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July 11, 2006

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

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1840 25<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, July 11, 2006, at 9:00 a.m. Present were Chairman Arthur R. Neuberger, Vice Chairman Gary C. Wheeler, and Commissioners Wesley S. Davis and Thomas S. Lowther. Commissioner Sandra Bowden was absent. Also present were County Administrator Joseph Baird, County Attorney William G. Collins II, Executive Aide to the Board Kimberly Massung, and Deputy Clerk Maria I. Suesz.

**1. CALL TO ORDER**

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

**2. INVOCATION**

~~Father Tri Tang Pham, St. Helen Catholic Church~~ Public Works Director Jim Davis delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

County Attorney William G. Collins, II led the Pledge of Allegiance to the Flag.



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

The Chairman requested the following items be added to the agenda:

1. Item 13.E. – Commissioner Lowther’s request to reinstate the August BCC Meetings

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously, by a 4-0 vote (Commissioner Bowden absent) made the above changes to the Agenda.

## **5. PROCLAMATIONS AND PRESENTATIONS**

### **5.A. 2006 NATIONAL ASSOCIATION OF COUNTIES ACHIEVEMENT AWARDS**

Chairman Neuberger read and presented to Recreation Director Clifford Crawford two 2006 NACo Achievement Awards for the programs entitled Community Recreation Public-Private Partnership and Youth Golf Program. Director Crawford gave recognition to his staff, Chuck Mechling, and Karen Faulk.

### **5.B. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF JULY, 2006 AS RECREATION AND PARKS MONTH**

Commissioner Lowther read and presented the Proclamation to Recreation Director Clifford Crawford, who recognized his employees, Jim Romanek, and Mike Redstone.

**5.C. PRESENTATION OF GOVERNOR'S POINT OF LIGHT  
AWARD – DASIE BRIDGEWATER HOPE CENTER, INC.**

Chairman Neuberger read and presented the Point of Light Award to Verna White and Barry Braxton of Dasie Bridgewater Hope Center, Inc.

**6. APPROVAL OF MINUTES - NONE**

**7. CONSENT AGENDA**

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

**7.A.1. REPORT OF CONVICTIONS – MONTH OF MAY 2006**

**7.A.2. MAP FOR INDIAN RIVER FARMS WATER CONTROL  
DISTRICT**

**7.A.3 BUDGET FOR INDIAN RIVER WATER CONTROL DISTRICT  
FOR THE YEAR END SEPTEMBER 30, 2007**

**7.B. CHARLES W. SEMBLER, TAX COLLECTOR, LIST OF  
ERRORS, INSOLVENCIES, DOUBLE ASSESSMENTS AND  
DISCOUNTS FOR THE 2005 TAX ROLL**

ON MOTION by Commissioner Davis, SECONDED by  
Commissioner Lowther, the Board by a 4-0 vote  
(Commissioner Bowden absent) unanimously authorized

the Board of County Commissioners and the Chairman to sign two original recapitulation reports, forward the report to the Clerk of Court for execution, and return one original to the Tax Collector, as requested in the memorandum of June 30, 2006.

TAX COLLECTOR ERRORS AND INSOLVENCIES REPORT  
WITH THE RECAPITULATION REPORT IS ON FILE IN THE OFFICE OF THE CLERK OF THE  
BOARD

**7.C. APPROVAL OF WARRANTS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the list of warrants for the period June 9, 2006 to June 15, 2006, as requested.

**7.D. APPROVAL OF WARRANTS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the list of warrants for the period June 16, 2006 to June 22, 2006, as requested.

**7.E. APPROVAL OF WARRANTS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the list of warrants for the period of June 23 to June 29, 2006, as requested.

**7.F. REAPPOINTMENT TO THE ENTERPRISE ZONE DEVELOPMENT AGENCY (EZDA)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved Mr. Roland “Gil” Guilbault’s reappointment to EZDA until July 12, 2010, as recommended in the memorandum of June 19, 2006.

**7.G. APPOINTMENT TO THE PROFESSIONAL SERVICES ADVISORY COMMITTEE (PSAC)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously appointed Ryan Morrell, replacing Ken Grudens, as the Environmental Issues Appointee on the Professional Services Advisory Committee, and his term would run to 2007, as recommended in the memorandum of June 18, 2006.

**7.H. PROCLAMATION HONORING JULIANNE (RENK) PRICE**

The Board acknowledged for the record the Proclamation honoring Julianne (Renk) Price for her assistance in working with the PACE EH to bring about changes in the community.

