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BOARD OF COUNTY COMMISSIONERS
SEPTEMBER 19, 2006

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September 19, 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, September 19, 2006, 2006, at 9:00 a.m. Present were Chairman Arthur R. Neuberger, Vice Chairman Gary C. Wheeler, and Commissioners Sandra L. Bowden, Wesley S. Davis and Thomas S. Lowther. Also present were County Administrator Joseph Baird, County Attorney William G. Collins II, Executive Aide to the Board Kimberly Massung, and Deputy Clerk Maria I. Suesz.

1. CALL TO ORDER

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

2. INVOCATION

Pastor Doug Vogt, First Church of God, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Gary C. Wheeler led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

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

1. Add Item 13.C.1 - October 2006 regular BCC meeting dates

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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. *Presentation of Proclamation Designating September 18 – 22, 2006, as Industry Appreciation Week in Indian River County*

Chairman Neuberger read the Proclamation and Soma Melnick on behalf of Macho Products and the Indian River Chamber of Commerce accepted the proclamation.

5.B. *Presentation of Proclamation Honoring the KYIV Symphony Orchestra and Chorus*

Commissioner Wheeler read the Proclamation and presented it to Tom Fritz on behalf of the Vero Beach Sunrise Rotary Club.

6. APPROVAL OF MINUTES - NONE

7. CONSENT AGENDA

Commissioner Lowther requested Item 7. C. be pulled for discussion.

7.A. *Approval of Warrants – September 1-7, 2006*

ON MOTION by Commissioner Wheeler,
SECONDED by Commissioner Davis, the Board
unanimously approved the list of Warrants as issued
by the Clerk to the Board for the time period of
September 1 - 7, 2006, as requested.

7.B. *Proclamation Honoring Ralph W. Sexton*

The Proclamation was noted for the record.

**7.C. Citrus Springs Village “D” And “F” Phase I P.D.,
Developer: The Suntree Partners, Modification To Contract For
Construction Of Required Sidewalk Improvements**

Commissioner Lowther wanted to make the Board aware of problems with the retention ponds not being fixed properly by the developer, The Suntree Partners, in Citrus Springs Village. He showed the Board photographs so they would see the difference where they claim the retention ponds are completed and done correctly. He brought to their attention that previous issues were addressed regarding incomplete work of this developer. He wanted to the project completed by November 2nd.

Public Works Director Jim Davis stated the developer has been responsive to him, and he was happy with the work that he has done. This was the first that Mr. Davis heard about a problem with the retention pond and he said he would look into the situation.

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously approved the Modification to Contract
for Construction of Required Sidewalk
Improvements No. PD-03-01-03-SIDEPH1
(99100114-37258), and Cash Deposit and Escrow
Agreement, authorizing the Chairman to execute
same, to extend the completion date to June 8, 2008
and reduce the amount of security, as recommended
in the memorandum of August 31, 2006.

MODIFICATION TO CONTRACT IS ON FILE IN

**7.D. Permission To Advertise For Two Public Hearings
October 24, 2006 And November 7, 2006, Expansion Of County Seat
For Supervisor Of Elections Office At 4375 43rd Avenue**

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously approved advertising for holding the
two public hearings on October 24 and November
7, 2006, as recommended in the memorandum of
September 5, 2006.

**7.E. Enterprise Geographic Information System (GIS) Year One
Implementation GIS Consultant Services Phased Supplemental Work
Orders**

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Davis, the Board
unanimously approved issuing Supplemental Work
Orders to Geographic Technologies Group, Inc. In
an aggregate amount not to exceed \$353,000;
delegated the authority to the County Administrator
to sign Supplemental Work Order #3 for the first

phase of data creation services in an amount of \$103,010; authorized the County Administrator to sign subsequent Supplemental Work Orders for data services up to the authorized amount, as recommended in the memorandum of September 12, 2006.

WORK ORDER #3 IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD

7.F. Approval Of Renewal Of The 800 MHZ Communications System Infrastructure Maintenance Contract With Communications International, Inc.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the renewal of the referenced contract with funding, as specified and as recommended in the memorandum of August 20, 2006.

7.G. Florida Power & Light Easement Form

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved and authorized the Chairman to sign Work Order Number 1 (SWDD), authorizing

Carter Associates, Inc. to prepare FPL easement form in accordance with the scope of services for a lump sum fee of \$1,500.00, as recommended in the memorandum of September 5, 2006.

