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March 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, March 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**

Commissioner Davis delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

County Administrator Baird led the Pledge of Allegiance to the Flag.

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

The Chairman announced the following changes to the agenda:

Item 7.L. Corrected memorandum;

Item 9.B.1. Additional backup;

Item 10.A. Additional backup; and

Item 13.A.3. Additional backup.

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

**5.A. PROCLAMATIONS AND PRESENTATIONS**

**A. PRESENTATION OF PROCLAMATION HONORING THE MOORINGS CLUB (APPRECIATION FOR EMERGENCY SHELTER FOR STATION #6 FOLLOWING HURRICANES FRANCES AND JEANNE)**

Chairman Neuberger read the proclamation.

**Craig Jones**, General Manager of the Moorings Club was pleased the Club was able to provide space to accommodate Fire Station #6's temporary trailer and crew. He spoke of the Moorings Club's building losses as a result of the hurricanes of 2004. (Frances & Jeanne)

Emergency Services Director John King advised of the true need to be able to continue to provide timely emergency services to the South Beach area. A lot of the Moorings Club's parking space was used and staff tried to return it to the Club in as good or better condition.

**B. PRESENTATION BY MARGUERITA ENGEL, INTERGOVERNMENTAL  
COORDINATOR, ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

**Marguerita Engle** used a PowerPoint presentation to inform the Board and raise awareness of the irrigation regulations that St. John's River Water Management District (SJRWMD) has set down effective March 1, 2006. These regulations are available on their website [www.sjrwmd.com](http://www.sjrwmd.com). She reviewed the highlights and exceptions to the regulations, and presented information concerning the standard general permit, other conservation opportunities, and Waterwise landscape. She also advised that local governments have the option to adopt an ordinance for their jurisdiction and the local officials would then handle the enforcement of its jurisdiction. If the Board wished to adopt such an ordinance it should be submitted to SJRWMD thirty (30) days prior to adoption. The District has a model ordinance to provide if they want to review it. The desire is to focus on education and enforcement in order to protect our valuable ground water.

Questions and discussion ensued during which some Commissioners indicated their reasons for opposing the adoption of an ordinance for Indian River County.

**6. APPROVAL OF MINUTES**

**A. REGULAR MEETING OF JANUARY 24, 2006**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of January 24, 2006. There were none.

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

the Minutes of the Meeting of January 24, 2006, as written and distributed.

**B. REGULAR MEETING OF FEBRUARY 7, 2006**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of February 7, 2006. There were none.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Meeting of February 7, 2006, as written and distributed.

**C. REGULAR MEETING OF FEBRUARY 14, 2006**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of February 14, 2006. There were none.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Meeting of February 14, 2006, as written and distributed.

## **7. CONSENT AGENDA**

Vice Chairman Wheeler requested that Item 7.V. be separated from the Consent Agenda. Chairman Neuberger requested that Item 7.N. be separated from the Consent Agenda.

### **7.A. APPROVAL OF WARRANTS**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the period of February 10-16, 2006, as requested.

### **7.B. APPROVAL OF WARRANTS**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the period of February 17-23, 2006, as requested.

### **7.C. PROPERTY ACQUISITION – TAX ROLL REMOVAL & TAX CANCELLATION (RESOLUTION NOS. 2006-022/030)**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously adopted Resolution No. 2006-022 canceling taxes upon publicly

owned lands, pursuant to Section 196.28, Florida Statutes.  
(Utilities WWTP Land – Idelette, Tax ID #32-39-22-  
00000-1000-00036.0)

ON MOTION by Commissioner Bowden, SECONDED  
by Commissioner Davis, the Board unanimously adopted  
Resolution No. 2006-023 canceling taxes upon publicly  
owned lands, pursuant to Section 196.28, Florida Statutes.  
(Utilities WWTP Land – Lyles, Tax ID #32-39-22-00000-  
1000-00014.0)

ON MOTION by Commissioner Bowden, SECONDED  
by Commissioner Davis, the Board unanimously adopted  
Resolution No. 2006-024 canceling taxes upon publicly  
owned lands, pursuant to Section 196.28, Florida Statutes.  
(Utilities WWTP Land – Idelette, Tax ID #32-39-22-  
00000-1000-00023.0)

ON MOTION by Commissioner Bowden, SECONDED  
by Commissioner Davis, the Board unanimously adopted  
Resolution No. 2006-025 canceling taxes upon publicly  
owned lands, pursuant to Section 196.28, Florida Statutes.  
(Utilities WWTP Land – Watkins, Tax ID #32-39-22-  
00000-1000-00011.0)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously adopted Resolution No. 2006-026 canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (Utilities WWTP Land – Watkins/Taylor, Tax ID #32-39-22-00000-1000-00012.0)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously adopted Resolution No. 2006-027 canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (R/W – Continuation of 43<sup>rd</sup> Avenue, DiVosta [Waterway Village], Tax ID #s 32-39-21-00001-0010-00001.0, 32-39-22-00000-3000-00001.0, and 32-39-15-00000-5000-00004.0)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously adopted Resolution No. 2006-028 canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (R/W Oslo Road [8<sup>th</sup> Street SW] HMM, Inc. Tax ID #33-39-21-00001-0140-00001.0)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously adopted Resolution No. 2006-029 canceling taxes upon publicly

owned lands, pursuant to Section 196.28, Florida Statutes.  
(R/W – 45<sup>th</sup> Street [N. Gifford Rd.] Malone, Schlitt &  
Peters, Tax ID #32-30-23-00000-5000-0015.0)