**7.I. PROCLAMATION HONORING MRS. ALMA MILLER**

The Board acknowledged for the record the Proclamation honoring Mrs. Alma Miller for her assistance in working to bring about changes in the Wabasso community.

**7.J. APPOINTMENT TO THE AGRICULTURE ADVISORY COMMITTEE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously appointed William C. Graves IV as the Citrus Industry Appointee on the Agriculture Advisory Committee (replacing Mark Sanchez) and he will be up for reappointment in 2008, as recommended in the memorandum of June 19, 2006.

**7.K. RESIGNATION/APPOINTMENT TO THE CHILDREN'S SERVICES ADVISORY COMMITTEE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously accepted the resignation of Ann Kellum, and approved the appointment of Mr. Lou Aprile as the District 3, Appointee to the Children's Services Advisory Committee, as recommended in the memorandum of June 26, 2006.

**7.L. OUT OF COUNTY TRAVEL FOR COMMISSIONERS TO ATTEND THE FLORIDA FORUM FOR COUNTY LEADERS: AN ADVANCED COMMISSIONER EDUCATION PROGRAM**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously authorized out of county travel for Commissioners to attend a series of advanced leadership seminars for graduates of the Certified County Commissioner (CCC) Program, as recommended in the memorandum of June 26, 3006.

**7.M. APPOINTMENT TO METROPOLITAN PLANNING ORGANIZATION TECHNICAL ADVISORY COMMITTEE (MPOTAC)**

The Board acknowledged the temporary appointment by the City of Sebastian of Jerry Converse as its Engineering representative on the Metropolitan Planning Organization Technical Advisory Committee (MPOTAC) replacing Terry Hill, who passed away on June 21, 2006

**7.N. CITY OF FELLSMERE REPRESENTATION AND ALTERNATES TO COUNTY COMMITTEES AND ADVISORY BOARDS**

The Board acknowledged the City of Fellsmere’s representation on County Committees and Advisory Boards, as well as Alternate members for each.

Sara J. Savage John A. McCants, Alternate	Council of Public Officials
John A. McCants Cheryl Hampton, Alternate	Land Acquisition Advisory Committee
Sara J. Savage Jason R. Nunemaker, Alternate	Beach & Shore Preservation
Francisco Magana Sara J. Savage, Alternate	Economic Development Council
Cheryl Hampton Francisco Magana, Alternate	Emergency Services District Advisory Committee
John A. McCants	Metropolitan Planning Organization

Cheryl Hampton	
Chief Scott Melanson	MPO Bicycle Advisory Committee
Clarence Korker	MPO Citizens Advisory Committee
Jason R. Nunemaker, City Manager William "Bud" Roode, Alternate	MPO Technical Advisory Committee
Joel Tyson	School Planning Citizen Oversight Committee
City's off year not our turn to serve on TCRPC	Treasure Coast Regional Planning Council
Kenneth L. Hamilton	Parks & Recreation Committee

**7.0. RELEASE AND SUBSTITUTION OF UNITY OF TITLE FOR  
FIRE STATION NO. 5**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved to dissolve the original Unity of Title; approved the corrected Unity of Title; and authorized the Chairman to execute the document, as recommended in the memorandum of June 30, 2006.

DECLARATION OF UNITY OF TITLE IS ON FILE IN THE  
OFFICE OF THE CLERK OF THE BOARD



**7.P. FWC-04027 – ARTIFICIAL REEF MONITORING  
AMENDMENT #2**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved Amendment #2 to Grant Agreement FWC-04027, as recommended in the memorandum of June 23, 2006.

AMENDMENT #2 IS ON FILE IN THE  
OFFICE OF THE CLERK OF THE BOARD

**7.Q. RELEASE OF RETAINAGE, OSLO ROAD CLEARING, 8<sup>TH</sup>  
COURT SE TO 27<sup>TH</sup> AVENUE SW**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the release of retainage in the amount of \$3,842.00, as recommended in the memorandum of June 19, 2006.

**7.R. CONTINUING PROFESSIONAL SURVEY SERVICES  
CONTRACT 0390, WORK ORDER NO. 8 (ENGINEERING),  
MASTELLER, MOLER, REED & TAYLOR, INC., LAND  
ACQUISITION AND DESIGN, BOUNDARY/TOPOGRAPHIC SURVEY  
FOR PROPOSED VERO LAKES 101<sup>ST</sup> STREET EXTENSION LYING**

**NORTH OF COUNTY ROAD 512. IRC PROJECT NO. 0614 –  
RELEASE OF RETAINAGE.**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the release of final payment plus retainage in the amount of \$3,629.00, as recommended in the memorandum of June 19, 2006.

