. FRANCIS MANOR OF VERO BEACH, FLORIDA, INC.)**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution No. 2006-117 approving a fifth amendment to the ninety-nine year lease with St. Francis Manor of Vero Beach, Florida, Inc., a Florida non-profit corporation.

FIFTH AMENDMENT IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD  
AND HAS BEEN RECORDED IN THE  
PUBLIC RECORDS OF INDIAN RIVER COUNTY

**7.S. PROCLAMATION AND RETIREMENT AWARD TO LAVERNE WALKER**  
**FOR 9 YEARS OF SERVICE (RISK MANAGEMENT)**

Proclamation and award noted for the record.

**7.T. PROCLAMATION AND RETIREMENT AWARD TO NINA BORGIS FOR**  
**15 YEARS OF SERVICE (NORTH COUNTY LIBRARY)**

Proclamation and award noted for the record.

**7.U. PROCLAMATION AND RETIREMENT AWARD TO JUDY WRAY FOR 17 YEARS OF SERVICE (NORTH COUNTY LIBRARY)**

Proclamation and award noted for the record.

**7.V. NORTH COUNTY REGIONAL PARK, PHASE II, PROJECT NO. 0399 – BARTH CONSTRUCTION - PARTIAL RELEASE OF RETAINAGE**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously accepted the project and approved releasing retainage in the amount of \$131,375.83 to Barth Construction, Inc., with funding from Account No. 31521072-066510-04014, as recommended in the memorandum of January 31, 2006.

**7.W. BID AWARD NO. 7057 – RAISE ELEVATION OF THE FOOTBRIDGE AT ROUND ISLAND PARK – SUMMERLIN’S SEVEN SEAS, INC. (SHARON NICHOLSON SETTLEMENT AGREEMENT)**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously awarded Bid No. 7057 to the lowest responsible bidder, Summerlin’s Seven Seas, Inc., in the total amount of \$45,400.00 including performance and payment bonds, as recommended in the memorandum of January 18, 2006.

**7.X. RFP No. 2006-022 AWARDED – COMMUNICATION TOWER AT SEA  
OAKS WASTEWATER TREATMENT PLANT – VERIZON WIRELESS  
PERSONAL COMMUNICATIONS, LP DBA VERIZON WIRELESS –  
LAND LEASE AGREEMENT**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously awarded RFP No. 2006022 to Verizon Wireless pending successful negotiation by staff of a lease agreement; the completed agreement will be brought back to the Board for final approval, as recommended in the memorandum of January 31, 2006.

**7.Y. GIFFORD YOUTH ACTIVITY CENTER, INC. – REIMBURSEMENT PER  
LEASE AGREEMENT FOR MAINTENANCE AND REPAIRS**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved reimbursement to the Gifford Youth Activity Center to cover the sprinkler repair costs at the GYAC in the amount of \$829.00, as recommended in the memorandum of January 31, 2006.

**7.Z. RESOLUTION No. 2006-118 – MISCELLANEOUS BUDGET  
AMENDMENT 007**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Resolution No. 2006-118 amending the fiscal year 2005-2006 budget.

**7.AA PARKS DIVISION - SCHEDULE OF USER FEES FOR COUNTY FACILITIES AND EQUIPMENT**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved the schedule of user fees for the use of County facilities and equipment as specified in the backup, as recommended in the memorandum of February 1, 2006.

**7.BB BID No. 2006041 - OSLO ROAD/LATERAL "J" CANAL BRIDGE REPLACEMENT – LUCAS MARINE CONSTRUCTION, INC. – CHANGE WORK DIRECTIVE NO. 1 AND CHANGE ORDER NO. 1**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved Change Order No. 1 to the contract with Lucas Marine Construction, Inc., in the amount of \$36,905.00, as recommended in the memorandum of February 1, 2006.

CHANGE ORDER NO. 1 IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**9.A.1. PUBLIC HEARING – WINDSOR PROPERTIES’ REQUEST TO MODIFY THE CONCEPTUAL PD PLAN TO EXPAND THE WINDSOR PROJECT (PD SPECIAL EXCEPTION APPROVAL) (LEGISLATIVE)**

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

Planning Director Stan Boling reviewed the memorandum dated January 6, 2006, in detail using visual aids as provided in the backup to explain Windsor Properties’ request to modify the conceptual PD (planned development) to expand the Windsor project. As a result of the P & Z (Planning and Zoning Commission) meeting, internal roads, not external, will be used for construction access purposes. He advised that staff and the Planning and Zoning Commission unanimously recommended approval with conditions as set out in the memorandum.