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

7.H. Lucille Buckner Water Service Installation At 4350 34th Court, Final Payment To Labor Contractor

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved Application for Pay Request No 1 (Final) to the Contractor, The Danella Companies, in the amount of \$2,607.00, as recommended in the memorandum of August 31, 2006.

7.I. Approval Of Bid Award For IRC Bid # 2006102 CR 510 Causeway Tree Replacement Public Works Department / Parks Division

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously awarded the bid to Sunshine Land

Design, Inc., 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 September 6, 2006.

7.J. Invitation From John's Island Golf Club For Staff To Participate In A "Public Safety Day" Golf Outing

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved for Emergency Services staff to participate in the golf outing, as requested in the memorandum of September 11, 2006.

7.K. Roadway Improvements To SR A1A And CR 510 Engineering/Land Surveying Services – Retainage Release For Design Phase

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the release of retainage for the original design and Amendment No. 1 to the Roadway Improvements to SR-A1A and CR-510 Professional Engineering/Land Surveying Services Agreement with Kimley-Horn & Associates, Inc.,

for \$22,760.05, as recommended in the memorandum of September 6, 2006.

7.L. 32nd Avenue SW From 15th Street SW To 13th Street SW Relocation Of Water Services And Fire Hydrants, Approval Of Change Order No. 1 And Final Payment To Contract

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the total labor cost of \$11,401.63, Change Order No. 1 for an additional \$2,741.16, and approved Application for Pay Request No. 1 – Final as final payment to the Contractor, The Danella Companies, Inc., in the amount of \$21,232.07, as recommended in the memorandum of dated September 5, 2006.

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

7.M. Annual Contract Renewal, 2006-2007 Professional Land Survey Services Contract No. 0390

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the contracts and fee

schedules between the County and the six (6) firms: Burdette & Associates, Inc., Carter Associates, Inc., Creech Engineering, Inc., Kimley-Horn & Associates, Inc., Masteller, Moler, Reed & Taylor, Inc., Morgan Eklund, Inc., as recommended in the memorandum of September 8, 2006.

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

7.N. Oslo Road/Lateral “J” Canal Bridge Replacement Final Roadway Certification And Retainage Release

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved release of retainage in the amount of \$227,492.27 to Lucas Marine Construction, Inc. for the Oslo Road/Lateral “J” Canal Bridge Replacement with funding as specified, and as recommended in the memorandum of September 8, 2006.

7.O. Work Order No. 9 (Engineering/Survey) Masteller, Moler, Reed & Taylor Inc. CR 512 Phase III, Right-Of-Way Mapping Project, Continuing Professional Survey Services Contract 0390 / 2005-2006 Project 0629

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved Work Order No. 9 (Engineering) authorizing the above project as outlined in the scope of services, and authorized the Chairman to execute same, as recommended in the memorandum of September 8, 2006.

WORK ORDER NO. 9 IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD

7.P. Work Order No. 7, Carter Associates, Inc., For: Survey Services, (North) Old Dixie Highway Maintenance Map CR 512 To US 1, Continuing Professional Survey Services Contract 0390 / 2005-2006, Project No. 0628

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved Work Order No. 7 authorizing the above project as outlined in the

scope of services, and authorized the Chairman to execute same, as recommended in the memorandum of September 8, 2006.

WORK ORDER NO. 7 IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD

7.Q. Interfund Borrowing

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved for interfund borrowing as necessary to cover any cash deficits of individual funds that may occur, as recommended in the memorandum of September 13, 2006.

7.R. Miscellaneous Budget Amendment 024

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved **Resolution 2006-143**, amending the fiscal year 2005-2006 Budget.

7.S. 2006/2007 State Of Florida Department Of Health Contract

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the 2006/2007 contract, as recommended in the memorandum of September 11, 2006.

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

7.T. Partial Release Of Retainage Applied Technology And Management, Inc. Contract Amendment #3

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the application for partial release of retainage to Applied Technology and Management, Inc. in the amount of \$21,222.00, as recommended in the memorandum of August 22, 2006.

7.U. Request To Enter Into A Supplemental Public Transportation Joint Participation Agreement With The Florida Department Of Transportation (FDOT)

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the Supplemental Public Transportation Joint Participation Agreement and approved **Resolution 2006-144** authorizing the execution of a public transportation joint participation agreement with the Florida Department of Transportation.