**7.S. MASTER CONTRACT 0504 AND SUBSEQUENT WORK  
ORDER NO. 1 (ENGINEERING) PHASE TWO WITH: NICK MILLER,  
INC. PROFESSIONAL SURVEYORS AND MAPPERS, FOR:  
PROFESSIONAL SURVEYING AND MAPPING SERVICES  
SPECIFICALLY RELATED TO THE EASTERN INDIAN RIVER  
COUNTY TOWNSHIP – SECTIONAL HORIZONTAL CONTROL  
SURVEYING AND MAPPING PROJECT – INDIAN RIVER COUNTY  
PROJECT NO. 0504 – RELEASE OF RETAINAGE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the release of final payment plus retainage in the amount of \$16,400.00, as recommended in the memorandum of June 22, 2006.

**7.T. MISCELLANEOUS BUDGET AMENDMENT 018**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously adopted **Resolution 2006-096**, amending the Fiscal Year 2005-2006 Budget.

**7.U. APPROVAL OF CHANGE ORDER NO. 11, FOR THE NEW COUNTY ADMINISTRATION BUILDINGS (TURNER CONSTRUCTION)**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously authorized the transfer of project funds in the amount of \$49,020 to the GMP under the Owner Contingency; approved Change Order No. 11 for additional work for the completion of the remainder of the Bridge/Roadway in the amount of \$86,068, and authorized the County Administrator to execute the Change Order, as recommended in the memorandum of July 11, 2006.

CHANGE ORDER #11 IS ON FILE IN THE  
OFFICE OF THE CLERK OF THE BOARD

**7.V. LOST LAKE L.L.C.'S REQUEST FOR FINAL PLAT  
APPROVAL FOR A SUBDIVISION TO BE KNOWN AS LOST LAKE**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously granted final plat approval for Lost Lake Subdivision, as recommended in the memorandum of July 3, 2006.

**7.W. CHILDREN'S SERVICES ADVISORY COMMITTEE  
FUNDING REPORT 2006/07**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved funding, as outlined in the recommendation for funding report for the grant year 2006-07, and as recommended in the memorandum of July 23, 2006.

REPORT IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD

**7.X. APPROVAL OF BID AWARD FOR IRC BID # 2006083**  
**MICRON FILTER FLOW METER TRANSMITTERS, UTILITIES**  
**DEPARTMENT/WASTE WATER PRODUCTION DIVISION**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent), unanimously approved the bid be awarded to AMJ Equipment Corp. as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid, and as recommended in the memorandum of June 20, 2006.

**7.Y. APPROVAL OF BID AWARD FOR IRC BID # 2006085 30 KW**  
**STATIONARY GENERATOR UTILITIES DEPARTMENT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent), unanimously approved the bid be awarded to Zabatt Engine Services, Inc. d/b/a/ Zabatt Power Systems as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid, as recommended in the memorandum of June 26, 2006.

**7.Z. ROADWAY IMPROVEMENTS TO SR A1A AND CR 510  
ENGINEERING/LAND SURVEYING SERVICES AMENDMENT NO. 2  
– CONSTRUCTION SERVICES**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent), unanimously approved Amendment No. 2 to the Roadway Improvements to SR A1A and CR-510 Professional Engineering/Land Surveying Services Agreement with Kimley-Horn for the lump sum component of \$58,000 and an hourly rate component of \$15,000 for a total contract amendment of \$73,000, as recommended in the memorandum of June 27, 2006.

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

**7.AA. CONSENT AGENDA – APPROVAL OF AMENDMENT NO. 1  
TO THE 319 GRANT WITH FDEP/EPA FOR THE EAST GIFFORD  
STORMWATER IMPROVEMENT PROJECT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the Grant amendment and authorized the Chairman to execute it on behalf of the County, as recommended in the memorandum of June 26, 2006.

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

**7.BB. CHANGE ORDER NO. 1 POST HURRICANE FRANCES AND  
JEANNE EMERGENCY BEACH RESTORATION – SECTORS 3 AND  
5, INDIAN RIVER COUNTY PROJECT #0502**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved Change Order No. 1 and authorized the Chairman to execute both copies of Change Order No. 1, as recommended in the memorandum of June 26, 2006.

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

**7.CC. COUNTY ROAD 512 (PHASES 3 AND 4) I-95 TO ROSELAND  
ROAD, IRC PROJECT NO. 9611, G. K. ENVIRONMENTAL, INC.  
MONITORING PROPOSAL/CONTRACT FOR COUNTY MITIGATION  
PROJECT – BUFFER PRESERVE “DENTON PARCEL”**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the agreement with G. K. Environmental, Inc. for a lump sum amount of \$16,500.00, as recommended in the memorandum of June 26, 2006.