ON MOTION by Commissioner Bowden, SECONDED  
by Commissioner Davis, the Board unanimously adopted  
Resolution No. 2006-030 canceling taxes upon publicly  
owned lands, pursuant to Section 196.28, Florida Statutes.  
(R/W – 73<sup>rd</sup> Street, Corson, Tax ID #32-39-06-00001-  
0080-00002.2)

**7.D. APPOINTMENT OF ALTERNATE ON THE CONSERVATION LANDS  
ADVISORY COMMITTEE (CLAC) – (FRANK WEGEL AS ALTERNATE  
BY TIM GLOVER OF FRIENDS OF ST. SEBASTIAN RIVER)**

Appointment of Alternate noted for the record.

**7.E. 2006 ELECTION OF BOARD OF ZONING ADJUSTMENTS (BZA)  
CHAIRMAN AND VICE CHAIRMAN (CHRISTOPHER MARINE AND  
WAYNE COMENT)**

Election noted for the record.

**7.F. 2006 ELECTION OF AGRICULTURE ADVISORY COMMITTEE  
CHAIRMAN AND VICE CHAIRMAN (ROBERT ADAIR, JR. AND MARK  
SANCHEZ)**

Election noted for the record.

**7.G. 2006 ELECTION OF MARINE ADVISORY NARROWS WATERSHED  
ACTION COMMITTEE (MANWAC) CHAIRMAN AND VICE  
CHAIRMAN (BILL MOODY AND JOHN JACKSON)**

Election noted for the record.

**7.H. APPOINTMENTS TO THE TRANSPORTATION DISADVANTAGED LOCAL  
COORDINATING BOARD (DEPARTMENT OF CHILDREN AND  
FAMILIES APPOINTMENT OF PEARLIE CLARK REPLACING RON  
DELEVAN; DEPARTMENT OF ELDER AFFAIRS APPOINTMENT OF  
GINNA O'CONNOR REPLACING BONNIE ROBERTS)**

Appointments noted for the record.

**7.I. RESIGNATION FROM THE METROPOLITAN PLANNING  
ORGANIZATION CITIZENS ADVISORY COMMITTEE (MPOCAC)  
(HERBERT MUNSART)**

Resignation of Herbert Munsart noted for the record.

**7.J. APPOINTMENT OF ALTERNATE ON THE CONSERVATION LANDS  
ADVISORY COMMITTEE (CLAC) (SHEILA O'CONNELL BY JORGE  
REY)**

Appointment of Sheila O'Connell as Alternate noted for the record.

**7.K. APPOINTMENT OF WILLIAM SCHAUMAN TO THE METROPOLITAN  
PLANNING ORGANIZATION TECHNICAL ADVISORY COMMITTEE  
(MPOTAC) (BY TOWN OF INDIAN RIVER SHORES REPLACING  
HUGH COX)**

Appointment noted for the record.

**7.L. WORKFORCE DEVELOPMENT BOARD OF THE TREASURE COAST  
DECLARATION OF AUTHORITY (CHAIRMAN NEUBERGER'S  
DESIGNATION OF COUNTY ADMINISTRATOR JOSEPH A. BAIRD TO  
ACT AS HIS ALTERNATE)**

Designee noted for the record.

**7.M. RESIGNATION FROM THE TOURIST DEVELOPMENT COUNCIL (TDC)**  
**(RICH NALBANDIAN AS OWNER/OPERATOR TOURIST**  
**ACCOMMODATION MEMBER)**

Resignation noted for the record.

**7.N. AMENDMENT TO THE 2006 BLANKET AUTHORIZATION FOR**  
**COMMISSIONERS TO TRAVEL OUT OF COUNTY (TO COVER BOTH**  
**OUT-OF-COUNTY COMMITTEE ASSIGNMENTS AND TRAVEL TO**  
**TALLAHASSEE)**

Chairman Neuberger wanted to get an understanding of the change. Executive Aide Kimberly Massung explained this would allow a Commissioner to travel to Tallahassee without having to come to the Board for approval.

Commissioner Bowden asked that the Commissioners be informed by e-mail or memo by Executive Aide Kimberly Massung. She also specified that the traveling Commissioner should be representing the Commission, not his/her own agenda, and that the other Commissioners should be made aware of the purpose of the trip..

Chairman Neuberger clarified that it has to be for County business.

Commissioner Davis favored the motion. He explained that his recent trip to Tallahassee was at his own expense and was germane to District 1 regarding CR-512.

Vice Chairman Wheeler felt that was County business, not just District 1. He thought the proposed notification process was simple and that such notification should be made a matter of public record.

ON MOTION by Commissioner Davis, SECONDED by  
Chairman Neuberger, the Board unanimously approved

amending the January 10, 2006 blanket authorization and the date of March 7, 2006 be used to cover both out-of-county committee assignments and travel to Tallahassee without having to bring a request to the Board, as recommended in the memorandum of February 28, 2006. (Executive Aide Kimberly Massung is to notify Board members via a memo when Board member is going to Tallahassee and the purpose of the trip.)

