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COMMISSIONERS OF INDIAN RIVER COUNTY
MAY 2, 2006

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May 2, 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 25th Street, Vero Beach, Florida, on Tuesday, May 2, 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 Patricia M. Ridgely.

1. CALL TO ORDER

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

2. INVOCATION

Planning Director Stan Boling delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

County Attorney Collins led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY
ITEMS

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

Additional Backup – Item 7.K – Page 79.A;

Move Public Hearing 9.A.5 (Transportation Element) ahead of 9.A.4 (Capital Improvement Element);

Additional Backup – Item 9.B.1;

Additional Backup – 11.C.2;

Move Item 11.J.2 (Utilities Services) to 11.I.3 (Public Works);

Move Item 11.J.3 (Emergency Services) to 7.Y (Consent Agenda); and

Additional Backup – Item 13.D.1;

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously made the above changes to the
Agenda.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PROCLAMATION DESIGNATING MAY 6-12, 2006, AS NATIONAL NURSES WEEK

Commissioner Bowden read and presented the Proclamation to Dorothy Cole, Nurse Practitioner, and Mary Lofstrom, RN, who accepted with thanks.

5.B. PROCLAMATION DESIGNATING MAY 21-26, 2006, AS NATIONAL PUBLIC WORKS WEEK

The Chairman read and presented the Proclamation to Public Works Director Jim Davis who accepted it with thanks on behalf of the 230+ employees of the Public Works Department.

6. APPROVAL OF MINUTES

6.A. MARCH 3, 2006 WORKSHOP – NEW TOWN POLICIES

The Chairman asked if there were any corrections or additions to the Minutes of the New Town Policies Workshop on March 3, 2006. There were none.

ON MOTION by Commissioner Bowden,
SECONDED by Commissioner Davis, the Board
unanimously approved the Minutes of the New
Town Policies Workshop on March 3, 2006, as
written and distributed.

6.B. MARCH 21, 2006 REGULAR MEETING

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of March 21, 2006. There were none.

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Wheeler, the Board
unanimously approved the Minutes of the Regular
Meeting of March 21, 2006, as written and
distributed.

**6.C. MARCH 22, 2006 WORKSHOP – PUBLIC HEARING ON
MORATORIUM**

The Chairman asked if there were any corrections or additions to the Minutes of the Public Hearing on Moratorium of March 22, 2006. There were none.

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

Hearing on Moratorium of March 22, 2006, as written and distributed.

7. CONSENT AGENDA

7.A. REPORTS PLACED ON FILE IN THE OFFICE OF CLERK TO THE BOARD

1. **REPORT OF CONVICTIONS MARCH 2006**
2. **INDIAN RIVER FARMS WATER CONTROL DISTRICT – MINUTES OF BOARD OF SUPERVISORS MEETINGS FOR OCT. 2004-SEPT. 2005**
3. **INDIAN RIVER FARMS WATER CONTROL DISTRICT – ANNUAL LOCAL GOVERNMENT FINANCIAL REPORT AND AUDITED FINANCIAL STATEMENTS – YEAR ENDED SEPTEMBER 2005**

7.B. APPROVAL OF WARRANTS

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the period April 7-13, 2006, as requested.

7.C. APPROVAL OF WARRANTS

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board

unanimously approved the list of Warrants as issued by the Clerk to the Board for the period April 14-20, 2006, as requested.

7.D. RESIGNATION FROM THE AGRICULTURE ADVISORY COMMITTEE

The resignation of Mark Sanchez as Citrus Industry appointee to the AAC was noted for the record.

7.E. 2006 ELECTION OF EMERGENCY SERVICES DISTRICT ADVISORY COMMITTEE CHAIRMAN AND VICE CHAIRMAN

The re-election of Craig Fletcher as Chairman and election of Bob Solari as Vice Chairman of the ESDAC for the year 2006 was noted for the record.

7.F. QUARTERLY INVESTMENT REPORT

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously accepted the Investment Advisory Committee's Quarterly Report submitted by the Clerk to the Board's Finance Department, as recommended in the memorandum of April 28, 2006.

**7.G. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT,
INDIAN RIVER COUNTY TRAFFIC EDUCATION
PROGRAM TRUST FUND**

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously accepted the report as submitted by
the Clerk of Circuit Court's Finance Department, as
recommended in the memorandum of April 19,
2006.

**7.H. PROPERTY ACQUISITION – TAX ROLL REMOVAL & TAX
CANCELLATION**

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously adopted Resolution No. 2006-051
canceling taxes upon publicly owned lands,
pursuant to Section 196.28, Florida Statutes. (R/W
13th Street SW, Wetherington)

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously adopted Resolution No. 2006-052
canceling taxes upon publicly owned lands,
pursuant to Section 196.28, Florida Statutes. (R/W
– 13th Street SW – Dempsey)

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously adopted Resolution No. 2006-053
canceling taxes upon publicly owned lands,
pursuant to Section 196.28, Florida Statutes. (R/W
– 13th Street SW – Halland)

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously adopted Resolution No. 2006-054
canceling taxes upon publicly owned lands,
pursuant to Section 196.28, Florida Statutes. (R/W
– 43rd Avenue – SR 60 Project – Lazy J)

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously adopted Resolution No. 2006-055
canceling taxes upon publicly owned lands,
pursuant to Section 196.28, Florida Statutes. (R/W
Dedication – Echo Lakes – GMAC Model Home
Finance)

**7.I. PROCLAMATION DESIGNATING MAY 14 THROUGH 20,
2006 AS INDIAN RIVER COUNTY PEACE OFFICERS’
MEMORIAL WEEK**

The Proclamation was noted for the record.

**7.J. INDIAN RIVER COUNTY BID # 2006042 GIFFORD PARK
SECURITY HOUSE – PUBLIC WORKS DEPARTMENT**

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously rejected the sole bid as it exceeded the
budget; and, approved the recommendation for the
Public Works Department to provide more funding,
develop alternative structures, and re-bid the project
at a later date, as recommended in the memorandum
of April 11, 2006.

**7.K. ACCEPTANCE OF TWO NEW CHANGE ORDERS FOR THE
NEW COUNTY ADMINISTRATION BUILDINGS**

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously accepted the proposed expenses and
credits (as set forth in the memorandum) and
authorized the County Administrator to execute the
appropriate Change Orders (007 & 008) which will
then result in a reduction to the Owner's
Contingency in the amount of \$19,054, as
recommended in the memorandum of April 26,
2006.

CHANGE ORDERS 007 & 008 ARE ON FILE
IN THE OFFICE OF THE CLERK TO THE BOARD

7.L. 5TH PROGRESS REPORT – NEW COUNTY
ADMINISTRATION BUILDINGS

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously accepted the 5th progress report on the two new County Administration Buildings and the new Emergency Operations Center, as recommended in the memorandum of April 26, 2006.

7.M. IRC JAIL HVAC REPLACEMENTS – WAIVER OF BID
REQUIREMENT

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved and authorized a Purchase Order not-to-exceed \$34,093 to Colkitt Sheet Metal and Air Conditioning, Inc., waived the requirements for formal bidding, and authorized the Budget Director to make the necessary re-allocation of funds within the Buildings and Grounds Division budget, as recommended in the memorandum of April 24, 2006.