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

**7.DD. CENTREX CONTRACT EXTENSION**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously authorized the Chairman to sign the two contracts for the extension of Centrex Services from BellSouth for another five-year period, as recommended in the memorandum of July 3, 2006.

TWO CONTRACTS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.EE. FALCON TRACE PLATS FIVE AND SIX MODIFICATIONS TO CONTRACTS**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent), unanimously approved each Contract Modification to Falcon Trace Plat Five and Six, and authorized the Chairman to execute same so long as security is in place by July 12, 2006, as recommended in the memorandum of July 5, 2006.

CONTRACTS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD



## **8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

### **8.A. ROY RAYMOND, INDIAN RIVER COUNTY SHERIFF**

Budget Amendment

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent), unanimously approved proceeds from the public auction of surplus property and vehicles be used to acquire new like-kind property within the current fiscal year pursuant to Chapter 274, Florida Statutes, as requested in the letter of June 30, 2006.

## **9. PUBLIC ITEMS**

### **9.A. PUBLIC HEARINGS**

#### **9.A.1. BOARD CONSIDERATION TO APPROVE PURCHASE OF THE JUDAH AND LLOYD PARCELS OF THE ARCHIE SMITH FISH HOUSE ENVIRONMENTAL LAND ACQUISITION PROJECT**

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

*(Clerk's Note: This public hearing was heard following Item 9.A.2 due to a Quiet Title action court hearing held at 8:45 a.m., this date.)*

Chief of Environmental Planning Roland DeBlois displayed an aerial photograph of the Judah and Lloyd parcels of the Archie Smith Fish House (on the National Historic Register) explaining the parcels are a shoreline residential structure east of Indian River Drive, and the Williams parcel is land west of Indian River Drive. It contains a dilapidated vacant house built about 1925. The County intends to purchase the parcels, demolish the vacant house, and use the salvaged materials towards restoring the riverfront historic structures. There is a submerged land use lease also to be transferred to the County. The ballpark price for the restoration of the riverfront historic structures, the residence/office and the boathouse is approximately \$364,000 in addition to the \$1.5 million proposed purchase price. Since the purchase price is higher than the appraised value, a super majority vote of the Commissioners (4 out of 5) would be required.

Attorney **Burney Carter** as Guardian Ad Litem to Heather Evelyn Upton, a minor child explained the results of the Quiet Title action. Ms. Upton is now owner of two-ninths, or 22% of the Williams property. It is in her best interest to go along with the proceedings at this time, and he did not see any reason why this child's interest should be an impediment to the Board going forward with what they want to do.

The Chairman opened the public hearing.

**George Blythe** a member of LAAC had made a motion to approve this item at the LAAC meeting, with the condition of having simultaneous titles on all the parcels. He was concerned the entire area on the west side of the road would be used only for parking and said it should be reserved only for the fish house. If there is to be or would be commercial use of the parking lot, he felt the County should be compensated.

**Willie Siebert**, Viola Judah's son-in-law, agreed with Mr. Blythe regarding having simultaneous closings on all the parcels. He saw a future problem the Board would have to face with the trolleys using the public parking spaces.

Chairman Neuberger felt they could not limit use of the parking spaces.

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

Assistant County Attorney Marian Fell asked the Board to consider staff's recommendation, authorizing preparation of an amendment to reflect the facts in the Quiet Title and authorizing the County Attorney to sign it.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board by a super majority vote 4-0 (Commissioner Bowden absent) unanimously approved the purchase under the terms specified in the option contract, and with an amendment to reflect the facts in the Quiet Title; authorized the County Attorney to execute; and directed staff to apply for a Florida Communities Trust (FCT) 45% cost-share reimbursement grant under an upcoming FCT grant cycle (within two years of closing), as recommended in the memorandum of June 29, 2006.

The Chairman called a recess at 10:39 a.m. and reconvened the meeting at 10:48 a.m., and announced that Commissioner Bowden was on an excused absent due to illness in the family.

**9.A.2. COMMANDER GROVES' REQUEST TO REZONE +/- 247.67**

**ACRES FROM A-1 TO RS-3**

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 this request is an appeal of the P&Z denial of a rezoning to allow for development of a subdivision near the Aerodrome community. The applicant filed an appeal in a timely manner, then requested delays to be reconsidered in order to have time to meet with the adjacent property owners. Staff's opinion was non-compatibility with the auto racetrack and an airstrip was the reason for the denial by P&Z. However, staff does not feel there is going to be a significant environmental impact, and therefore supported the rezoning.