**7.O. APPOINTMENT TO THE MARINE ADVISORY NARROWS WATERSHED  
ACTION COMMITTEE (MANWAC)**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously appointed Joel B. Day from the Environmental Learning Center to serve as representative of a Local Environmental Organization vacated by the passing of George Bunnell, as recommended by Commissioner Lowther in the memorandum of March 1, 2006.

**7.P. RETIREMENT AWARD FROM INDIAN RIVER COUNTY BOARD OF  
COUNTY COMMISSIONERS TO PEGGY J. MEADOWS FOR FIFTEEN  
YEARS OF SERVICE (UTILITIES)**

Award and Proclamation noted for the record.

**7.Q. FINAL CLOSURE OF ABANDONED LANDFILLS DECLARATION TO THE PUBLIC (FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION – MONITORING PLAN IMPLEMENTATION SCHEDULE - LANDFILL SITES INCLUDE OSLO, WINTER BEACH, WABASSO AND ROSELAND)**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the declarations requested by FDEP for final closure of the four abandoned landfills and authorized the Chairman to execute them; and authorized the Solid Waste Disposal District to abandon the groundwater monitoring wells in accordance with FDEP instructions, as recommended in the memorandum of February 7, 2006.

RECORDED DECLARATIONS TO THE PUBLIC (4) ARE ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**7.R. WAIVER OF FORMAL BIDDING AND THE ACCEPTANCE OF WRITTEN QUOTES TO OBTAIN A REPLACEMENT PATIO COVER OVER THE POOL EQUIPMENT AREA AT THE GIFFORD AQUATIC CENTER FOR THE RECREATION DEPARTMENT**

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

waiving the standard sealed bid procedure and authorized the purchase of a replacement equipment cover from Treasure Coast Aluminum, Sebastian, FL. For the quoted price of \$27,030.00 as the lowest priced quoted of the two written quotes obtained, as recommended in the memorandum of February 15, 2006.

**7.S. 43<sup>RD</sup> AVE SUB COMPLEX – CHANGE ORDER #1 (CHILBERG CONSTRUCTION)**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Change Order #1 (\$66,981.38) with two additional days of contract time and authorized the County Administrator to execute the approved Change Order with funding from the project contingency, as recommended in the memorandum of March 1, 2006.

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

**7.T. GRANT AGREEMENT AMENDMENT WITH HUD FOR PROJECT #FL29B409002 (SOFTWARE DATABASE) RE-APPROVING PREVIOUSLY APPROVED GRANT**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis the Board unanimously approved the new agreement with HUD replacing the previously approved agreement again for a one-year period, as recommended in the memorandum of March 1, 2006.

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

**7.U. WOODSIDE TRILLIUM L.L.C.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS BROOKFIELD AT TRILLIUM – PHASE B**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis the Board unanimously granted final plat approval for Brookfield at Trillium Phase B.

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

**7.V. MISCELLANEOUS BUDGET AMENDMENT 009**

Vice Chairman Wheeler inquired about item 3 on the budget amendment memorandum, the card access system in the County Administration Building, and County Administrator Baird explained the need to fix this system.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously adopted Resolution No. 2006-031 amending the fiscal year 2005-2006 budget.

**8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - ROY RAYMOND – INDIAN RIVER COUNTY SHERIFF – SUPPORT FOR TREASURE COAST PUBLIC SAFETY/HOMELAND SECURITY TRAINING COMPLEX**

Sheriff Raymond invited everyone to the Sheriff's Annual Barbecue tomorrow at the Sheriff's Office complex on March 8, 2006..

Sheriff Raymond requested a contribution of \$31,300.00 from the Forfeiture Account toward the Indian River Community College Training Complex Fund.

MOTION WAS MADE by Commissioner Lowther, SECONDED by Commissioner Davis to approve Sheriff Raymond's request.

Sheriff Raymond gave more information how this Training Complex will enhance the training of law enforcement individuals.

The Chairman CALLED THE QUESTION and the motion carried unanimously. (The Board approved a contribution of \$31,300.00 from the Sheriff's Forfeiture

Account to the Indian River Community College Training  
Complex fund.)

**9.A.1. PUBLIC HEARING - CENTRAL ASSEMBLY OF GOD INC.'S  
REQUEST TO REZONE ±10.42 ACRES FROM A-1 TO RM-6  
(Quasi-Judicial)**

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

Community Development Director Bob Keating stated the purpose of the application is to secure the zoning necessary to develop the site for uses that are allowed under RM-6 and consistent with the M-1 land use designation. He advised of the current surrounding and existing land uses and advised that the Planning and Zoning Commission and staff recommend the proposed rezoning.

Vice Chairman Wheeler inquired if the property were developed today at the maximum allowed whether there would be capacity on that road to approve the development.

Director Keating responded that there is capacity in the system. He also explained that if all the properties that have recently been rezoned or received development approval came in for building permits today, there probably would be a problem, but the absorption rate generally keeps that from happening. The County's Comprehensive Plan anticipates that there would be a build-out over time consistent with the absorption rates that we project. If we do good capital improvements programming, we use the allowances that the State has given us including proportional share, and as long as we have reasonable growth and absorption rates, there will not necessarily be problems. He advised that an arterial analysis was done on SR-60 from 82<sup>nd</sup> Avenue to I-95 and that an arterial analysis gives better information based on the specific characteristics of a roadway.