**7.N. INDIAN RIVER COUNTY BID # 2006070 GROUND
PENETRATING RADAR UTILITY LOCATOR – UTILITIES
DEPARMENT-WASTEWATER TREATMENT DIVISION**

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously rejected the sole bid which is twice the
amount budgeted for this equipment and directed
the Utilities Department to revise the specifications
and re-bid the item, as recommended in the
memorandum of April 24, 2006.

**7.O. REQUEST FOR FLOODPLAIN CUT AND FILL BALANCE
WAIVER FOR LOT 15, BLOCK 17, VERO LAKE ESTATES
UNIT 3**

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously approved Alternative No. 1 [granted
the cut and fill balance waiver based on the criteria
of Section 930.07(2)(d)4], as recommended in the
memorandum of April 20, 2006.

7.P. MISCELLANEOUS BUDGET AMENDMENT 014

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously adopted Resolution No. 2006-056
amending the fiscal year 2005-2006 budget.

**7.Q. APPROVAL OF BID AWARD FOR IRC BID # 2006051 –
WEST WABASSO WATER MAIN EXTENSION PROJECT
(PHASE I)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved awarding the bid to Sheltra & Son Construction Co., Inc., Indiantown, Florida, for \$575,000.00, as the lowest and most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; and authorized the Chairman to sign the contract after receipt, review, and approval of the insurance certificates and payment and performance bonds, by the Risk Manager and the County Attorney's office, respectively, all as recommended in the memorandum of April 25, 2006.

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

**7.R. DECLARE EXCESS EQUIPMENT SURPLUS FOR SALE OR
DISPOSAL**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously declared the items on the Excess Equipment List as surplus and authorized its sale and/or proper disposal; granted the authority to have

the surplus equipment delivered to the Indian River County Sheriff's auction site where it will be sold at public auction on May 13, 2006; and authorized the transfer of ownership of Asset #3401 (1980 GMC flatbed truck with crane) to the Indian River County Mosquito Control District, as recommended in the memorandum of April 26, 2006.

7.S. BLOCK VILLA SUBDIVISION WATER ASSESSMENT PROJECT, APPROVALS OF CHANGE ORDER NO. 1, FINAL PAYMENT TO CONTRACTOR AND RELEASE OF RETAINAGE

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved the total project cost of \$27,000.00 and approved Application for Pay Request No. 2 - Final as final payment to the Contractor, Underground Utilities, Inc., in the amount of \$2,700.00, as presented and as recommended in the memorandum of April 18, 2006.

7.T. PROFESSIONAL SERVICES AGREEMENT, MARLOWE & COMPANY, SECTOR 5 BEACH RESTORATION

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously awarded a contract to Marlowe &

Company for lobbying and consulting services for the period of May 2006 through September 2006, for a monthly fee of \$3500; approved the proposed sample agreement; and authorized the Chairman to execute the agreement on behalf of the County, as recommended in the memorandum of April 24, 2006.

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

7.U. CONSIDERATION OF EXECUTING AN INTERLOCAL AGREEMENT WITH ST. LUCIE COUNTY AND MARTIN COUNTY TO FORM A HOME PROGRAM CONSORTIUM

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously adopted Resolution No. 2006-057 authorizing execution of the Treasure Coast Home Consortium Agreement.

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

7.V. CONSIDERATION OF STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) AND HURRICANE HOUSING RECOVERY (HHR) FUNDS SETASIDE FOR HABITAT FOR HUMANITY CLIENTS FOR FY 2006-2007

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved the set aside of \$826,891 of FY 2006/2007 SHIP funds and \$1,181,319 of HHR funds for Habitat for Humanity (HFH) to be used for down payment/closing cost and impact fee loan assistance for HFH clients, as recommended in the memorandum of April 20, 2006.

7.W. REQUEST TO ENTER INTO A JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) (FM# 420529-1-D8-01; 420527-1-E8-01) FOR HURRICANE WILMA DEBRIS REMOVAL AND SIGN REPAIRS AND RESOLUTION AUTHORIZING EXECUTION OF THE JOINT PARTICIPATION AGREEMENT

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved the Joint Participation Agreement (JPA) and adopted Resolution No. 2006-058 approving a Florida Department of Transportation Emergency Joint Participation Agreement for funding of debris removal and sign repairs along Federal Highway Administration functionally classified County Roads in Indian River County damaged by Hurricane Wilma.

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

**7.X. AMENDMENT #1 OF THE FLORIDA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES (FDACS)
CONTRACT #10527**

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously approved the grant contract
amendment extending the \$75,000 FDACS grant
contract #10527 for citrus best management
practices installations in Indian River County to
December 31, 2006 and granted authority to the
Chairman to execute the contract amendment, as
recommended in the memorandum of April 24,
2006.

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

**7.Y. APPROVAL OF RENEWAL FOR A CLASS "E1"
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY FOR ACTS, INDIAN RIVER ESTATES, TO
PROVIDE WHEELCHAIR SERVICES - (UTILITIES
SERVICES)**

(THIS ITEM WAS ORIGINALLY LISTED AS 11.J.3.)

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
unanimously approved renewal of the Class "E1"
Certificate of Public Convenience and Necessity for
ACTS, Indian River Estates, to be effective for a
period of two (2) years from May 7, 2006, to May
7, 2008, as recommended in the memorandum of
April 19, 2006.

COPY OF CLASS "E1" CERTIFICATE
IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL
AGENCIES - NONE**

9. PUBLIC ITEMS

9.A. PUBLIC HEARINGS

**9.A.1. CONSIDERATION OF STEVE HENDERSON'S REQUEST
TO MODIFY CERTAIN SETBACKS FOR THE ISLAND CLUB
PD (PLANNED DEVELOPMENT) (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 April 26th memorandum using an aerial photograph and other visual aids to present this request. He stated that the applicant, Attorney Steve Henderson, was acting on behalf of seven homeowners who had asked for a waiver of required setbacks in order to build pool enclosures. This request is very similar to a request at The Seasons approved in the past. He explained these are courtyard homes. Staff has no objections to the request; analysis reveals no impact upon the neighbors; and it should not be apparent to anyone. The Planning and Zoning Commission reviewed this and recommended (4-1) that the Board approve the request. He thought the one dissenting vote was due to a general philosophical vote against zero lot lines. Staff also recommended the change be made.

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

ON MOTION by Commissioner Wheeler,
SECONDED by Commissioner Davis, the Board
unanimously approved reducing the side yard
setback for pool enclosures attached to courtyard
homes on Lots 3, 78, 85, 93, 100, 109, and 113 of
the Island Club PD, with all original conditions of
the PD approval to remain in effect, as
recommended in the memorandum of April 26,
2006.