Community Development Director Bob Keating responded to Chairman Neuberger’s inquiry regarding the status of the Windsor land swap. Director Keating expected staff would be back to the Board on that matter in the near future.

The Chairman opened the public hearing.

**Keith Pelan**, Kimley-Horn and Associates, Inc., representing Windsor Properties, offered to respond to any questions. (There were none.)

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

ON MOTION by Commissioner Bowden, SECONDED  
by Commissioner Davis, the Board unanimously granted

PD special exception approval for the proposed modifications to the overall Windsor PD, with the following conditions: 1) Prior to issuance of an LDP, the applicant shall obtain approval of the buffer landscape plan; 2) Prior to the issuance of a certificate of completion, the applicant shall: (a) Complete the landscape buffer as approved; and (b) document that the existing SR A-1-A sidewalk has not been damaged; 3) all structures shall be set back 49' from the north property line, as recommended in the memorandum of January 6, 2006.

**9.A.2. PUBLIC HEARING – ORDINANCE NO. 2006-004 AMENDING THE CODE OF INDIAN RIVER COUNTY REQUIRING REGISTERED SEX OFFENDERS TO RESIDE AT LEAST 2,500 FEET FROM A SCHOOL, PARK, OR LICENSED DAYCARE FACILITY (LEGISLATIVE)**

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

Assistant County Attorney William K. DeBaal reviewed the memorandum and explained current state law in relation to this issue. Sheriff Roy Raymond's General Counsel Jim Harpring, assisted in the preparation of this ordinance. In response to questions, Attorney DeBaal advised this ordinance is not retroactive and it is up to the offender to be aware of it.

The Chairman opened the public hearing. There were no speakers and the Chairman closed the public hearing.

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Bowden, the Board unanimously adopted Ordinance No. 2006-004 adopting the Indian River County Code Section 306.06 creating residency restrictions for registered sex offenders; providing for codification; providing for severability; and providing for an effective date.

**9.B.1. PUBLIC DISCUSSION ITEM – REQUEST TO SPEAK FROM BEA GARDNER REGARDING PRINTING THE BOARD’S AGENDA IN THE PRESS JOURNAL**

**Bea Gardner** asked the Board to reconsider publishing the agenda in the newspaper, and presented several reasons for the request.

The Commissioners discussed the matter at length. It was mentioned that the cost would be approximately \$40,000 per year and more expensive on Sundays. The information is already available through the Internet, Libraries, and the County’s Cable TV Channel 27, and the publisher of the newspaper had previously declined our request to print the Board’s agendas as a community service.

MOTION WAS MADE by Vice Chairman Wheeler, SECONDED by Commissioner Davis, to publish the Board of County Commissioners’ agenda in the local newspaper for a year and then re-evaluate the matter.

Under discussion, it was noted that the cost would have to be funded out of the County's General Fund Contingencies. County Administrator Baird suggested he could go to the newspaper to request the Board's agenda be printed without charge to the County.

The Chairman CALLED THE QUESTION and the motion carried by a 3-2 vote (Commissioner Bowden and Chairman Neuberger opposed).

After more discussion, there was CONSENSUS for County Administrator Baird to meet with the Press Journal to negotiate a lower fee, a standard day of publication, and the placement of the agenda in the newspaper.

**9.C.1. PUBLIC NOTICE ITEMS SCHEDULED FOR PUBLIC HEARINGS ON FEBRUARY 14 AND 21, 2006**

- A. FEBRUARY 14, 2006 – AMENDMENT TO NATIVE UPLAND SET-ASIDE REQUIREMENTS - COUNTY-INITIATED AMENDMENT TO LAND DEVELOPMENT REGULATIONS (LDRS) RELATING TO NATIVE UPLAND PLANT COMMUNITY CONSERVATION REQUIREMENTS ASSOCIATED WITH NEW DEVELOPMENT (LDR SECTION 929.05) (LEGISLATIVE)**
- B. FEBRUARY 21, 2006 – ANNE KEEN TRUST'S REZONING: REQUEST TO REZONE ±37.16 ACRES LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF 4<sup>TH</sup> STREET AND 58<sup>TH</sup> AVENUE, FROM A-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT/5ACRES), TO RS-3, SINGLE-FAMILY RESIDENTIAL DISTRICT (UP TO 3 UNITS/ACRE).**