Commissioner Lowther pointed out the auto track is in fact a racetrack, and questioned whether it would be appropriate to allow development. Staff's perspective was the applicant should not be penalized because these adjacent properties exist, but the applicant would have to workout suitable arrangements with those property owners.

The Chairman opened the public hearing.

The following residents at the Aerodrome opposed the rezoning advising the Board that if they approve any rezoning other than RS-3, they would lose the aviation easement to give them the clear zone. Several expressed concern with the traffic impact, noise and safety, and they implored the Board to deny this request:

**Fannie Height**, an Aerodrome resident since 1996

**Phil Hypes**, an Aerodrome resident for 20 years and pilot

**Buddy Marks**, a taxpayer at Aerodrome for 25-years

**Joan Kaser**, 125 Nieuport Drive

**George Morris**, 190 N. Camelia Court

**Peter O'Brien**, 2255 11<sup>th</sup> Lane

**John Williams**, 1535 Smuggler's Cove

**Mary Wood**, 220 Sopwith Drive

**Gwen Garner**, 8520 Waco Way

**Philippe Cadorette** a resident at Aerodrome

**Rebecca Emmons**, Attorney of Stewart and Evans PA, represented the Aerodrome Property Owners Association. She advised that the Association's Board of Directors and the Developer entered into an agreement providing for two easements: a defined clear zone easement pursuant to the Florida Administrative Code's definition as to the type of airstrip that the Aerodrome currently has, and a general easement over all the property enabling use of the clear zone. Since the property owners entered into this agreement with the developer, they will not have any objection to the rezoning to RS-3, which will be recorded and become a matter of public record should the rezoning occur. The recording of the agreement would put any potential owners in the development on notice of the Aerodrome and its aviation activities.

There were questions posed to Attorney Emmons by the Commissioners regarding the easements.

Attorney **Fred Kreschner**, representing the Developer of Commander Groves, defined the aviation easement that will be recorded in public records for everyone who buys a parcel of property for future development to know the existence of the airport. The actual airspace to the aviation pattern provides for airspace above the development for taking off and landing in the airstrip.

There was a lengthy discussion and questions were posed by the Board to staff regarding RS-3 zoning and the Developer's choice of developing a subdivision instead of a PD.

In response to Commissioner Wheeler's question, County Attorney Collins advised that a developer would not be able to come in and change the clear zone, because it is in the nature of a recorded easement.

**Eugene O’Neil**, Gould Cooksey Fennell O’Neil Marine Carter & Hafner Law Firm, representing John and Kathy Schumann, owner of the private test track property at Aerodrome, discussed an agreement reached with the Developer called a “noise easement”. This is separate and distinct from the avigation easement that includes a setback and buffer. He said the Schumann’s are in favor of the avigation easement, and they do not oppose the rezoning at this time.

*The Chairman called for a recess at 10:39 a.m., and he reconvened the meeting at 10:48 a.m. with all members present.*

Discussion continued regarding a clear zone.

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

Commissioner Wheeler was concerned that a high-end residential development would not be compatibility with a sewer plant, a racetrack, and an airport.

Commissioner Davis stated it was his opinion that the Board should approve the rezoning and record the easements to protect the airport.

Commissioner Lowther agreed.

Chairman Neuberger had concerns with the racetrack, the sewer plant, and the airport. He told the developer he is going to have to jump through hoops later on. He said he was sure that he was not going to cause problems by putting something under the clear zone.

The Board discussed locking in a PD with the zoning as part of the Motion.

ON MOTION by Commissioner Davis, SECONDED by  
Commissioner Lowther, the Board by a 3-1 vote  
(Commissioner Wheeler opposed and Commissioner

Bowden absent) adopted **Ordinance 2006-018** amending the zoning ordinance and the accompanying zoning map for +/- 247.67 acres located at the northwest corner of 1<sup>st</sup> Street SW and 82<sup>nd</sup> Avenue from A-1, Agricultural District (up to 1 unit/5 acre), to RS-3, single family residential district (up to 3 units/acre), and providing codification, severability, and effective date.