Chairman Neuberger questioned if this property was going to be developed by the Church, and Director Keating stated he understood that the Church is going to sell this property.

The Chairman opened the public hearing.

**Jodah Bittle**, Schulke Bittle and Stoddard, engineer for the project, was available for questions and stated that the plan is to develop this as 6 units per acre. The 10 acres to the west are under negotiation to assemble a 20-acre site for multi-family “package.”

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

MOTION WAS MADE by Commissioner Davis,  
SECONDED by Chairman Neuberger, to approve staff’s  
recommendation.

Under discussion, Commissioner Davis supported his motion saying the plan is to develop the property at a lower density than allowed; it is located inside the urban service area; is necessary in the community; and the Board will be able to view the site plan.

The Chairman CALLED THE QUESTION and the motion carried unanimously adopting Ordinance No. 2006-007 amending the zoning ordinance and the accompanying zoning map for approximately 10.42 acres located north of 16<sup>th</sup> Street and 930 feet west of 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); and providing codification, severability, and effective date.

**9.A.2. PUBLIC HEARING – PAVING AND DRAINAGE IMPROVEMENTS TO 32<sup>ND</sup> AVENUE SW, FROM 15<sup>TH</sup> STREET SW TO 13<sup>TH</sup> PLACE SW, AND INCLUDING THE INTERSECTING STREETS (14<sup>TH</sup> STREET SW AND 13<sup>TH</sup> PLACE SW) IN GROVENOR ESTATES SUBDIVISION**  
**(Administrative)**

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

Chris Kafer, County Engineer, advised that 23 of the 29 property owners signed the petition for paving and drainage in this neighborhood. He advised that only two property owners attended a public information meeting held and both were in favor of the project. Staff recommended approval of the project.

The Chairman opened the public hearing.

**Robert Haas**, who lives in the area to be paved and who initiated the petition, urged the Board to approve the project.

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

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously adopted Resolution No. 2006-032 confirming the assessment roll for certain paving and draining improvements to 32<sup>nd</sup> Avenue SW, from 15<sup>th</sup> Street SW to 13<sup>th</sup> Place SW

including the intersecting streets in Grovenor Estates  
Subdivision. IRC Project No. 03-127

**9.A.3. PUBLIC HEARING TO AMEND INDIAN RIVER COUNTY  
CODE CHAPTER 955 MOVING OF STRUCTURES TO  
IMPOSE A BONDING REQUIREMENT AND TO UPDATE  
REFERENCES TO TECHNICAL CODES (*Legislative*)**

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

County Attorney Collins reviewed the memorandum and history of this proposed amendment to Chapter 955. He noted that the amendment includes updated references to the drawings for submission to the South Florida Building Code.

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

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously adopted Ordinance No. 2006-008 amending Indian River County Code Chapter 955, Moving of Structures, to impose a bonding requirement and to update references to technical codes; providing for codification; providing for severability and providing for an effective date.

**9.B.1. PUBLIC DISCUSSION ITEM – REQUEST TO SPEAK FROM JOSEPH PALADIN REGARDING THE MONTHLY PAYMENT ON UTILITY DEPT.’S WATER CONSUMPTION FEE AND IMPACT FEE ON UTILITIES**

**Joseph Paladin** thought it was grossly unfair that a developer has to pay the “service bill” on the utility of \$26 per month for each unit after the developer vests the (utility) impact fees in a particular proposed development because it could span over 2 or 3 years before the units are built. He thought it would be fair to address this and suggested the Commissioners permit him to sit down with the Utilities Department and figure out when the most opportune time would be for these fees to start such as when the water meter is installed.

County Administrator Baird totally disagreed with Mr. Paladin. He explained that when a developer comes to the County to reserve capacity for units to be built in the future, the Florida Department of Environmental Protection requires the County to reserve that capacity and it cannot be resold to anyone else even though it is not being used. The County’s utility rate structure is set up taking into consideration operating costs, fixed costs of the plant related to producing water, fixed costs for plant operators, a variable cost for volume used, debt reduction costs, and depreciation on the equipment. He cautioned that if we were to remove the fee, the County would be subsidizing the developer and current users would have a 7-8% increase in their utility bills. A plant could be running at 60% capacity with the other 40% held by developers. Fixed costs are merely being passed on to the developers. He cautioned that the Board would be making a big mistake if they were to change this rate structure.

When Chairman Neuberger suggested that staff sit down with Mr. Paladin to discuss this, County Administrator Baird reiterated that if the Board were to decide to subsidize the developers, there would have to be a rate increase for all other customers.

In response to Vice Chairman Wheeler’s scenario regarding Vero Highlands, County Administrator Baird explained that when the County expands service to an established

neighborhood, the benefiting homeowners would be assessed. The County does not force homeowners to hook up when the pipe is first put down. They would pay a monthly fee of \$26 per month if they want to reserve capacity. When their well goes bad, they would need to hook up; if the homeowner has not reserved capacity he/she might not be eligible to hook up if capacity is not available.

Vice Chairman Wheeler understood that if the regulations were to be changed for the developers, it would be changed for everybody who is not hooked up in the county but has the opportunity to hook up.