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

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS

9.A. PUBLIC HEARINGS

9.A.1. 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 (Plan Amendment Number: CPTA 2006010060-52349)(Legislative)

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

Director Keating stated that the text amendment changes are to correct an oversight and to provide consistency in all of the policies. He used a PowerPoint presentation (copy on file) to give a detailed explanation of the proposed addition of the Conservation Element Policy 12.11, revising the potable water and sanitary sewer sub-elements, and revising all elements of the Evaluation and Appraisal Report (EAR) 2006-2008. Staff and the Planning & Zoning Commission recommended approval of these three items.

There were questions posed to Director Keating by the Commissioners seeking additional information regarding services outside the Urban Service Area (USA) boundary.

Commissioner Wheeler was concerned that they may be encouraging expansion outside the USA and that they may be opening up the urban service line.

Director Keating related that currently water service west of I-95 is not allowed, and with the development of the South County Initiative there is a good chance of having a public school built outside of the Urban Service Area, warranting this amendment.

Discussion ensued regarding the building of a school outside the Urban Service Area.

The Chairman opened the public hearing.

Mark Brackett, 1915 Avenue, wanted the Board to know that the school board is currently discussing acquiring property West of I-95 for the future location of a middle school.

Peter O'Bryan, 2255 11th Lane, had no concerns with expanding the water and sewer to school sites that meet the Comprehensive Land criteria outside the Urban Service Area, but he asked the Board to change the language to specifically "public schools" and allow no other uses at this time.

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

MOTION WAS MADE by Commissioner Davis,
SECONDED by Commissioner Neuberger, to
approve staff's recommendation to the planned text
amendments by adopting the Ordinance.

Discussion ensued regarding schools built outside the USA.

Commissioner Bowden wanted to know if this proposal was specifically for public schools. Director Keating responded, "No".

Commissioner Wheeler's main concern was not to allow urban sprawl and he wanted to limit it to schools and churches.

Discussion continued and Commissioner Davis stated they were not debating the issue before them. He said they are going to make a decision today because the Comprehensive Plan as it exists today will not allow the development of a school outside the Urban Service Area.

Director Keating explained the downside is having roads and a house abut the road and the owner cannot get water and sewer service.

Commissioner Lowther questioned staff why the amendment changed from when it was presented before.

Mr. Paladin suggested limiting it to no residential use west of I-95.

The Chairman CALLED THE QUESTION and the motion carried, 3-2, Commissioner Bowden and Wheeler opposed. The Board adopted Ordinance 2006-029 amending the text of the Comprehensive Plan's Conservation Element, potable water sub-element, and sanitary sewer sub-element; and providing severability and effective date.

9.A.2. County Initiated Request To Amend The Transportation Element Of The Comprehensive Plan (Legislative)

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

MPO Staff Director Phillip Matson used a PowerPoint Presentation pointing out this was a County initiated request to update the Comprehensive Plan for consistency with the 2030 Long Range Transportation Plan (LRTP), and to update the Roadway Improvement Project Listings. He related that the substantial change in circumstances for updating the 2030 LRTP that occurred in December of 2005 generated this request to amend the Comprehensive Plan. The original plans were changed to four-lane 27th Avenue (Oslo to SR 60) and 43rd Avenue (Oslo to 16th Street) with a landscape median. The DCA had one concern for Strategic Intermodal System facilities, and that local governments adopt the Department's level of service standards, and staff made the necessary changes.

The Chairman opened the public hearing.

Bob Johnson, Coral Wind Subdivision, participated in the 2030 LRTP, and it was not clear to him if they put changes to the MPO and whether it was automatically part of the Comprehensive Plan, or they have to change the 2030 Plan. Director Keating responded that State Law requirement is that the MPO LRTP and the Comprehensive Plan are consistent.

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

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Davis, the Board
unanimously adopted Ordinance 2006-030,
amending the text of the transportation element of
the Comprehensive Plan, and providing severability
and effective date.