**9.A.3. LVS VERO L.L.C.'S REQUEST FOR SMALL SCALE  
COMPREHENSIVE PLAN FUTURE LAND USE AMENDMENT  
APPROVAL TO REDESIGNATE 3.28 ACRES FROM C/I TO M-1  
AND TO REZONE THOSE 3.28 ACRES FROM CL TO RM-8**

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

This is a request for a small scale Comprehensive Plan Land Use Amendment and a proposal to rezone the property from CL to RM-8 to make all parcels residential instead of leaving part as commercial. There was an error in the criteria in the original land use designation, and a portion was designated commercial without having road access. To correct this mistake P&Z recommended unanimously for the Board to approve this request.

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote, Commissioner Bowden absent, unanimously adopted

**Ordinance 2006-019**, amending the future land use element of the Comprehensive Plan by changing the land use designation for more or less 3.28 acres located approximately 475 feet north of State Road 60 (20<sup>th</sup> Street) and approximately 690 feet west of 82<sup>nd</sup> Avenue from C/L Commercial Industrial, to M-1, medium-density residential-1 (up to 8 unit/acre); and providing codification, severability and effective date.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Wheeler, the Board unanimously adopted **Ordinance 2006-020**, amending the zoning ordinance and zoning map for more or less 3.28 acres located approximately 475 feet north of State Road 60 (20<sup>th</sup> Street) and approximately 690 feet west of 82<sup>nd</sup> Avenue from CL, Limited Commercial District, to RM-8, Multiple Family Residential District, and providing codification, severability, and effective date.

**9.A.4. WINTER BEACH PARK SUBDIVISION PETITION WATER SERVICE (52<sup>ND</sup> AVENUE NORTH OF 65<sup>TH</sup> STREET), INDIAN RIVER COUNTY PROJECT No. UCP-2633, PRELIMINARY ASSESSMENT –RESOLUTION III**

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS

ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

Manager of Assessment Projects Dan Chastain requested Board approval of Resolution III to proceed with the Bid process.



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

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Wheeler, the Board by a 4-0 vote, Commissioner Bowden absent, unanimously adopted **Resolution No. 2006-095** confirming the special assessments in connection with water main expansion to Winter Beach Park Subdivision (52<sup>nd</sup> Avenue, North of 65<sup>th</sup> Street) in Indian River County, Florida; and providing for special assessment liens to be made of record.

**9.B. PUBLIC DISCUSSION ITEMS-NONE**

**9.C. PUBLIC NOTICE ITEMS**

**9.C.1. NOTICE OF SCHEDULED PUBLIC HEARING JULY 18, 2006:**

**WAL-MART STORES EAST LTD'S REQUEST TO REZONE APPROXIMATELY 1.52 ACRES FROM CG TO PD (COMMERCIAL), MODIFY THE EXISTING SAM'S/WAL-MART PD COMMERCIAL DISTRICT AND MODIFY THE SAM'S/WAL-MART PD PLAN/PLAT**

The Executive Aide to the Board read the notice into the record.

## **10. COUNTY ADMINISTRATOR'S MATTERS**

### **10.A. PLANNING AND ZONING COMMISSION**

County Administrator Baird relayed that at the Planning and Zoning Commission Meeting of June 22, 2006 the members indicated they would like to have another workshop with the Traffic Impact Consultant after delivery of the final report to the Board.

MOTION WAS MADE by Commissioner Wheeler to approve this request. There was no SECOND. MOTION FAILED for lack of a SECOND.

The Board held a discussion regarding the input received from the P&Z Committee after their joint workshop held at the Richardson Center on May 23, 2006 regarding the draft report of the Traffic Impact Study.

**Joseph Paladin**, Atlantic Coast Construction, Inc., thought it was inappropriate to comment on a report that had not been submitted. He thought the Board needed to draw the line to stop the P&Z members from questioning staff and the Commissioners and to base their comments on fact.

Chairman Neuberger agreed.

Traffic Engineer Chris Mora informed the Board there were two other opportunities aside from the joint workshop that the P&Z members had to get involved and to hear the consultant's report and recommendations.

**Jerry Swanson**, 3001 Ocean Drive, supported Mr. Paladin's comments.

The Board held a discussion regarding the role of the P&Z Commission.

The CONSENSUS was to wait for the final Traffic Impact Study report from the Traffic Consultant and invite the P&Z Commission to the meeting when it is presented to the Board.

## **11. DEPARTMENTAL MATTERS**

### **11.A. COMMUNITY DEVELOPMENT**

#### **11.A.1. CONDEMNATION, DEMOLITION AND REMOVAL OF UNSAFE STRUCTURES**

**Johnnie Roy Chambliss**, 4265 26<sup>th</sup> Avenue, who owns the property at 4293 26<sup>th</sup> Avenue asked the Board not to demolish his building, and to allow him time to bring the building into compliance with the help of MBV Engineering Inc.