Mr. Paladin continued to support his request and reiterated his desire to discuss this with Utilities Director Erik Olson.

Vice Chairman Wheeler had no problem with Mr. Paladin and the Growth Awareness Committee (GAC) meeting with the Utilities Director.

Commissioner Bowden wanted to end the discussion because the Board does not have the background information. She wanted the matter to go through the proper staffing and have a recommendation from our County Administrator.

Chairman Neuberger agreed that a decision should not be made at this time, but he thought perhaps Director Olson might be able to suggest something and saw no harm in a meeting with the GAC.

County Administrator Baird reported that he had already met with Director Olson and they were on the same page and it would take a whole new rate structure to make up the revenue.

**Spencer Simmons**, Simmons Homes, thought the monthly charge was to pay for costs that do not exist. He believed paying the impact fee should hold the capacity.

County Administrator Baird responded to Mr. Simmons comments and the discussion was concluded.

NO ACTION TAKEN.

**9.C. PUBLIC NOTICE ITEMS – NONE**

**10.A. COUNTY ADMINISTRATOR’S MATTERS - PUBLICATION  
OF COMMISSION AGENDA**

County Administrator Baird reported that the most recent annual cost to publish the Board’s agenda in the Saturday edition of the Press Journal is \$40,000 and not as initially stated in the first memorandum dated February 24, 2006. (Clerk’s Note: Additional backup with updated information was added showing the new estimated cost. The new memo is dated March 6, 2006.)

Chairman Neuberger was opposed because less than six people have been interested enough to request an agenda be mailed to them. He saw \$40,000 as building a lot of sidewalks in Gifford and every year this \$40,000 will increase. He felt it was a waste of money for a minimal number of the populace.

MOTION WAS MADE by Commissioner Bowden,  
SECONDED by Vice Chairman Wheeler, for discussion,  
to approve the advertising of the Board of County  
Commissioners’ agenda in the Press Journal for an  
approximate expense of \$40,000 per year.

Vice Chairman Wheeler spoke in favor of the motion saying he also hated spending the money but it might spark an interest in attendance at the meetings. . He also thought it was the Board’s responsibility to make sure the general public knows what is happening before it becomes fact and they learn about it in the newspaper articles.

Commissioner Bowden wanted the advertisement to be readable and easy to find.

Commissioner Lowther was willing to try it for 6 months and evaluate it after that time.

MOTION WAS AMENDED to include that it would be revisited after 6 months and was agreed to by the maker of the motion and the second.

Chairman Neuberger spoke against the motion because so few requested that the agenda be mailed to them after the last time the Board decided not to publish the agenda.

The Chairman CALLED THE QUESTION and the motion carried 4-1 (Chairman Neuberger opposed.) (The Board approved publishing the Commission agenda in the Indian River Vero Beach Press Journal at an approximate annual cost of \$40,000 starting with the March 14, 2006 agenda and agreed to reconsider the matter after six months.)

#### **10.B. COUNTY ADMINISTRATOR'S MATTERS – LOBBYIST**

County Administrator Baird reviewed the memorandum of March 1, 2006 and explained we are one of the few local governments that does not have either a State or Federal lobbyist. He believed a lobbyist would be good for the County, it was included in the budget, and he asked that he be authorized to negotiate at this time.

MOTION WAS MADE by Vice Chairman Wheeler,  
SECONDED by Commissioner Bowden, to authorize

negotiations with a lobbyist for an annual contract and for the Board to receive an annual list of accomplishments on what has been gained through the use of the lobbyist.

Under discussion, Commissioner Davis spoke in favor of the motion saying that he has found the need particularly with departments at the State level. The lobbyist can step up when the Commissioners need the additional help. He felt that working with staff is just as important as working with the elected officials in Tallahassee and could also perhaps reduce the number of trips to Tallahassee.

Chairman Neuberger favored hiring a lobbyist and inquired about issues that County Administrator Baird had in mind to have a lobbyist address.

County Administrator Baird listed the following: SR-60, the beach renourishment project, money for our parks, the multipurpose building, new boat ramps, and general issues where he felt the State should assist such as juvenile justice. He felt a lobbyist could be very helpful and they can tell us about matters coming up so we can be more pro-active. They would also be helpful in getting land acquisition matches.

Commissioner Lowther supported the motion.

Commissioner Davis inquired about the FEMA reimbursement, and County Administrator Baird advised that the reimbursement has been going well, and he was concerned about the audits because just about every county that has been audited has had to return money.

The Chairman CALLED THE QUESTION and the motion carried unanimously. The Board approved authorizing negotiations with a lobbyist firm to represent Indian River County at the state and national levels.

The Chairman called a recess at 10:29 AM for closed captioning.

The Chairman called the meeting back to order at 10:40 a.m. with all members present.

**11.A. COMMUNITY DEVELOPMENT - NONE**

**11.B. EMERGENCY SERVICES - NONE**

**11.C. GENERAL SERVICES - NONE**

**11.D. HUMAN RESOURCES - NONE**

**11.E. HUMAN SERVICES - NONE**

**11.F. LEISURE SERVICES - NONE**

**11.G. OFFICE OF MANAGEMENT AND BUDGET - NONE**

**11.H. RECREATION - NONE**

**11.I. PUBLIC WORKS - RIGHT-OF-WAY ACQUISITION, 13<sup>TH</sup>  
STREET SW BETWEEN 43<sup>RD</sup> AVENUE AND 58<sup>TH</sup> AVENUE,  
HANNE HALLAND PARCEL**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the \$94,444.35 purchase (Alternative 1) and authorized the Chairman to execute the Agreement, as recommended in the memorandum of February 20, 2006.