**9.A.2. INDIAN RIVER EXCHANGE PACKERS INC.'S REQUEST
TO AMEND THE COMPREHENSIVE PLAN TO REALIGN
THE URBAN SERVICE AREA BOUNDARY AND TO**

**REDESIGNATE ±18 ACRES FROM AG-1 TO C/I, AND TO
REZONE THOSE ±18 ACRES FROM A-1 TO IL
(LEGISLATIVE)**

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

Community Development Director Bob Keating through a PowerPoint (copy on file in the office of the Clerk to the Board) presentation explained the Comprehensive Plan amendment process in detail. The purpose of this request was to realign the urban service area boundary (USA) to include the subject property and to secure land use designation and zoning that is appropriate for light industrial uses that are allowed in a C/I (commercial/industrial) node inside of the USA. He said the Planning & Zoning Commission struggled with this one; their issue was not if it should be done, but how. Although several motions were offered, the P & Z did not make a specific recommendation to the Board. He described the location of the subject property and current uses and existing adjacent land uses. It is appropriate to have packinghouses near the fruit and it is also appropriate to have them in town. He advised that the existing packinghouse was there when the Comp Plan was written. The owner of the property, at that time, did not want the property inside the USA because he thought he might have to connect to County water. Due to negative impacts on the citrus industry, the applicant is now looking at options for future uses. Director Keating reviewed the Board's options (see pages 246 and 247 of the backup) and explained results of the alternatives. Staff determined it would be a challenge and less efficient to do a text amendment, the third option. Staff believes the request is compatible with the surrounding uses; it is consistent with the Comp Plan; it meets the concurrency test, and, there would be no additional environmental impacts. Therefore, a change in land use and zoning is appropriate and staff has recommended changing the land use map. Staff recommended approval of the proposed amendment to realign the USA to include the subject property and change the land use designation of the property from AG-1 to C/I and to rezone from A-1 to IL.

Vice Chairman Wheeler preferred that all packinghouses be treated the same; noted several reasons for the citrus industry's decrease; favored employment opportunities; and was opposed to moving the USA boundary to include this property since that might lead to rezoning for residential use.

The Chairman opened the public hearing.

Attorney Bruce Barkett, representing the applicant, commented on the current political stigma against moving the urban service line. He pointed out there would be no appreciable difference in uses and trips and although there is a current stigma against moving the USA, approval of the request would just fill in an enclave that was originally considered to be included in the USA. He explained the Department of Community Affairs' (DCA) position at the time. He did not oppose Commissioner Wheeler's proposal and stated that he actually presented a draft LDR amendment when approaching staff initially, but thought the more logical way to do it would be to move the USA. He presented a copy of his proposed change to the Board where he had underlined a sentence on page 58 of the Future Lane Use Element. (copy on file in the office of the Clerk to the Board.

George Hamner, Sr., 650 Hwy A1A, retired Board Chairman of the Indian River Exchange Packers company, stated that employees who have been with them many years are the primary concern. He asked for the Board's approval and expressed appreciation for anything they could do to help.

Ital Veron, 280 Peppertree Drive, on behalf of IRNA (Indian River Neighborhood Association), understood the great need to maintain employment as well as to recognize that the industry is hurting and wanted to see them enabled to help both. He preferred the 3rd alternative, to change this Light Industrial land use designation by doing a LDR amendment.

Dian S. George, 1515 27th Avenue, was opposed to approval and called this "a test" and warned that if the Board were to "give an inch, they'll take a mile."

County Attorney Collins thought the staff's report and recommendation made sense. The facility is suitable for either agricultural or industrial use and, by following the recommendation, the Board would just be drawing the USA line to encompass it. Taking the approach of a LDR regulation or a text amendment to the Comp Plan, based on what Mr. Barkett was saying, would mean introducing industrial uses into the rural areas with whatever support is required of those industrial uses in the rural areas, and County Attorney Collins thought that would be opening Pandora's box, when it would be very simple to bring the existing facility into the node. In response to Vice Chairman Wheeler's inquiry, County Attorney Collins advised that was a legal and a planning opinion.

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

Commissioner Davis thought the Commission needed to be careful of creating enclaves inside the USA and what the Legislature might require locally if an enclave is created. He believed the Board needed to address this concern for all of the packinghouses and, more importantly, the Board should not allow another packinghouse to move out west just to circumvent our USA or zoning requirements.

Commissioner Bowden pointed out that this parcel is under discussion and felt that in order to keep the revenue and jobs it would be simplest and best to move the USA.

Commissioner Lowther believed this request made common sense and agreed with Commissioner Bowden. He thought with the prospect of Oslo Road having 5-lanes, an I-95 interchange at Oslo, and with the Landfill nearby the area was unlikely to be developed for housing.

Chairman Neuberger agreed with staff's recommendation and with Commissioner Bowden. The other packinghouses may or may not become an issue he said. He understood this one should have been inside the USA since the beginning.

Commissioner Lowther commented that he understood that the Legislature's intent regarding enclaves had to do with residential and not commercial.

MOTION WAS MADE by Commissioner Lowther, SECONDED by Chairman Neuberger for further discussion, to approve staff's recommendation as submitted.

Under discussion, Commissioner Wheeler believed the enclave bill issue was on the way to being corrected. He thought all the concerns we have with protecting industrial use property could be addressed through a LDR amendment just as well as by expanding the USA. He thought this would be setting a precedent; he preferred to see the whole situation addressed rather than just one location. He would not support the motion and preferred the #3 alternative. He did agree with protecting the property for industrial use.

Chairman Neuberger envisioned a mini-city around the interchange and that the node could be expanded.

Commissioner Bowden gave a lot of credibility to County Attorney Collins' point and factored that into her decision. She preferred to see each packinghouse considered separately.

The CHAIRMAN CALLED THE QUESTION and the motion carried (3-2, Commissioners Davis and Wheeler opposed.). The Board adopted Resolution No. 2006-059 approving the transmittal of a proposed future Land Use Map amendment to the Indian River County Comprehensive Plan to the State of Florida Department of Community Affairs.

**9.A.3. COUNTY INITIATED REQUEST TO AMEND THE TEXT OF
THE CONSERVATION ELEMENT, THE POTABLE WATER
SUB-ELEMENT AND THE SANITARY SEWER SUB-
ELEMENT OF THE COMPREHENSIVE PLAN
(LEGISLATIVE)**

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

Community Development Director Bob Keating reviewed the memorandum of May 2, 2006 using a PowerPoint outline (copy on file). He advised that the P & Z voted 5-0 to recommend that the Board transmit these amendments to the Department of Community Affairs (DCA). He explained the purpose of this request was to (1) add Policy 12.11 to the Conservation Element recognizing the County's efforts to coordinate with non-profit organizations when applying for grants; (2) revise the Potable Water and Sanitary Sewer Sub-Elements to allow provision of these services to future public schools that are adjacent to but outside of the urban service area (USA); and (3) thoroughly revise all elements during the Evaluation and Appraisal Report (EAR) 2006-2008. He reviewed each of the changes in detail and explained the reasons for each including the limitations. He noted the P&Z's unanimous recommendation and that staff also recommended approval.

Director Keating responded to Commissioners' questions and clarified the addition of "public facilities such as public schools" in both Policies 5.7 and 5.8 (page 282-283 of the backup). It would include other public facilities.

The Chairman opened the public hearing.

Bob Johnson, Coral Wind Subdivision, recommended that we list specific non-profits and not leave it open-ended on the Conservation Element, Policy 12.11.

Ruth Stanbridge, 4835 66th Avenue, understood Commissioner Wheeler's concern about the potable water and wanted to know if this amendment would in any way allow the USA boundary to be extended and wondered if would it be proper to put it in the 2030 plan.

Director Keating responded, this policy would in no way allow or justify the expansion of the USA.

Nancy Offutt, 686 Date Palm Road, realized this Conservation Element amendment was a little different, but hoped that the County would not make a distinction between profit and non-profit with regard to land use.

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

ON MOTION by Commissioner Davis,
SECONDED by Chairman Neuberger, the Board
unanimously adopted Resolution No. 2006-060
approving the transmittal of proposed amendments
to the text of the Conservation Element, the Potable
Water Sub-Element, and the Sanitary Sewer Sub-
Element of the Indian River County Comprehensive
Plan to the State of Florida Department of
Community Affairs.