ANNE KEEN TRUST, OWNER. KNIGHT, MCGUIRE & ASSOCIATES, INC., AGENT (QUASI-JUDICIAL)

C. FEBRUARY 21, 2006 – RYALL PARCEL ENVIRONMENTAL LAND ACQUISITION BOARD CONSIDERATION TO PURCHASE THE RYALL PARCEL OF THE “SOUTH PRONG SLOUGH” PROJECT UNDER THE COUNTY ENVIRONMENTAL LANDS PROGRAM. THE SUBJECT 10.13 ACRE PARCEL, OWNED BY MARGARET A. RYALL, IS LOCATED AT 7780 85<sup>TH</sup> STREET (A.K.A. CR 510) (QUASI-JUDICIAL)

Executive Aide Kimberly Massung read the above notices into the record.

9.C.2. PUBLIC NOTICE ITEM SCHEDULED FOR FEBRUARY 7, 2006 (CORRECTED TO FEBRUARY 14, 2006)

LAKWOOD TERRACE SUBDIVISION WATER SERVICE – WEST SIDE OF 27<sup>TH</sup> AVENUE, NORTH OF ST. LUCIE COUNTY LINE – INDIAN RIVER COUNTY PROJECT No. UCP-2317 (ADMINISTRATIVE)

Executive Aide Kimberly Massung read the above notice into the record.

11.C.1. GENERAL SERVICES – INDIAN RIVER COUNTY HOUSING AUTHORITY – TENANT-BASED RENTAL ASSISTANCE AGREEMENT WITH FLORIDA HOUSING FINANCE CORPORATION – HOME INVESTMENT PARTNERSHIP PROGRAM

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Lowther, the Board unanimously authorized the Chairman to execute the Tenant-Based Rental Assistance (TBRA) Agreement with Florida Housing Finance Corporation, as recommended in the memorandum of January 31, 2006.

AGREEMENT AND GRANT APPLICATION ARE ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**11.C.2. GENERAL SERVICES – JAIL EXPANSION PROJECT -  
AMENDMENT ONE – INITIAL GMP (GUARANTEED  
MAXIMUM PRICE) – PETER R. BROWN CONSTRUCTION,  
INC. – 100% PAYMENT AND PERFORMANCE BONDS  
REQUIRED**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously approved AIA 121 CMc Amendment #1 to agreement with Peter R. Brown Construction, Inc., establishing the Initial Guaranteed Maximum Price of \$18,301,631 for the Indian River County Jail expansion project; authorized the Chairman to execute the documents; authorized the procedures for establishing and managing the Owner's Contingency outlined in the memorandum; and approved that Payment and Performance Bonds be required at 100% of the cost of construction, all as recommended in the memorandum of January 31, 2006.

AMENDMENT #1 IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**11.C.3. GENERAL SERVICES - NEW COUNTY ADMINISTRATION  
BUILDING – TURNER CONSTRUCTION – APPROVAL OF  
CHANGE ORDERS 001 AND 002 (AND 003\*) TO REDUCE  
GMP**

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Change Orders 001 and 002 to the GMP for the new County Administration Building collectively reducing the Guaranteed Maximum Price from \$33,086,442 to \$29,242,198 and establishing an Owner's Contingency with the GMP of \$231,504 and authorized the County Administrator to sign the approved change orders on behalf of Indian River County, as recommended in the memorandum of February 6, 2006.

CHANGE ORDERS 001, 002, AND 003\*  
(\*EXECUTED BY COUNTY ADMINISTRATOR BAIRD AS AUTHORIZED)  
ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**11.I.1. PUBLIC WORKS – RIGHT-OF-WAY ACQUISITION – 13<sup>TH</sup>  
STREET SW BETWEEN 43<sup>RD</sup> AVENUE AND 58<sup>TH</sup> AVENUE –  
DAVE W. AND JANICE WETHERINGTON**

Public Works Director Jim Davis explained the primary reason for the acquisition of this property and the property in the next item (Item 11.I.2.) is to relieve traffic congestion on 43<sup>rd</sup> Avenue. There are 4 more parcels necessary to complete a one-mile section.