REVISED CHAPTER 4 IS ON FILE IN
THE OFFICE OF THE CLERK OF THE BOARD

**9.A.3. 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 used a PowerPoint Presentation (copy on file) pointing out the entire Capital Improvement Element was not part of the original packet (copy is on file and on the County's website). He advised that the purpose of this amendment was to recognize changes in public capital facilities' needs, and to implement new State

requirements from Senate Bill 360. He reviewed those requirements emphasizing that local governments have to adopt financial and feasible Capital Improvement Elements by December 1, 2007. He highlighted the changes in Appendix A, B, and C in the backup, and reviewed the objections from the Department of Community Affairs (DCA),

There were several questions by Commissioners posed to staff for additional information.

The Chairman opened the public hearing.

Joseph Paladin, wanted to know what sanctions the County would have since we adopted the Senate Bill 360, and Director Keating replied there were none.

Commissioner Davis saw a conflict between Senate Bill 360 and the pending ordinance. He expressed concern that someone could vest prior to a building permit if they use Senate Bill 360 where a link is broken.

Assistant County Attorney Bill DeBaal explained that currently they have three proportionate share agreements. They will be required to escrow their proportionate share payment, pending approval by Administrator Baird if it is under \$50,000, and pending approval by the Board if it is over \$50,000. He added that they would also have to pay their impact fees.

Discussion ensued regarding approval of the proportionate share agreements. Administrator Baird felt the Board would want to be aware of all of these agreements as they come in, and Attorney DeBaal agreed to bring all of the proportionate share agreements before the Board.

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

MOTION WAS MADE by Commissioner Wheeler
SECONDED by Commissioner Bowden, to approve
amending the Capitol Improvement Element, minus
2.3 million dollars designated for the multi-purpose
recreation facility project, for discussion.

Discussion ensued regarding the financial feasibility of the multi-purpose recreational facility. Commissioner Bowden was concerned about the money coming back to the County from the Golden Sands County Park land swap with Windsor Proportionate, and she felt they need to bring this back for discussion.

Administrator Baird added that staff had applied for a FUR Grant and they were looking for other ways to get additional funding.

Commissioner Bowden RESCINDED her
SECOND. MOTION FAILED.

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Davis, the Board,
by a 4-1 vote (Commissioner Wheeler opposed)
adopted **Ordinance 2006-031**, amending the Text
of the Comprehensive Plan's Capital Improvements
Element; and providing severability and effective
date.

The Chairman called for a brief recess at 10:23 a.m., and he reconvened the meeting at 10:32 a.m. with all members present.

9.A.4. Indian River Exchange Packers Inc.'s Request To Amend The Comprehensive Plan To Realign The Urban Service Area Boundary And To Redesignate ±19.2 Acres From AG-1 To C/I, And To Rezone Those ±19.2 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 Keating stated this amendment is different from the others because it is requested by Indian River Exchange Packers, Inc. The purpose is to realign the Urban Service Area to include the subject property, and to rezone 19.2 acres from A-1, Agriculture, to IL, Light Industrial. In this case, there is a significant change in circumstances, and staff feels it is significant enough to warrant an amendment. The Planning and Zoning Commission had no affirmative vote to approve or deny this request. He recapped the facts surrounding this property using a PowerPoint presentation (copy on file).

The Chairman opened the public hearing.

Bob Johnson, Coral Wind Subdivision, questioned if Ocean Spray packinghouse was shutdown, and inquired what the status was of Mr. and Mrs. Livingston's corridor plan with all of these changes. Director Keating responded that they have implemented all other corridor roads that address major roads and applied SR 60 corridor plan standards.

Bruce Barkett, Esq. representing the applicant Indian River Exchange Packers, pointed out he was there to answer any questions. He noted that Friday, the US Agricultural Department

announced Florida has lost 123,000 additional acres in citrus in the past two years, and it is an ongoing situation.

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

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board by a 3-2 vote (Commissioners Davis and Wheeler opposed) adopted **Ordinance 2006-032**, amending the future land use map by changing the land use designation for approximately 19.2 acres located at the southeast quadrant of the intersection of 9th Street southwest and 74th Avenue from AG-1, Agricultural-1 (up to 1 unit/5 acres), to C/I, Commercial Industrial; and to realign the urban service boundary to include said property in the 9th Street southwest and 74th Avenue Commercial/Industrial node; and providing codification, severability and effective date.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board by a 3-2 vote (Commissioners Davis and Wheeler opposed) adopted **Ordinance 2006-033**, amending the zoning ordinance and zoning map for approximately 19.2 acres located at the southeast quadrant of the intersection of 9th Street southwest and 74th Avenue from A-1, Agricultural-1 District

(up to 1 unit/5 acres), to IL, Light Industrial District; and providing codification, severability, and effective date.