Chairman Neuberger called a short recess at 10:32 a.m. and the meeting was reconvened at 10:43 a.m., with all members present. Dr. Edwin Massey was in the audience and Chairman Neuberger asked the Commissioners if any of them would mind hearing from Dr. Massey on Item 11.C.2. There were no objections. The Minutes for Item 11.C.2. are in agenda order.

Clerk's Note: After hearing 11.C.2., the Board considered Item 9.A.5. before 9.A.4. Minutes are written as per the Agenda order.

9.A.4. COUNTY INITIATED REQUEST TO AMEND THE CAPITAL IMPROVEMENTS ELEMENT OF THE COMPREHENSIVE PLAN (LEGISLATIVE)

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

Community Development Director Bob Keating explained the need to accept these changes. He noted that we are required by State law to amend our Capital Improvements Element each year. He advised that the State has asked Indian River County to be a "pilot community" for the new Capital Improvement Elements required under Senate Bill 360. The P&Z, by a vote of 5-0, recommended transmission of this proposal at its March 23rd meeting. Using a PowerPoint presentation (copy on file) he reviewed some of the new requirements under SB 360. He highlighted the several changes and commented that his staff has worked closely with the Budget and Public Works Departments on this amendment. One component we will have to add in the future would be to adopt the relevant part of the School Board's Capital Improvements Program, he said. He pointed out that Policy 14.3 gives certain criteria as necessary to make a change. Our change is made under the third one, that is, a substantial change in circumstances. The Planning and Zoning Commission and staff recommended the approval of these proposed CIE amendments for transmittal to the DCA for its review.

Commissioner Bowden asked if the transportation element is included, and Director Keating explained that all of the improvements reflected in the Transportation Element are in the CIE with all of the Transportation Improvements program for the first 5 years.

The Chairman opened the public hearing.

Bob Johnson, Coral Wind Subdivision, asked that this pilot program under SB 360 be a separate line item in the budget so that we can monitor the cost to the County.

Director Keating noted that the County was required to do this activity anyway but added that the County received a grant for school concurrency and assistance from a consultant hired by the State.

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 No. 2006-061
approving the transmittal of proposed amendments
to the text of the Capital Improvements Element of
the Indian River County Comprehensive Plan to the
State of Florida Department of Community Affairs.

Clerk's Note: Item 9.A.5. was heard after 11.C.2. and before 9.A.4.

**9.A.5. COUNTY INITIATED REQUEST TO AMEND THE
TRANSPORTION ELEMENT OF THE COMPREHENSIVE
PLAN (LEGISLATIVE)**

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

MPO Staff Director Phil Matson reviewed the proposed amendments using a PowerPoint presentation (copy on file). Requirements for plan amendments are: (1) to update the Comp Plan for consistency with the 2030 MPO Long Range Transportation Plan (LRTP) into the Comp Plan; (2) to update the roadway improvement project listings; (3) to incorporate text changes, and (4) to make revisions to maps, tables and figures. He specified that plan amendments can be made for one of four reasons: mistake, oversight, substantial change in circumstances, or a land use swap/reconfiguration. A substantial change in circumstances was the reasoning behind these proposed amendments. He explained the requirement for updating the LRTP and explained the process of the MPO's adoption of the 2030 LRTP in December 2005. For the most part, the 2025 LRTP was retained with a few exceptions. There are also some additions including 6-laning US#1 from 26th Street to CR-510; 4-laning 58th Avenue (from SR 60 to 53rd Street); and an extension of Laconia Street. There are also updates to bike paths and sidewalks. He gave highlights on the Transit Development Plan (TDP) that included service to Fellsmere, possible service on SR 60 to the CVS/Outlet Mall area, and a new regional route to the south for use by inter-county commuters. He gave an overview of other changes and listed the assumptions used in the projections. Text has been changed to support the table and map information. He also reviewed existing improvements, in particular, the widening of 27th and 43rd Avenues. He recounted the actions taken by the Board with regard to changing the levels of service (LOS) on those two roads. He explained the proposal is to 4-lane 27th Avenue from Oslo Road to SR-60 and 4-lane 43rd Avenue from Oslo Road to 16th Street. Staff believes these can be built in narrower typical sections by using active drainage, reducing the right-of-way, burying underground power lines, etcetera. This should enable us to not have to continually drop LOS, restore our LOS once this is in the capital program, and not depend on St. Lucie County as they currently have other demands.

Capital Projects Manager Terry Rauth advised that Carter & Associates worked with staff to come up with three typical sections for an 80' constrained right-of-way. She displayed the drawings, described the different options, and compared them to what the Board saw months ago. The options showed different configurations for the median, bike spaces, sidewalks, and

grass areas. All options are showing a temporary 10' construction easement in order to re-grade behind the sidewalk and transition to the residences and their driveways. In addition, 43rd Avenue would be lowered to reduce the impact. Survey work and design has not been done for the 27th Avenue project.

In response to Chairman Neuberger, Ms. Rauth advised that staff will have a workshop with the residents regarding the turn lanes, impacts to their properties, and get input on their preferred options. She continued that the County actually has enough right-of-way in some areas for right-turn lanes. There will be left turn lanes on 27th and 43rd Avenues more buffers and turn lanes. In some areas we already have enough right of way.

Discussion ensued and Ms. Rauth and Mr. Mora responded to questions of the Commissioners.

The Chairman opened the public hearing.

Debra Segal, 407 SW 43rd Avenue, who travels 43rd and 27th Avenues daily had a problem with all three options.

Joseph Paladin, 6450 Tropical Way, supported the design put forth and thought it was important to keep it within the 80' row. He understood the 10' easement would be redone after construction is completed. **Mr. Paladin** also commented that he anticipated this new road would have a boulevard effect with lowered speed limits and other aesthetic features and it would not resemble a highway.

Landscaping was discussed and Ms. Rauth advised that would be part of the workshop to see what the people want.

County Administrator Baird understood this amendment was being done for public safety reasons and to meet our LOS.

In response to Commissioner Lowther, Director Keating confirmed that this 4-laning was planned to change the road from 3 lanes from Oslo Road.

Commissioner Bowden expressed her concern about maintenance of the landscaping and the need for personnel to keep it up. She cautioned against making the same mistakes as those by DOT on SR 60. She understood this amendment is necessary for safety reasons but a lot of work needs to be done in the planning.

County Administrator Baird stated that staff is working toward underground utilities and maintenance concerns. He also understood the Commissioners' desires and concerns.

Chairman Neuberger brought up the costly maintenance on the 2' grassy strip and was advised that it was needed for mailboxes and signage.

Mark Brackett, 1915 34th Avenue, commended the Commission and staff. He cautioned that the Board needed to give a roadway not just to please the residents, but also a roadway to satisfy the needs of all the residents. He commented that the residents on 27th and 43rd Avenues should have known years ago the roads would need to be widened.

Renee Renzi, Waverly Place, commented that Indian River Boulevard, outside of city limits, is straggly and needs to be maintained.

To that comment, Commissioner Davis added that CR 512 inside city limits of Sebastian was similar to that.

County Administrator Baird reminded that landscaping would be an on-going expense to maintain.