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

Under discussion, Commissioners Lowther and Bowden questioned and commented on the cost of the property.

The Chairman CALLED THE QUESTION and the motion carried unanimously. (The Board unanimously approved the counter offer to the agreement as presented [Alternative No. 1] by which the Board of County Commissioners approved the \$50,000 purchase of real estate from Dave W. and Janice Wetherington and authorized the Chairman to execute the Agreement, as recommended in the memorandum of January 30, 2006.)

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

**11.I.2. PUBLIC WORKS - RIGHT-OF-WAY ACQUISITION – 13<sup>TH</sup>  
STREET SW BETWEEN 43<sup>RD</sup> AVENUE AND 58<sup>TH</sup> AVENUE –  
DANIEL E. AND RANDI W. DEMPSEY**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved the counter offer to the agreement as presented (Alternative No. 1) by which the Board of County Commissioners approved the \$50,000 purchase of real estate from Daniel E. and Randi W. Dempsey and authorized the Chairman to execute the Agreement, as recommended in the memorandum of January 31, 2006.

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

**11.I.3. PUBLIC WORKS – CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT – KIMLEY-HORN AND ASSOCIATES, INC. - INTERSECTION IMPROVEMENTS AT 66<sup>TH</sup> AVENUE AND CR 510 – AMENDMENT NO. 2**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved the proposed Amendment No. 2 to the contract with Kimley-Horn and Associates, Inc., as negotiated and as recommended in the memorandum of January 25, 2006.

AMENDMENT NO. 2 IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**11.I.4. PUBLIC WORKS – CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT – McMAHON AND ASSOCIATES, INC. - INTERSECTION IMPROVEMENTS AT CR 510 AND US HIGHWAY 1 – AMENDMENT NO. 1**

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously approved the proposed Amendment No. 1 to the contract with McMahon and Associates, Inc., as negotiated and as recommended in the memorandum of January 18, 2006.

AMENDMENT NO. 1 IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**11.I.5. PUBLIC WORKS – BID AWARD NO. 2006048 – POST HURRICANES FRANCES AND JEANNE – EMERGENCY BEACH RESTORATION – RANGER CONSTRUCTION INDUSTRIES, INC. - JOHN’S ISLAND SEGMENT – COST-SHARING AGREEMENT - PROJECT #0540 - BEACH DUNE RESTORATION COST-SHARING WITH COMMUNITY CONDOMINIUM SERVICES, INC.**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously awarded Bid No. 2006048 to Ranger Construction Industries, Inc. of Ft. Pierce, Florida for \$1,145,718.70, approved the

proposed agreement, and authorized the Chairman to execute the same; further, the Board unanimously approved the proposed cost-sharing Agreement for Beach Dune Restoration Cost-Sharing with Community Condominium Services, Inc. (John's Island), as recommended in the memorandum of January 30, 2006.

AGREEMENT, COPY OF RECORDED PERFORMANCE BOND  
AND LIABILITY INSURANCE CERTIFICATE  
ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**11.J. UTILITIES SERVICES – 72<sup>ND</sup> AVENUE SW FROM 15<sup>TH</sup> STREET SW TO 13<sup>TH</sup> STREET SW IN GROVENOR ESTATES – UCP #2696 – WATER SYSTEM CONFLICT RESOLUTIONS – THE DANELLA COMPANIES – WORK AUTHORIZATION DIRECTIVE NO. 2005-020**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the Grovenor Estates Water project as stated, approved Work Authorization Directive No. 2005-020 to The Danella Companies authorizing payment of up to \$8,660.47, and authorized the Chairman to execute same, as presented, all as recommended in the memorandum of January 19, 2006.

WORK AUTHORIZATION DIRECTIVE NO. 2005-020 IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**12. COUNTY ATTORNEY – MODIFICATION OF DEDICATION NO. 23919 FROM THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA TO INDIAN RIVER COUNTY — MODIFICATION TO LEASE BETWEEN INDIAN RIVER COUNTY, FLORIDA AND ENVIRONMENTAL LEARNING CENTER, INC. (ELC)**

County Attorney Collins reviewed the memorandum of January 31, 2006. He referred to page 390 in agenda backup to show the 12-acres to be added. He stated that by their action, the Board would accept the property for the County and also modify the lease with the ELC to include the additional property.