9.A.5. Sunburst/Encore L.P.'S Request To Rezone ± 6 Acres From CG To CRVP (Quasi-Judicial)

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

The Clerk swore in all persons intending to speak on this item.

Community Development Director Keating stated the purpose of this request is to get the zoning necessary to expand the Commercial Recreational Vehicle Park (CRVP), Fellsmere's first annexation east of I-95. He reviewed the criteria for this request, and stated the P&Z Commission and staff recommended approval.

There was a brief question and answer period as the Commissioners sought additional information.

Rene Renzi, 301 Waverly Place, was caught by surprise that Fellsmere had annexed east of I-95. She wanted to know what other major projects are proposed after the new admin building and the county jail. Administrator Baird advised roads, South County Library, and the multi-function recreational facility. He said he would provide her a copy of the items they propose to do in the next five years.

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

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2006-034**, amending the zoning ordinance and the accompanying zoning map for more or less 6 acres located west of 108th Avenue and approximately 200 feet south of CR 512, from CG, General Commercial District to CRVP, Commercial Recreational Vehicle Park District (up to 14 units/acre); and providing codification, severability, and effective date.

9.A.6. Public Hearing To Adopt Ordinance To Repeal Section 305.09 Of The Code Of Indian River County To Eliminate The Additional \$3.00 Fine Imposed Under The Dori Slosberg Driver Education Safety Act (Legislative)

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

Assistant County Attorney Marion Fell stated that this was prepared in accordance with the Board's direction to repeal the \$3.00 civil traffic penalty. She advised that they are keeping the

Traffic Education Trust Fund in place so that any previously imposed \$3.00 fine can be added to that fund.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2006-035**, concerning repeal of the three dollar Civil Traffic Penalty; providing findings; amending Section 30-5.08 to maintain the Indian River County Traffic Education Program Trust Fund; repealing Section 305.09 of the Code to Repeal the Civil Traffic Penalty of three dollars; providing for repeal of other conflicting ordinances; providing for severability; providing for inclusion in the Code of Indian River County; providing for filing with the Department of State; and providing for an effective date.

9.A.7. Public Hearing – September 19, 2006, Ordinance
Amending The Definition Of Allowable Water Activities In A Park Or
Recreational Area (Legislative)

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

Assistant County Attorney Marian Fell stated surfing is currently allowed within guarded areas at two beaches, Wabasso and Round Island. Our existing ordinance states that no surfing is allowed in guarded areas. Staff wanted to conform the existing ordinance to the existing fact.

ON MOTION by Commissioner Wheeler,
SECONDED by Commissioner Davis, the Board
unanimously adopted **Ordinance 2006-036**
amending Section 205.03(21) of the County's Parks
and Recreation Ordinance; providing findings;
amending the definition of water activity in Section
205.03(21) to clarify the areas where surfing is an
allowed water activity in County parks; providing
for severability; providing for repeal of other
conflicting ordinances of Indian River County;
providing for filing with the Department of State;
and providing an effective date.

9.B. PUBLIC DISCUSSION ITEM - NONE

9.C. PUBLIC NOTICE ITEMS

**9.C.1. Notice of Scheduled Public Hearing October 3, 2006:
Indian River Drive North – Petition Water Service, Indian River
County Project No. UCP 2632**

10. COUNTY ADMINISTRATORS MATTERS

10.A. Cost of Living Adjustment

Administrator Baird checked with the Bureau of Statistics and the COLA is running at 4.1%.

ON MOTION by Commissioner Wheeler,
SECONDED by Commissioner Davis, the Board
unanimously approved a 4.1% COLA be given to
the County employees effective October 1, 2006, as
requested in the memorandum of September 13,
2006.

DEPARTMENT MATTERS

11.A. COMMUNITY DEVELOPMENT –NONE

11.B. EMERGENCY SERVICES – NONE

11.C. GENERAL SERVICES – NONE

11.D. HUMAN RESOURCES –NONE

11.E. HUMAN SERVICES – NONE

11.F. LEISURE SERVICES – NONE

11.G. OFFICE OF MANAGEMENT & BUDGET –NONE

11.H. RECREATION - NONE

11.I. PUBLIC WORKS

11.I.1. Property Acquisition, 8866 91st Court, CR 510 Widening and Improvements, County Project No. 0610, Woody Family Holdings, Inc., Owner

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the \$75,000 property acquisition and authorized the Chairman to execute the Agreement as written, and as recommended in the memorandum of September 5, 2006.