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

**11.J.1. UTILITIES SERVICES - VERO STOW-A-WAY MINI STORAGE, 5350 OLD DIXIE HIGHWAY, WATER MAIN OVER SIZING REIMBURSEMENT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved payment to Vero Stow-A-Way in the total amount of \$6,221.95, as recommended in the memorandum of February 20, 2006.

**11.J.2. UTILITIES SERVICES - WEST SIDE VILLAS PETITION WATER SERVICE, INDIAN RIVER COUNTY PROJECT NO. UCP-2393, RESOLUTION IV – FINAL ASSESSMENT**

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

Resolution No. 2006-033 certifying “as-built” costs for installation of water service to West Side Villas subdivision (24<sup>th</sup> Street, 81<sup>st</sup> Terrace, 81<sup>st</sup> Court and 80<sup>th</sup> Court, east of 82<sup>nd</sup> Avenue) in Indian River County, Florida, and such other construction necessitated by such project; providing for formal completion date, and date for payment without penalty and interest.

**11.J.3. UTILITIES SERVICES – SPILLWAY MAT AND DISCHARGE OUTLET, NORTH COUNTY R/O BRINE PROJECT PHASE II, APPROVAL OF CHANGE ORDER NO. 1, AUTHORIZATION OF FINAL PAYMENT, RELEASE OF RETAINAGE, AND PROJECT CLOSEOUT – IRC UTILITIES PROJECT NO. 2208 (TIM ROSE CONTRACTING, INC.)**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 1 in the amount of a deduct of \$67,961.96, authorized payment to Tim Rose Contracting, Inc., in the amount of \$115,085.00 and authorized the Chairman to execute same, as presented, as recommended in the memorandum of February 8, 2006.

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

**11.J.4. UTILITIES SERVICES – CHANGE ORDER NOS. 1, 2, AND 3 TO DEVELOPER’S AGREEMENT WITH IRC SCHOOL DISTRICT TO EXTEND MASTER PLANNED WATER MAIN TO NEW LIBERTY MAGNET SCHOOL SITE (PROCTOR CONSTRUCTION COMPANY/DANELLA CONSTRUCTION CORP.)**

ON MOTION by Commissioner Lowther, SECONDED by Chairman Neuberger, the Board unanimously approved increasing the County’s share of the project by \$93,204.95 to \$658,840.95, approved Change Order Nos. 1, 2, and 3 to the Developer’s Agreement, and authorized the Chairman to execute same, as presented, as recommended in the memorandum of February 27, 2006.

CHANGE ORDERS ARE ON FILE  
IN THE OFFICE OF THE CLERK TO THE BOARD

**11.J.5. UTILITIES SERVICES – LAKEWOOD TERRACE SUBDIVISION WATER SERVICE – WEST SIDE OF 27<sup>TH</sup> AVE., NORTH OF THE ST. LUCIE CO. LINE, INDIAN RIVER COUNTY PROJECT NO. UCP-2317, PRELIMINARY ASSESSMENT RESOLUTION II, REVISED PUBLIC HEARING DATE**

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously adopted Resolution No. 2006-034 setting an amended time and place at which the owners of properties, located in Lakewood Terrace Subdivision (west side of 27<sup>th</sup> Avenue, north of St. Lucie County Line) in Indian River County, Florida, and other interested persons may appear before the Board of County Commissioners of Indian River County and be heard as to the propriety and advisability of constructing the water main extension, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be specially assessed against each property benefited thereby.

**12.A. COUNTY ATTORNEY - APPEAL FROM DENIAL OF REQUEST FOR NEW IMPACT FEE INCREASE EXEMPTION – NORTH-SOUTH BUILDERS, INC.**

County Attorney Collins reviewed the memorandum in the backup and explained the reason for this appeal.

**Gary Gehrke**, an officer at North-South Builders, presented a sequence of events that began when he was given a form by Sebastian Building Department that stated the applicant had until July 1<sup>st</sup> for exemption from the impact fee increase. He was told to bring back a contract, the check, and get all his applications in order for the building permit. He proceeded to the closing, got a warranty deed and the notice of commencement and all the information on both documents was wrong. It started out when the appraiser went to the Property Appraiser's office and their records showed there was already a building on the lot and was encumbered by bank

loans. It took 4 months to get the banks' releases. In the meantime, he proceeded with his drawings, engineering and everything to go through the building application. When he finally had everything together in February and submitted his documentation, he was told the County Attorney had to sign the document. He was told the Board stopped the process December 31<sup>st</sup> yet he said he was told he had until July 31<sup>st</sup>. His appeal showed there were clerical errors made and he thought that he and Mrs. Reidinger should not be penalized and have to pay the fee for errors that were made by others. He would have had the contract and the permit submitted by September of last year if it were not for the errors.

Chairman Neuberger understood the error was because records showed there was a house on the lot but, in fact, there was no house.