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

Under discussion and in response to Chairman Neuberger's questions, **Holly Dill**, Executive Director of the ELC, advised the names of the private property owners nearby.

The Chairman CALLED THE QUESTION and the motion carried unanimously. (The Board authorized the Chairman to execute the Modification to Trustee's Dedication No. 23919 and the Modification to Lease with the Environmental Learning Center, Inc. to accept dedication of additional properties and include them

within the Environmental Learning Center, Inc. leasehold properties, as recommended in the memorandum of January 31, 2006.)

COPY OF THE PARTIALLY EXECUTED MODIFICATION OF DEDICATION IS ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**13.A. CHAIRMAN ARTHUR R. NEUBERGER - NONE**

**13.B. VICE CHAIRMAN GARY C. WHEELER - NONE**

**13.C. COMMISSIONER SANDRA L. BOWDEN – CONSIDERATION OF REQUEST FOR ORDINANCE AMENDMENT TO PRECLUDE ANY ACTION AND/OR MOTIONS ON MATTERS LISTED UNDER PUBLIC DISCUSSION ITEMS**

Commissioner Bowden was concerned about what happened at their last meeting when the Commissioners listened for three hours to comments from the public and then took substantive action on an item that was not noticed and there was no backup. She thought this should not happen again and referred to a related memorandum on page 408 in the backup from County Attorney Collins.

Chairman Neuberger explained that as an accommodation to the public he had allowed them to comment and the Board had directed staff to bring back an amendment (to the Comprehensive Plan for the 4-laning of 27<sup>th</sup> and 43<sup>rd</sup> Avenues with a boulevard effect) for the Board's consideration.

County Attorney Collins gave his explanation of what had occurred.

Discussion ensued during which it was brought out that there had been many other opportunities for the public to comment on the same issue and further any changes to the Comprehensive Plan would have to be noticed and a public hearing would have to be held.

Discussion ensued during which the Commissioners expressed their personal feelings on allowing the public to speak during Board meetings and the Public Discussion period.

**Joseph Paladin** spoke about the previous meeting's discussion and the backup he provided for it. He thought there was no question that his item was related to the widening of 27<sup>th</sup> & 43<sup>rd</sup> Avenues. He explained how he had spent a lot of time talking with certain individuals who had been vocal in their opposition to widening 27<sup>th</sup> & 43<sup>rd</sup> Avenues and advised that he had worked with staff to try to give the residents more aesthetic roadways. Those individuals were present at that prior meeting and there was no adverse input from them at that time.

Commissioner Bowden had concerns about possible Sunshine law violations.

County Attorney Collins clarified the Sunshine law. Explanations and discussion ensued during which several participants disavowed any violation of the Sunshine law.

County Administrator Baird commented that staff has always believed that road widening was necessary to correct the traffic congestion issue. He endorsed having Mr. Paladin discuss his plan with staff and staff would be bringing forward a Comprehensive Plan amendment to widen those roads.

NO ACTION WAS TAKEN.

**13.D. COMMISSIONER WESLEY S. DAVIS - NONE**

**13.E. COMMISSIONER THOMAS S. LOWTHER – BOND FOR MOVING HOMES (FLORIDA RIDGE HOUSE)**

Commissioner Lowther referred to the house that was moved to Florida Ridge, and that the Board has never made a motion to reinstate the performance bond to avoid a similar future predicament.

MOTION WAS MADE by Commissioner Lowther, SECONDED by Commissioner Bowden, to direct staff to initiate the process necessary for reinstatement of the performance bond.

**Scott Dillon**, representing 3 Brothers and a Sister, (the entity that moved the house to Florida Ridge) urged the Board not to reinstate the bond claiming that it will cut out the little guy by making the process too expensive to relocate and rehabilitate existing housing stock for affordable rentals.

Discussion ensued about the house, the problems encountered by the neighbors, the difficulties the owners of the house have had, and when it would be completed and ready to lease.

The Chairman CALLED THE QUESTION and the motion carried unanimously.

**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 10:31 a.m.

ATTEST:

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

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

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

BCC/PR/2006 Minutes