George Sigler, 155 31st Avenue SW, between 27th & 43rd Avenues, applauded the design. He preferred Option 2 and, regarding the landscaping, he suggested that we should find out what grows and requires the least maintenance. **Mr. Sigler** and Vice Chairman Wheeler discussed opinions about odors from the Landfill and their prospects of development regarding the possible interchange at Oslo Road and I-95.

Ruth Stanbridge, 4835 66th Avenue, predicted there would be flaws in the 2030 plan. She commented that it seemed that all the concurrency was being placed on one "super highway called 66th Avenue". She claimed the County would be wiping out homes, businesses, pastures, etcetera of people who have lived there for many years, for future residents who may or may not come. On May 24th there will be a public workshop but the public would not be able to voice

their opinions and they should have that opportunity in a public hearing before all of the Commissioners. She asked if the real plan for the widening of 66th Avenue was to move the urban service area boundary or to plan for new towns, then the people, taxpayers, and homeowners should be told.

Vice Chairman Wheeler responded that there is no intent on his part to move the USA.

Commissioner Davis asked if there was any way of meeting concurrency without widening 66th Avenue.

Community Development Director Keating responded by pointing out that the roads have been in the long range transportation plan for many years. He supported his staff for devising the best set of possibilities to meet County needs in 2030.

County Administrator Baird understood that anytime roads need widening, property owners will be affected, and it is an emotional issue. The Board has directed staff to get roads and bridges built and to fast-track the work.

Public Works Director Jim Davis commented that the 74th Avenue corridor is unique because it is the boundary between IRFWCD and the Sebastian River Drainage District. The rights-of-way do not line up from the east side of 74th Avenue to the west side. It would be very difficult to get continuity on the east-west roads for the 74th Avenue corridor. Also, Range Line Canal on the east side of 74th Avenue is very large and that would necessitate bridges at every east-west location. The 26th Street bridge is the only bridge and it was just recently built. The per-bridge cost would be from \$1.3 to \$1.5 million. He believed 66th Avenue to be the only economically viable corridor to provide additional north-south capacity that would give good continuity to serve Sebastian to Oslo Road.

Glenn Legwen, 5900 5th Street SW, commented on the current high cost of gasoline and of building roads and suggested the Board needed to look at economically increasing public transportation and make it enjoyable with convenient routes at reduced rates.

Dian S. George, 27th Avenue, thought widening 66th Avenue has everything to do with Mark Brackett's Liberty Park project and that there were other alternatives.

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

Commissioner Bowden voiced her opposition to 6-laning Indian River Boulevard. She did not want “an I-95” road on Indian River Boulevard.

Chairman Neuberger asked for a motion; there was no response.

Commissioner Davis asked again if there was any other way to meet concurrency on 66th Avenue.

Director Keating knew of no other alternative. When staff plugged in these improvements, the forecasting models showed that the system would work and our LOS would be met.

County Administrator Baird recalled our continual problems in meeting LOS. He recommended moving ahead on this. He knew it was not easy to do but they needed to take the long-term approach.

Vice Chairman Wheeler commented that the roads are needed because of our projected growth and future density.

Mr. Mora added that the segment of 66th Avenue between 26th and 41st Streets is running about 85% capacity and that will only get greater; the intersection at CR-510 and 66th Avenue ‘fails’ today.

Commissioner Davis inquired if it is possible for the County to buy all of an impacted property if they were asked to do so..

County Administrator Baird commented that this is “the big picture” today; down the road we can look at it.

Director Davis explained that we are not designing a 6-lane road at this time; we are designing an arterial road with a median for landscaping and turning lanes. Of our north-south arterials, the longest are US#1, A-1-A, and 66th Avenue. 66th Avenue is the only one that connects between the heart of Sebastian and Oslo Road. Should 6 lanes be needed in the future,

there would be room in the interior lane. He stated that 18 or so homes would be impacted over the 16 miles.

County Administrator Baird stated that the County has offered to move homes back on their 5-acre tracts. We are having a workshop; flyers have been sent out and it has been in the newspaper; people will be able to give input and their opinions. Staff has also talked to the affected homeowners.

Commissioner Lowther asked Ms. Stanbridge where 66th Avenue was when she was on the Commission, and she responded that 66th would be considered after 82nd, 74th, and after the 3 east-west roads were completed.

Director Keating advised that 74th Avenue has always been on the grid system. There has never been an improvement identified for 74th Avenue. 66th Avenue has been identified as a needed improvement on our plan since at least 1995 where in the first MPO LRTP it said to add two lanes to it.

Ms. Stanbridge shared her recollections on the roads when she was a Commissioner. She wanted to know why the surveyors are in their yards now.

Chairman Neuberger thought the first thing to be done on a proposed road is to survey it.

Discussion ensued during which Director Davis explained the MPO process and emphasized that this project has had a lot of public scrutiny. If the Board wanted another forum in the Chambers after the workshop, he said staff would be open for that.

Vice Chairman Wheeler pointed out that this was a long range plan and it has already been voted on by those Commissioners who have served on the MPO.

ON MOTION by Commissioner Wheeler,
SECONDED by Commissioner Lowther, the Board
by a vote of 4-1 (Commissioner Bowden opposed)
adopted Resolution No. 2006-062 approving the
transmittal of proposed amendment to the text of the

Transportation Element of the Indian River County
Comprehensive Plan to the State of Florida
Department of Community Affairs.

Vice Chairman Wheeler asked for clarification on why Commissioner Bowden was opposed. She advised that she still had some questions about this plan and she was also opposed to widening Indian River Boulevard.

The Chairman called a recess at 12:10 p.m. The meeting reconvened at 12: 20 p.m. with all members present. The next item to be heard was 9.A.4.

9.B. PUBLIC DISCUSSION ITEMS

9.B.1. REQUEST TO SPEAK FROM GLENN LEGWEN REGARDING SEVERAL ISSUES ONE OF WHICH IS SELECTIVE CODE ENFORCEMENT

Glenn Legwen, 5900 5th Street SW, said he was seeking relief and to discuss what he called “a bad policy” of “selective code enforcement”. He recounted citations for code enforcement violations on his property as well as loss of his property due to the County’s acquisition of right-of-way for 58th Avenue. He claimed he no longer has enough property to continue his landscaping business. He believed his property was no longer suited to agriculture and wanted to be able to subdivide it. Staff had advised him that it could not be rezoned. He asked the Board to realize his predicament that his in a transition area.

In response to Mr. Legwen’s code enforcement comments, Community Development Director Bob Keating stated that staff does not do selective code enforcement. We do respond to complaints as well as proactively look for violations.

With regard to rezoning, it was suggested that Mr. Legwen meet with staff.

**9.B.2. REQUEST TO SPEAK FROM MICHAEL O’HAIRE
REGARDING CHANGES IN THE LAND DEVELOPMENT
REGULATIONS**

Michael O’Haire, Attorney, spoke on behalf of the Russell and Knight families who own properties four blocks north of the hospital in the Indian River Boulevard corridor. He said that the Hospital District’s Board had referred him to the BCC. His clients and the residents of Buckinghammock are unhappy that the Indian River County Hospital District (IRCHD) is planning to build a motel in the area.. His clients have a MED (medical district) overlay and now find themselves in competition with the tax-supported Hospital District. He asked the Board to direct staff to begin the process of substituting the MED overlay along 44th Street and replacing it with CG (general commercial) or CL (light commercial) so they are able to compete with the IRCHD.