**Mr. Gehrke** added that the Property Appraiser's office even had a photograph that showed a house on the lot. He finally got everything cleared up last week.

ON MOTION by Commissioner Davis, SECONDED by  
Vice Chairman Wheeler, the Board unanimously approved  
the appeal and overturned the denial.

**12.B. COUNTY ATTORNEY – APPEAL FROM DENIAL OF  
REQUEST FOR NEW IMPACT FEE INCREASE EXEMPTION  
– JM REID CONSTRUCTION, INC.**

County Attorney Collins explained this item was similar to Item 12.A.

**Robert Nall**, Attorney for JM Reid Construction, Inc., explained that there was an affidavit of Julie Reid, an officer of JM Reid, and other documents on pages 287-297 of the backup that sets forth her delivery of all applicable materials in June of 2005. The affidavit states that a female employee accepted the documents and the Reids thought everything was in order. They did not request a receipt but gave their phone numbers to the clerk. They later

learned in February 2006 that the documents were lost or misplaced and the affidavit is submitted to get the impact fee exemption.

MOTION WAS MADE by Commissioner Davis, SECONDED by Vice Chairman Wheeler, to approve the appeal from denial of the request for new impact fee increase exemption for JM Reid Construction, Inc.

Under discussion, Commissioner Lowther thought better checks and balances should have been put in place since this happened.

County Administrator Baird apologized that this had happened and thought that perhaps some documents were incorrectly paper clipped to another during a particularly heavy period of applications.

**Julian Reid**, President of Reid Construction, appreciated what has been done. Everyone is busy. He does business in several counties, but he thanks God every day because we have a great county and great building department to work with.

The Chairman CALLED THE QUESTION and the motion carried unanimously. (The Board granted the exemption from the impact fee increase and overturned the denial.)

**13.A.1. COMMISSIONER ARTHUR R. NEUBERGER, CHAIRMAN –**  
**REQUEST FOR A RESOLUTION SUPPORTING THE PROPOSED**  
**“PERMANENT PROTECTION FOR FLORIDA ACT OF 2006”**

Chairman Neuberger reviewed the memorandum of February 28, 2006 concerning the request from Senator Mel Martinez’s office to protect Florida’s coasts from offshore oil and gas drilling.

MOTION WAS MADE by Commissioner Lowther,  
SECONDED by Commissioner Davis to approve the  
recommendation.

Under discussion, Vice Chairman Wheeler stated he could not support such a resolution at this time because he did not have enough information to know if it would be good or bad. While he did not like the look of oilrigs, we have an energy situation and the rigs produce good fishing habitat like artificial reefs.

Commissioner Lowther would support it based on U.S. Senators Martinez and Bill Nelson making the proposed legislation.

Commissioner Bowden inquired if the Governor had taken a position and the sense was that if our United States Senators are proposing legislation that it must be the State of Florida’s position.

Discussion ensued and STAFF WAS DIRECTED to bring a resolution back for the Board’s consideration.

**13.A.2. COMMISSIONER ARTHUR R. NEUBERGER, CHAIRMAN –  
REQUEST FOR ADDITIONAL MEMBER-AT-LARGE ON THE LAND  
ACQUISITION ADVISORY COMMITTEE (LAAC)**

Chairman Neuberger noted that the LAAC currently has an even number of members and suggested the Board increase it by one to give an odd number on the committee. He suggested that slot be filled by long-time member Talmage Rogers to allow the Chamber of Commerce to appoint a representative.

A brief discussion was held.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously authorized the County Attorney to prepare a resolution increasing the membership of the LAAC by one by adding an additional member-at-large making the membership of LAAC 19 members, as recommended in the memorandum of February 28, 2006.

**13.A.3. COMMISSIONER ARTHUR R. NEUBERGER, CHAIRMAN –  
ANNUAL CONTRACT FOR WILLIAM G. COLLINS, II, COUNTY  
ATTORNEY**

County Attorney Collins explained his request in his memorandum dated February 27, 2006 (additional backup). He requested, in lieu of a salary increase, consideration of the County paying for his dependent health insurance coverage and making an annual contribution to his deferred compensation plan. He was ambivalent about this suggestion versus a salary

increase but if the Board chose not to agree with his suggestion then he felt that a 4% salary increase would be appropriate.

MOTION WAS MADE by Commissioner Davis.  
SECONDED by Chairman Neuberger, to approve the salary freeze with the additional benefits as requested by County Attorney Collins.

Under discussion, Vice Chairman Wheeler stated that he had no objections either way but he does not believe in employment contracts. In voting against the contract, he would not be voting against Mr. Collins' performance or a change/increase in his contract.

County Attorney Collins advised that they (County Administrator, County Attorney, and Administrative Aide) are required by the State of Florida to have annual contracts as part of the senior management system to participate in the Florida Retirement System.

Vice Chairman Wheeler still had a philosophical problem with a contract and stated he would vote against the motion.

The Chairman CALLED THE QUESTION and the motion carried 4-1 (Vice Chairman Wheeler opposed.)  
(Changes will be made to County Attorney Collins' contract as per his request in the memorandum and the draft contract in the backup.)