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

11.I.2. 43rd Avenue Widening and Drainage Improvements Workshop Comments and Staff Recommendations

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved Alternative No. 1, to keep utilities overhead and proceed with 30% design

utilizing Option No. 1A., as recommended in the memorandum of August 24, 2006.

11.I.3. Amendment No. 1 to the Civil Engineering and Land Surveying Agreement for Intersection Improvements at SR 60 and 43rd Avenue and Widening of 43rd Avenue to 5 Lanes from SR 60 to 26th Avenue

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved Alternative No. 1, as recommended in the memorandum of September 8, 2006.

11.J. UTILITIES SERVICES

11.J.1. Bella Vista Isles 6” Force Main Construction on 26th Street

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously approved the expenditure of funds for this project in the total amount of \$16,987.10 and authorized the Chairman to execute Work Authorization No. 2005-030 in the amount of

\$10,576.15 with The Danella Companies, Inc., as recommended in the memorandum of September 11, 2006.

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

11.J.2. Utilities Department Operations Center, Approval of Change Order No. 7 for Various Changes, Approval of Final Pay Request and Release of Retainage - Indian River County Project No. UCP 2229

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 7 to increase the contract amount by \$1,619.77 to \$4,768,998.77 with Summit Construction Management, Inc.; approved final payment and release of retainage in the amount of \$686,398.62, and authorized the Chairman to execute same, as recommended in the memorandum of September 1, 2006.

CHANGE ORDER NO. 7 IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD

11.J.3. Carll Heights Subdivision Petition Water Service, 6th Place West of 27th Avenue, Indian River County Project No. UCP-2448, Resolution IV – Final Assessment

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved **Resolution 2006-145** certifying “as built” costs for installation of water service to Carll Heights subdivision (6th Place West of 27th Avenue) in Indian River County, Florida, and such other construction necessitated by such project: providing for formal completion date, and date for payment without penalty and interest.

12. COUNTY ATTORNEY

12.A. Attorney-Client Session

Clerk’s Note: This item was heard after Item 14.C.2. At 12:55 p.m. the Chairman announced that the Board would retreat to the County Attorney’s Conference Room to conduct the Attorney Client Session.

Assistant County Attorney Marian Fell read into the record the Attorney-Client Session scheduled at 1:00 p.m. It was estimated the session would last one half hour. Those in attendance were Arthur R. Neuberger, Gary C. Wheeler, Wesley S. Davis, Thomas S. Lowther,

Sandra L. Bowden, William K. DeBraal, Joseph A. Baird, John K. Shubin (outside counsel, via teleconference), and a Court Reporter Deborah McMennis.

The Board returned to the Chambers at 1:28 p.m., and the Chairman closed the Attorney-Client Session and adjourned the regular meeting of the Board.

Administrator Baird made a correction for the record that the employee COLA would go into effect October 1, not October 6.

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

13.C.1. Cancellation of October 17, 2006 Board Meeting

ON MOTION by Commissioner Bowden,
SECONDED by Commissioner Wheeler, by a 4-1

vote, Commissioner Davis opposed, the Board approved to cancel the October 17, 2006 Board meeting.

13.D. COMMISSIONER WESLEY S. DAVIS - NONE

13.E. COMMISSIONER THOMAS S. LOWTHER - NONE

SPECIAL DISTRICTS AND BOARDS

14.A. EMERGENCY SERVICES DISTRICT - NONE

14.B. SOLID WASTE DISPOSAL DISTRICT

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

14.B.1. Florida Power & Light Easement Form

14.C. ENVIRONMENTAL CONTROL BOARD

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.

14.C.1. Approval of Minutes Meeting of August 22, 2006

14.C.2. Release of Lien – Tim Bechtold, Environmental Control Hearing Board Case No. 275-98

The Chairman called for a recess until 12:55 p.m. to hear Item 12.A. Attorney-Client Session.

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

15. Adjournment

There being no further business, on Motion duly made, seconded and carried, the Board adjourned the regular meeting at 1:29 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Arthur R. Neuberger, Chairman

Minutes Approved: _____