**Freddie Woolfork** spoke in support of Mr. Chambliss saying he would put Mr. Chambliss in touch with Penny Chandler, Executive Director of the Indian River County Area Chamber of Commerce, for financial assistance since the property is located in the “Enterprise Zone.”

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board by a 4-0 vote, Commissioner Bowden absent, unanimously adopted **Resolution No. 2006-096** providing for the demolition of

unsafe structures and the recovery of costs. The Board also requested that the property owned by Johnnie Roy Chambliss at 4293 25<sup>th</sup> Avenue be revisited in 60 days.

(Clerk's Note: Property of George & Phoebe Gipson was removed from the condemnation list [provided after the meeting] and the revised list is attached to Resolution 2006-096.)

### **11.B. EMERGENCY SERVICES**

#### **11.B.1. APPROVAL OF 2007 STATE FUNDED SUBGRANT AGREEMENT FOR HAZARDS ANALYSIS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved the 2007 State Funded Subgrant Agreement for Hazards Analysis, accepting the funding provided in the agreement, and that the budget assignment for this funding be deferred until the Emergency Management Preparedness Agreement is approved by the Board in September, as recommended in the memorandum of June 28, 2006.

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

**11.C. GENERAL SERVICES**

**11.C.1. AMENDMENT NUMBER 3 TO CONTRACT BETWEEN OWNER  
AND ARCHITECT FOR DESIGN OF NEW COUNTY  
ADMINISTRATION BUILDINGS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved Amendment #3 to the Primary Contract with Donadio and Associates in the amount of \$57,200 for architectural and engineering services as recommended in the memorandum of July 3, 2006.

AMENDMENT NUMBER 3 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**11.C.2. IRC JAIL EXPANSION PROJECT CHANGE ORDER #1—  
MEDICAL/INFIRMARY GMP**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved A1A Change Order #1 of contract with Peter R. Brown Construction, Inc., establishing the Medical/Infirmary Guaranteed Maximum Price (GMP) of \$1,805,547 for the IRC Jail expansion project; authorized the Chairman to execute the documents; authorized the procedures for

establishing and managing the Owner's Contingency; and approved that the Payment and Performance Bonds be required at 100% of the cost of construction, as recommended in the memorandum of June 29, 2006.

CHANGE ORDER NUMBER 001 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**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. REQUEST FROM WATERS EDGE PHASE II HOMEOWNERS**

**ASSOCIATION OF VERO BEACH, INC. FOR COUNTY TO**

**ASSUME OWNERSHIP AND MAINTENANCE OF ROADS IN**

**WATERS EDGE PHASE II**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved

Alternative #1, authorizing the County Attorneys office and Public Works Department to prepare the appropriate documents to assume ownership of the private roads in Waters Edge Phase II and once all documents are properly executed, accept ownership and maintenance, as recommended in the memorandum of June 22, 2006.

**11.I.2. FEC RAILROAD AGREEMENTS, 16<sup>TH</sup> STREET/17<sup>TH</sup> STREET**  
**RAILROAD CROSSING WIDENING BY FDOT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved Alternative No. 1, the agreement, and adopted **Resolution 2006-097** authorizing execution of a railroad reimbursement agreement for the construction of railroad grade crossings, installation of traffic control devices for railroad grade crossings, and future maintenance and adjustment of said crossings and devices; providing for the future expenditure of funds; and providing when this resolution shall take effect.

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

**11.J. UTILITIES SERVICES**

**11.J.1. CONTINUING CONSULTING SERVICES WORK ORDER No. 4  
WITH MASTELLER & MOLER, INC. FOR ENGINEERING  
SERVICES FOR CONVERSION OF LATERAL G FORCE MAIN  
TO REUSE MAIN – UCP 2830**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved Work Order No. 4 with Masteller and Moler, Inc. in the amount of \$26,630.00 for engineering services and authorized the Chairman to execute the same, as recommended in the memorandum of June 22, 2006.

WORK ORDER NUMBER 4 IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD

**11.J.2. CHANGE ORDER No. 1 TO BID No. 2006056 FOR  
CONSTRUCTION OF A MASTER PLANNED FORCE MAIN  
FROM SR 60 TO THE WEST REGIONAL WWTF—UCP 2598**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved Change Order No. 1 to the Contract with Felix Associates, LLC in the amount of \$118,192.00 for an increased



Contract amount of \$1,254,627.00, as recommended in the memorandum of June 27, 2006.