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

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

**13.C. COMMISSIONER SANDRA L. BOWDEN - COMMITTEES**

Commissioner Bowden wanted it on record that she wanted to serve as the Commission's liaison to the Agriculture Advisory Committee at some time during her four-year Commission term because she wanted to take a leadership position on the committee. She listed her expertise in the agricultural field; stated she has a willingness to serve; and, thought her expertise would be beneficial to everyone.

Discussion ensued during which other Commissioners stated that Commissioners merely act as liaison to committees; that committees make recommendations to the Commission; that the Chairman appoints liaisons to the committees; and, that Commissioners can go to any committee meetings that they might have interest in attending and can also bring information to the Board about committee meetings.

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

**13.E. COMMISSIONER THOMAS S. LOWTHER - CODE ENFORCEMENT BOARD (CEB)**

Commissioner Lowther wanted to give the Code Enforcement Board "more bite" because the majority of the discussions at his monthly meetings at Vero Highlands concerned code enforcement. He had asked Environmental Planning & Code Enforcement Chief Roland DeBlois and Karl Zimmermann to be here for their input.

**Karl Zimmermann**, 1786 Coral Way North, Chairman of the Code Enforcement Board, had two concerns about code enforcement. His first concern was the practice of hearing

cases with attorney representation ahead of others on the agenda. The CEB is taking this matter under advisement.

Secondly, **Mr. Zimmermann** was concerned had to do with fines and reduction of fines and circumstances why fines might be reduced. He recalled a case against a homeowner's association (HOA) that had accumulated a fine of \$58,000 without the members of the HOA knowing that it was accumulating because the builder and the developer (as the original representatives of the HOA) kept coming to the CEB meetings as the HOA's representatives. In that instance, the CEB "reduced" it to administrative costs. He spoke of reduction in fines for some offenses so they do not accumulate to such a great amount that prompts a request to reduce it so much. He had restructured his thoughts on fine reductions.

Commissioner Lowther's issue was that such a long time passes before something is done and that might cause repeat offenders to take advantage of the current system. He thought if the fines were increased initially that it might get someone's attention more quickly. He also thought that fines for repeat offenders should be greater. He brought this to the Board to make them aware and hoped that staff could come up with something to make the process better.

**Mr. Zimmermann** did not know if there is any action the County can take beyond imposing the fine and having the fine continue. In many instances, tenants put their landlord at risk or people dump in a vacant lot leaving it to the owner to clean it.

Environmental Planning & Code Enforcement Chief Roland DeBlois advised that over \$90,000 in fines has been collected in the past year. Many fines have been paid to obtain clear titles on properties that have been bought and sold. Staff's main focus is to achieve compliance achieved. He explained a mechanism for repeat. He also explained there are unique mitigating circumstances on every case. The real concern is those who have an opportunity to comply but do not see a lien on the property as enough motivation. In those cases, the CEB tends to be less lenient on fine reduction and issues. Another issue is the County cannot foreclose on Homestead Properties. Our liens are against real and personal property; we have never gone against personal property. We have always relied on the real estate, but there is an opportunity if there is a blatant situation to go after personal property. It might make an impact.

There have been occasions where we have coordinated with the County Attorney's office to seek injunctions; we do not want to be in court on every case. The whole purpose of the CEB is to keep the court system free of these more civil-type cases. We also have an opportunity to issue citations, such as for illegal signs, and those are payable to the court system. A lot of thought is put into enforcement mechanisms at our disposal. He pointed out that in 90% of the cases, the people work toward compliance. Various factors are considered and the Board gives consideration to how much time to allow for compliance. Staff understands the Commission's directive that we need to be as tough as is reasonable so that we do not have blatant violators out there any more than they have to be.

Commissioner Lowther praised code enforcement for the tremendous job being done and asked if there is any mechanism that would help the department particularly on the blatant and repeat violators.

Mr. DeBlois suggested the only thing he could think of was to try to streamline the process on the rare occasions when they do need to take a harder line. Staff has recently updated the property maintenance codes to make condemnations go a little cleaner and quicker. Staff is constantly looking for ways to make it work more effectively. He thought two CEB meetings a month would be administratively very difficult given other tasks.

#### **14.A. EMERGENCY SERVICES DISTRICT**

- 1. APPROVAL OF MINUTES MEETING OF NOVEMBER 15, 2005**
- 2. APPROVAL OF MINUTES MEETING OF DECEMBER 6, 2005**
- 3. CONSTRUCTION SERVICES CONTRACT (PART 2 AGREEMENT) WITH BARTH CONSTRUCTION FOR THE RENOVATION/REPAIR OF EMERGENCY SERVICES STATION NO.3**

The Chairman announced that immediately upon adjournment, the Board would reconvene as the Board of Commissioners of the Emergency Services District. Those Minutes are being prepared separately and are appended to this document.

**14.B. SOLID WASTE DISPOSAL DISTRICT**

- 1. APPROVAL OF MINUTES MEETING OF FEBRUARY 14, 2006**
- 2. NOTIFICATION TO SWDD BOARD OF FINAL CLOSURE OF ABANDONED LANDFILLS**

The Chairman announced that immediately upon adjournment of the Emergency Services District Meeting, the Board would reconvene as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are being prepared separately and are appended to this document.

**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 11:27 a.m.

ATTEST:

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

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

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

BCC/PR/2006 Minutes