D. Victor Knight, Jr., 3295 Ranch Road, used an aerial photograph of the subject area to point out the Knight and Russell properties. He recently met with Community Development Director Bob Keating and Planning Director Stan Boling to plan a future development who told him it would have to be a PD. He understood, however, there was an arbitrary restriction that at least 30% of the PD be designated “medical.” That would be especially difficult since the IRCHD announced their planned use of their land south of the hospital. He had strong objections to a change in the Comp Plan to change it to CI and it being included as “medical.” The IRCHD did not want to discuss it and referred him to the County. He asked for a more liberal interpretation of the LDRs as they pertain to PDs in that kind of zoning. He hoped the Board would impose upon the hospital to use that land, purchased with our tax dollars, for an expanded campus. Second, he asked the Board to look at PDs and not impose the 30% requirement. He recounted the current use of the property and his need to continue justifying the

agricultural tax exemption on this property his family has owned for 85 years. He thanked the Board for their consideration.

Community Development Director Bob Keating related his meeting with Mr. Knight and he thought they were proceeding toward a possibility for some bio-tech types of uses which would be consistent with the medical node. The County does not have a strict 30% standard but are generally looking for medically-related uses in there.

County Attorney Collins explained that the IRCHD is an independent taxing authority that answers to the voters and not to this Commission. As property owners, they could do what they wish as long as it is consistent with our zoning regulations. The Board has the authority to say what types of uses can be used in each zoning district.

Discussion ensued.

It was suggested that Mr. Knight get with staff to work on it.

9.B.3. REQUEST TO SPEAK FROM THE MARINE RESOURCES COUNCIL REGARDING UPDATING RESOLUTION OF SUPPORT FOR ST. SEBASTIAN GREENWAY FCT (FLORIDA COMMUNITIES TRUST) APPLICATION

Jim Egan, Executive Director of the Marine Resources Council, advised that the MRC is seeking to purchase additional properties along the St. Sebastian River and the Florida Communities Trust application requires a resolution of support from the local government. He advised that County funds would not be solicited for the project either for purchase or maintenance. He displayed a map and advised of the ownership of other properties in the area. He stated that grant funding has been found to support restoration of some of the properties including those owned by the County.

ON MOTION by Commissioner Wheeler,
SECONDED by Commissioner Davis, the Board
unanimously approved and adopted Resolution No.
2006-063 in support of the Marine Resources
Council's application for a grant to purchase
property along the St. Sebastian River.

9.C. PUBLIC NOTICE ITEMS

**9.C.1. NOTICE OF SCHEDULED PUBLIC HEARINGS ON MAY 16,
2006:**

**9.C.1.A. CONSIDERATION OF PROPOSED AMENDMENTS TO THE
MULTI-FAMILY ZONING DISTRICT REQUIREMENTS OF
LDR SECTION 911.08 (LEGISLATIVE)**

**9.C.1.B. CONSIDERATION OF PROPOSED AMENDMENT TO LDR
SECTIONS 911.09(4) AND 971-41(10)(b) (B): ALLOWING
SINGLE-FAMILY DWELLINGS AND ACCESSORY SINGLE-
FAMILY DWELLINGS IN THE MOBILE HOME DISTRICTS
(LEGISLATIVE)**

**9.C.2. NOTICE OF SCHEDULED PUBLIC WORKSHOP MAY 24,
2006:**

**9.C.2.A. 66TH AVENUE (SR 60 TO CR 510) WIDENING
IMPROVEMENTS (ADMINISTRATIVE)**

Chairman Neuberger read the above public notices into the record.

10. COUNTY ADMINISTRATOR'S MATTERS - NONE

11. DEPARTMENTAL MATTERS

**11.A. COMMUNITY DEVELOPMENT – CONSIDERATION OF
INCENTIVE (ENTERPRISE) AGREEMENT FOR THE
INDIAN RIVER PARK OF COMMERCE**

Planning Director Stan Boling reviewed the memorandum of April 25, 2006 and used visual aids to enhance his presentation. He gave the history of this matter and explained that the incentive loan of \$1.5 million, secured by a mortgage, would not bear interest for a term of up to 10 years, with a portion of the loan to be paid back upon the sale at closing of each lot. The property is located on the north side of SR 60 to the west of 98th Avenue and borders on CVS which is now close to receiving its certificate of occupancy. He explained many of the terms of the contract agreement and recommended its approval.

County Administrator Baird responded to questions regarding prior incentives of utilities work and explained this step is being taken in order to stimulate interest in this industrial node and to attract and create jobs in a clean industry that we hoped to attract.

There was a brief discussion about the utility work done on SR 60 in anticipation of this Park of Commerce and that CVS would still have the ability to expand and use the 80-foot height limit granted them previously. Also jobs accountability was explained by Director Boling.

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

Assistant County Attorney William K. DeBraal advised of a couple of minor changes regarding insurance. He explained the developer will be listed as an additional insured on any subcontractors' agreements, and also professional liability limits would be set for \$1 million rather than \$3 million. This will be a subordinate mortgage; there is one existing loan on the property for acquisition and development and another loan will be closed the end of this month. The County has agreed to take a 3rd position in this situation. We have been assured that the property's value far exceeds the loans and the County's loans would be paid out of the closing proceeds of each sale. Also, the County would be repaid from the proceeds of the sale if the entire property is sold. He felt comfortable in recommending this to the Board.

Brian May, 4000 Ponce de Leon, Suite 770, Coral Gables, FL, representing the Developer Adrian Real Estate Investments II, LLC, explained they have spent \$4.4 million putting roads into the Park in Phase I as well as water and sewer. A partial final plat is pending with the County at this time. They are also proceeding with other development of the site. The total development cost for Phases I and II is \$5.6 million. He advised that Ocean Bank has the first position loan in the amount of \$8 million loan for acquisition and development; the 2nd position is a line of credit of which about \$3 million would be subordinated for this project; the total is about \$11.027 million. The property totals 95 acres or about 69.5 acres after the roads are subtracted.

Director Boling advised the per-square-foot-value is about \$3.63.

Commissioner Davis wanted to see 26th Street, west from I-95, go across from the new 98th Avenue to the old 98th Avenue.

Director Jim Davis explained how the County tried to get permits to pave and improve it, but due to the wetland areas we have not been able to get DEP permits without extensive mitigation. There is a proposed culvert to interconnect the old 98th to the new 98th Avenue but it is south of 26th Street.

Mr. May advised his client had no dispute with that.

Commissioner Bowden asked for clarification, and Assistant County Attorney DeBral explained how the payback of this loan was structured. There are no County grants involved in this agreement.

The Chairman CALLED THE QUESTION and the motion carried unanimously. The Board approved the incentive agreement for the Indian River Park of Commerce with language changes as advised by the County Attorney's office and authorized the Chairman to execute all related documents, as recommended in the memorandum of April 25, 2006.

11.B. EMERGENCY SERVICES – NONE

**11.C.1. GENERAL SERVICES – OPERATIONAL RESTRUCTURING
OF HUMAN SERVICES DEPARTMENT**

General Services Director Tom Frame explained the restructuring of the Human Services Department in order to outsource it to the Health Department. It will mean a reduction of two (2) of the positions, the Department's Director and the Intake Worker. The remaining two positions (Staff Assistant and Caseworker) will be hired to work under the Health Department and budgets will be adjusted accordingly. This restructuring includes staff and support for Children's Services Advisory Committee. The Health Department has prepared a transitional plan. The Board was asked to enter into a Memorandum of Understanding and it will be re-written by the County Attorney's office in form, not content, and requested that the County Administrator be granted authority to sign the document.