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

## **12. COUNTY ATTORNEY**

### **12.A. PROPERTY EXCHANGE WITH WINDSOR PROPERTIES, GOLDEN SANDS PARK**

Attorney Collins stated that the Board approved an exchange with Windsor Properties for certain property at Golden Sands Park. Before the exchange was consummated it was determined that DEP had an interest in the property because some of funds used to acquire it were State funds and DEP had to consent.

Assistant County Attorney Bill Debraal briefly explained that now the County needs to go through DEP for permission to exchange the parcel with Windsor. DEP said they want the funds to be earmarked for recreational and park purposes. The Acquisition Review Committee in Tallahassee will have the application and letter (copy with the backup) will meet on August 10-11.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Wheeler, the Board by a 4-0 vote (Commissioner Bowden absent) unanimously approved restricting the \$1,000,000 donation to the County from Windsor Properties to improvements to the County's parks and recreation facilities and authorized the Chairman to

sign the letter to the Department of Environmental Protection, as recommended in the memorandum of June 30, 2006.

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

There was a CONSENSUS for Commissioner Lowther to represent the Board at the August 10 and 11, 2006 Acquisition Review Committee (ARC) meeting in Tallahassee.

### **13. COMMISSIONERS ITEMS**

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

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

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

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

**13.E. COMMISSIONER THOMAS S. LOWTHER**

**13.E.1. PLANNING & ZONING COMMISSION**

Commissioner Lowther wanted the Board to vote to replace Mr. George Gross, a member at large on the P&Z Commission with Mr. Greg Smith, who is retiring from the School Board.

Commissioner Wheeler did not see the urgency since there are several months till the end of his term. Mr. Gross told him that him if he had the opportunity to remain on the P&Z Commission, he would like that.

Commissioner Davis supported this request.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, to replace Mr. George Gross with Mr. Greg Smith on the P&Z Commission. The motion FAILED, by a 2-2 vote (Chairman Neuberger and Commissioner Wheeler opposed, Commissioner Bowden absent).

### **13.E.2. DISCUSS ISSUES PERTAINING TO CONTROLLING THE BUDGET GROWTH AND PROPERTY TAXES**

Commissioner Lowther proposed placing a referendum on the ballot asking “do you favor expanding ‘Save Our Homes’ on all properties”.

Attorney Collins explained that this would be a straw ballot, and that only the State government could extend the homeowners tax cap by referendum.

Commissioner Wheeler liked the idea, but he didn’t think voters would approve it.

Chairman Neuberger questioned who would explain to the public how this was going to affect them.

**State Representative Stan Mayfield** stated that he has been an advocate to make homestead legislature affordable over the last four years, but has been unable to get enough

support to push it through. He explained this proposal would be a 3% tax cap on all property taxes. There would be no increase in taxes unless IRC and other taxing districts, and the legislature chose to increase the millage rates in order to fulfill a void that might have been created by a tax value cap. He gave some statistics expressing his opinion that capping what comes in will place a dramatic effect on what comes out. He told the Board a straw ballot by the counties carries a lot of weight, and they would have the authority to impose limiting the increase in government spending without a State law or constitutional amendment and be a leader in the State.

ON MOTION by Commissioner Lowther, SECONDED BY Commissioner Davis, the Board by a 4-0 vote (Commissioner Bowden absent) directed the County Attorney to draft a referendum question asking voters whether the "Save our Homes Act" should be extended to all properties and to bring back to the Board.

### **13.E.3. REINSTATE AUGUST MEETINGS**

Commissioner Lowther heard from people who might have to come before the Board in August and he requested the August meetings be reinstated.

MOTION WAS MADE by Commissioner Lowther, SECONDED BY Commissioner Davis, for discussion, to reinstate the August BCC meetings.

Commissioner Wheeler opposed this request.

The Chairman CALLED THE QUESTION and the Motion passed, by a 3-1 vote, Commissioner Bowden Absent and Commissioner Wheeler opposed, to reinstate the August 1, 8, and 15, 2006 BCC meetings.

## **14. SPECIAL DISTRICTS AND BOARDS**

### **14.A. EMERGENCY SERVICES DISTRICT – NONE**

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

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

#### **14.B.1. APPROVAL OF MINUTES MEETING OF JUNE 20, 2006**

#### **14.B.2. REVISION OF INDIAN RIVER COUNTY SOLID WASTE MANAGEMENT MASTER PLAN UPDATE**

#### **14.B.3. LAND ACQUISITION FOR SWDD**

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

## **15. ADJOURNMENT**

ALL BACKUP DOCUMENTATION 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 12:26 p.m.

ATTEST:

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

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

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

BCC/MIS/2006Minutes