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

Under discussion, Commissioner Davis expressed his confidence in staff's ability to restructure this to save money and wanted the affected individual employees to be relocated to other positions in the County.

Bob Johnson, Coral Wind Subdivision, who serves on the Children's Services Advisory Committee, asked for this to be tabled and have it discussed by the Committee.

County Administrator Baird asked if the Commissioners wanted him to put all his reorganization efforts on committee agendas. The Commissioners expressed their opinions that this is a personnel matter and that advisory committees are to look at the subject matter and not necessarily the organizational structure.

Mr. Johnson commented that the Children's Services millage rate was not addressed in the agreement and thought it should be included.

The Chairman CALLED THE QUESTION and the motion carried unanimously. The Board approved the content within the Memorandum of Agreement for Human Services Department Restructuring with the Indian River County Health Department subject to the County Attorney's approval of the modified format and language, and authorized the County Administrator to execute the agreement on behalf of the Board upon the final approval of the County Attorney, as recommended in the memorandum of April 25, 2006.

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

**11.C.2. GENERAL SERVICES – NAMING OF JOINT-USE LIBRARY
(INDIAN RIVER COMMUNITY COLLEGE AND INDIAN
RIVER COUNTY) (MUELLER CAMPUS – VERO BEACH)**

Clerk's Note: This matter was heard after the meeting reconvened at 10:43 a.m. so that Dr. Massey could appear before the Board at that time. There was no objection by any of the Commissioners to Chairman Neuberger's suggestion to take it out of order.)

Dr. Edwin Massey, President of Indian River Community College, reported that the plans for the new Library are moving forward and commended the Board for agreeing to leverage tax dollars to build a facility to serve all ages in the community. He gave a detailed report on the progress and financial particulars of the new Library project. He advised that private money is always sought and revealed that Bob and Sandy Brackett have donated \$½ million with \$100,000 going to the building; and \$400,000 for an endowment will be matched 2-3 to generate income of about \$34,000 per year. All of that income will be dedicated back to the committee to decide how it will be used to support the Library in the future and takes the pressure off the College and the County for future maintenance of the facility. He explained College's naming criteria and stated that the Board of Trustees had voted to name the Library "The Brackett Library". He asked the Board's support and endorsement. He pointed out that money is only a part of the equation and the Brackett family has done a lot for the community and has a reputation for outstanding character in the community.

Chairman Neuberger had asked that this matter be brought to the Board because he understood the County had a policy of not naming buildings, roads, bridges, etc. after individuals.

MOTION WAS MADE by Vice Chairman Wheeler, SECONDED by Commissioner Davis, to approve Dr. Massey's request.

Dr. Massey noted there would be opportunities for naming rooms within the library for other donors.

Commissioner Bowden commented she was not aware of the College's policy for naming and had no objection.

Dr. Massey advised that when speaking to prospective donors of large amounts, we discuss what they would like in return and advise them that it would be appropriate to name the building after them. There was no high pressure or anything of that nature. He apologized for not keeping the Board fully informed as this donation offer moved forward.

Vice Chairman Wheeler commented on the Bracketts' generosity and their contributions to the community. He noted he did not agree with previous Commissions that have not wanted to name things in honor of others because he believed it helps mark the history of the community.

The Chairman CALLED THE QUESTION and the motion carried unanimously. The Board approved naming the new library at the Mueller Campus of Indian River Community College the Brackett Library.

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

**11.I.1. TRAFFIC IMPACT/ROADWAY CONCURRENCY
CONSULTANT REVIEW**

Traffic Engineer Chris Mora reviewed the memorandum. He asked that the Board schedule a workshop with the Planning and Zoning Commission and suggested it be held May 23, 2006 from 2:00 p.m. to 5:00 p.m.

ON MOTION by Vice Chairman Wheeler,
SECONDED by Commissioner Davis, the Board
unanimously approved holding a joint workshop
with the County's Planning and Zoning
Commission on Tuesday, May 23, 2006 from 2:00
p.m. to 5:00 p.m. to discuss the report and the

findings contained therein, as recommended in the memorandum of April 25, 2006.

11.I.2. PUBLIC WORKS – AMENDMENT NO. ONE TO FDOT AGREEMENTS, CONTRACT NOS. ANW-75 (HURRICANE FRANCES) AND ANX-78 (HURRICANE JEANNE), TO DECREASE THE TOTAL FHWA REIMBURSEMENT AMOUNT TO INDIAN RIVER COUNTY FOR DEBRIS REMOVAL

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the proposed Amendment One to FDOT Contract Nos. ANW-75 and ANX-78 for the Chairman's signature, as recommended in the memorandum of April 21, 2006.

COPIES OF PARTIALLY EXECUTED AGREEMENTS ARE ON FILE
IN THE OFFICE OF THE CLERK TO THE BOARD

11.I.3. PUBLIC WORKS – AMENDMENT NO. 2. TO 43RD AVENUE ROADWAY AND DRAINAGE IMPROVEMENTS PROFESSIONAL ENGINEERING SERVICES AGREEMENT

(ORIGINALLY LISTED AS 11.J.2.)

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously approved Amendment No. 2 to 43RD Avenue Roadway and Drainage Improvements Professional Engineering Services Agreement for a total of \$9,597.75 and authorized the Chairman to execute the Agreement as written, as recommended in the memorandum of April 24, 2006.

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

11.J.1. UTILITIES SERVICES – NORTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANT, PROFESSIONAL SERVICES BY CAMP DRESSER MCKEE (CDM) FOR TECHNICAL ASSISTANCE IN WATER SUPPLY PLANNING PROJECTS – WORK ORDER NO. 5

ON MOTION by Commissioner Davis, SECONDED by Vice Chairman Wheeler, the Board unanimously approved (a) Work Order No. 5 to CDM, Inc., in the amount of \$50,000, for Professional Services related to technical assistance with water supply projects and (b) authorized the Chairman to execute Work Order No. 5, as recommended in the memorandum of April 25, 2006.

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

**11.J.2. UTILITIES SERVICES – AMENDMENT NO. 2. TO 43RD
AVENUE ROADWAY AND DRAINAGE IMPROVEMENTS
PROFESSIONAL ENGINEERING SERVICES AGREEMENT**

This item is not a Utilities Services' item and was moved to 11.I.3. Public Works.

**11.J.3. UTILITIES SERVICES – APPROVAL OF RENEWAL FOR A
CLASS “E1” CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY FOR ACTS, INDIAN RIVER ESTATES, TO
PROVIDE WHEELCHAIR SERVICES**

This item was moved to Item 7.Y. under the Consent Agenda.

**11.J.4. UTILITIES SERVICES – LAKEWOOD VILLAGE MOBILE
HOME PARK**

Utilities Director Erik Olson responded to Commissioner Wheeler's question advising that the capital is coming from Utilities.

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

County Attorney Collins interjected that the Utilities Department was requesting a one-time waiver of an ordinance and explained that the Commissioners could rescind or modify an ordinance but could not waive an ordinance. The ordinance now allows up to 5 years to pay capacity charges, and up to 10 years if the applicant can demonstrate that other funding sources have been exhausted and we would place a lien on their assets to secure payment. He suggested they could get a mortgage if the mobile home park has assets. He had suggested the Utilities Department allow them the 5 years, and if the Board chooses to amend or modify the ordinance to allow additional periods of time then the Board could develop some criteria for extending the period of time.

Commissioner Davis stated that this is a health/safety issue and if they need 20 years, the Board needs to do what can be done.

Director Olson stated they are in a bind at this time. They are under a financial hardship and a time constraint. He advised he was willing to work with the County Attorney's office to modify the ordinance should that be necessary.

County Administrator Baird did not agree with Attorney Collins and read the ordinance and gave his interpretation.

Discussion ensued during which it was stated that the Association owns the land; the County could lien that asset; but County Attorney Collins pointed out that no title work had been done on this property to determine whether the property was encumbered by any other liens.

Director Olson agreed the ordinance stated the County must be in a position to lien the property.

County Administrator Baird noted this action is just in concept. They would probably have the agreement, look at the title work, and come back. The problem exists today. They do have a severe water problem out there and we are trying to facilitate them.

Vice Chairman Wheeler suggested that if this is "in concept", the Board could approve it and then staff could get together to work out all the particulars.

Commissioner Davis offered to "approve in concept to extend the 20-year opportunity for lien."

Director Olson asked that the Board let staff work out the details with the County Attorney's office.

County Attorney Collins opined that would certainly be better than a one-time ordinance change.

Commissioner Davis restated his "motion" to direct staff to come back with a 20-year plan for the utilities, but when Chairman Neuberger called for a second, Vice Chairman Wheeler recalled that he had already made a motion and Commissioner Lowther agreed and thought he had seconded the motion.

Vice Chairman Wheeler ADDED TO HIS MOTION, SECONDED by Commissioner Lowther, a direction for staff to get this worked out.

Chairman Neuberger CALLED THE QUESTION and the motion was unanimously approved.

(Clerk's Note: There was a clear understanding that the Board could not waive an ordinance and wanted staff to work on this to facilitate getting potable water to this Lakeside Mobile Home Park.)

11.J.5. UTILITIES SERVICES – AGREEMENT BETWEEN IRC AND OLD SAVANNAH PROPERTY OWNER'S ASSOCIATION, INC.

ON MOTION by Vice Chairman Wheeler, SECONDED by Commissioner Lowther, the Board unanimously approved (1) to allow the Utility

Department to establish a participation policy for Homeowner's Associations to enter into an agreement with the County for a 75% funding participation of an emergency generator for key, County-owned lift stations within developments; each individual agreement would be taken to the Commission for individual consideration and approval; (2) to allow for the expenditure of available capital funds for the County portion of the cost of the emergency generator and its installation; and (3) the Cost Share Agreement with the Old Savannah Property Owner's Association, Inc. for the installation of a 30 kW standby emergency generator, as recommended in the memorandum of April 24, 2006.

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

12. COUNTY ATTORNEY - NONE

13. COMMISSIONER ITEMS

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

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

13.C. COMMISSIONER SANDRA L. BOWDEN - NONE

**13.D. COMMISSIONER WESLEY S. DAVIS – DISCUSSION OF
AFFORDABLE HOUSING OPTIONS FOR TREVISO, LLC
PROJECT**

Commissioner Davis recounted the rezoning on this project at their last meeting when the Board approved RS-6. He wanted to update the Board on an opportunity the Board might have on this. He stated he had denied their request for RM-8 because we have no multi-family buffering in place at this time but we do have a public hearing on that coming up. Also, during the discussion at that meeting, there was willingness on the part of the developer to provide some affordable housing units and he thought if there was an opportunity for including affordable housing inside the development, in \$160,000 to \$170,000 range, he thought it should be something the Commission would be interested in knowing more about. He was working on this with Mr. Paladin and stated this was just informational.

Commissioner Lowther noted that he and Chairman Neuberger had already favored that.

Joseph Paladin advised that the developer has agreed to meet the Growth Awareness Committee's buffer requirements. He had set up meetings with the neighbors; had done research, and believed their product would be quality and superior to any other products because of the design they plan to use. He felt it was a big opportunity to go forward with workforce housing.

Mr. Paladin forecasted the developer would give a deed restriction and we would be guaranteed that this product would happen. He was working with the County Attorney's Office and the Chamber of Commerce and Andy Bowler (Habitat for Humanity). He felt allowing this

would show the County is really concerned about workforce housing and we are going to do something about it. He asked for the Board's support and guaranteed that he would be on top of it.

County Attorney Collins advised that they were talking about "contract zoning" which is not legal in Florida and elaborated on this opinion. He advised the only way he could see this happen would be that any enforceable deed restrictions limiting the property were made of record before a rezoning came to the Board. He explained why he thought their objectives for this property would probably have had more success if it were structured as a Planned Development (PD). Case law allows the Board to reconsider their zoning action within a 30-day appeal period.

Chairman Neuberger thought they needed to see if there were three Commissioners on the Board willing to reconsider this matter.

Charles Siemon, Siemon and Larsen, Boca Raton, representing the Applicant, asked them to reconsider this matter. He believed there is a legally enforceable means if a majority of the Board wishes to reconsider this matter. It could be positioned/presented after public hearing and a defensible rezoning could be granted. He stated the appeal period would expire on the 11th of May. There would be no jurisdiction for a year no matter what the merits are.

County Attorney Collins noted it would be a year from the time the application was filed, not from the decision time.

MOTION WAS MADE by Commissioner Davis,
SECONDED by Commissioner Lowther, to
reconsider this matter.

Under discussion, Commissioner Bowden wanted it on record that she strongly objected to this because again there is no backup.

Vice Chairman Wheeler asked what has changed since the decision was made, and **Mr. Paladin** advised that the County would get the workforce housing and the developer was willing

to meet all the design criteria even though the criteria are not yet in effect and the neighbors would be satisfied with the buffering.

Discussion ensued.

Vice Chairman Wheeler commented they would be setting a precedent of looking back on something they have already turned down and that was happening too much.

Commissioner Davis countered that right now the small-lot subdivision ordinance was in a moratorium and if he had somebody willing to help the workforce housing community, he was willing to consider it.

Vice Chairman Wheeler recounted the many things the County is doing to facilitate affordable housing.

The Chairman CALLED THE QUESTION and the motion carried 3-2 (Commissioners Bowden and Wheeler opposed). The Board approved to reconsider the request submitted by Treviso to rezone 19.5 acres from A-1 to RM-8.

(Clerk's Note: Meeting was recessed at 2:17 p.m. Vice Chairman Wheeler was absent when the Commissioners returned to the table and the meeting was reconvened at 2:23 p.m.)

13.E. COMMISSIONER THOMAS S. LOWTHER - NONE

14. SPECIAL DISTRICTS AND BOARD

14.A. EMERGENCY SERVICES DISTRICT - NONE

14.B. SOLID WASTE DISPOSAL DISTRICT

**1.A. APPROVAL OF MINUTES – REGULAR MEETING OF
FEBRUARY 21, 2006**

**1.B. APPROVAL OV MINUTES – REGULAR MEETING OF MARCH 7,
2006**

**2. ENGINEERING SERVICES FOR CONSTRUCTION OF A C & D
LANDFILL CELL**

The Chairman announced that immediately upon adjournment of the Board of County Commissioners 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

**1. REPORT OF ACTIVITIES DURING FIRST QUARTER (JANUARY-
MARCH 2006)**

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

ALL BACKUP DOCUMENTATION IS 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 2:23 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Arthur R. Neuberger, Chairman

Minutes Approved: _____

BCC/PR/2006 Minutes