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**OF OCTOBER 3, 2006**

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October 3, 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, October 3, 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 Athena Adams.

**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, 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**

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

1. Deletion – Item 9.B.2 at the request of Dian George
2. Deletion – Item 9.B.3 at the Request of Adrienne Cuffe

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

## **5. PROCLAMATIONS AND PRESENTATIONS**

### **5.A. PRESENTATION OF PROCLAMATION HONORING PATRICIA M. RIDGELY ON HER RETIREMENT EFFECTIVE OCTOBER 2, 2006**

The Chairman read and presented the Proclamation to Patricia Ridgely acknowledging her years of service to the Board of County Commissioners and extended well wishes to her.

**Ms. Patricia Ridgely** said it was a great pleasure for her to be a part of this [County] family and the Clerk of the Court family.

**5.B. PRESENTATION OF PROCLAMATION DESIGNATING OCTOBER 8-14, 2006 AS INDIAN RIVER COUNTY FIRE PREVENTION WEEK**

Chairman Neuberger read the Proclamation and presented it to Brian Nolan of the Indian River County Fire Rescue Division.

**Brian Nolan**, on behalf of EMS Director John King, Paramedics, Firefighters, and support personnel, thanked the Board for the Proclamation. He presented brief statistics on fire safety among children.

**5.C. PRESENTATION OF PROCLAMATION DESIGNATING TUESDAY, OCTOBER 20, 2006, AS PUT THE BRAKES ON FATALITIES DAY**

Commissioner Lowther read the Proclamation and presented it to Sheriff Roy Raymond of the Indian River County Sheriff's Department.

**Sheriff Raymond**, on behalf of all law enforcement agencies in Indian River County, thanked the Board for the Proclamation. He noted that fatalities in the County were down this year and he expected further reduction.

**5.D. PRESENTATION OF ANNUAL REPORT ON POINTE WEST BY CHUCK MECHLING, PRESIDENT, POINTE WEST, INC.**

**Chuck Mechling**, President of Pointe West, Inc., presented the Pointe West Annual Report, providing an update of the development that has taken place in Pointe West over the last year. The

community has participated in various community events and has been the recipient of numerous prestigious local awards including Reader's Choice Platinum Award and the Best Real Estate Development Award presented by the Press Journal (pictures displayed via slide show [copy on file in the office of the Clerk to the Board]), among others. He concluded his report inviting questions from the Board.

## **6. APPROVAL OF MINUTES**

### **6.A. AUGUST 22, 2006 – REGULAR MEETING**

The Chairman asked if there were any corrections or additions to the Minutes. There were none.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of August 22, 2006, as written and distributed.

### **6.B. SEPTEMBER 5, 2006 – REGULAR MEETING**

The Chairman asked if there were any corrections or additions to the Minutes. There were none.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of September 5, 2006, as written and distributed.

**6.C. SEPTEMBER 6, 2006 – PRELIMINARY BUDGET HEARING FY 2006-2007**

The Chairman asked if there were any corrections or additions to the Minutes. There were none.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Preliminary Budget Hearing FY 2006-2007 of September 6, 2006, as written and distributed.

**7. CONSENT AGENDA**

Commissioner Davis asked to pull, for discussion, Items 7.I and 7.P

Commission Bowden asked to pull, for discussion, Items 7.U and 7.BB

Commissioner Wheeler asked to pull, for discussion, Item 7.KK

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

1. Vero Lakes Water Control District – Notification of Registered Agent

**7.B APPROVAL OF WARRANTS – SEPTEMBER 8-14, 2006**

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

Warrants as issued by the Clerk to the Board for September 8-14, 2006, as requested in the memorandum of September 14, 2006.

**7.C. APPROVAL OF WARRANTS – SEPTEMBER 15-21, 2006**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for September 15-21, 2006, as requested in the memorandum of September 21, 2006,

**7.D. ELECTION OF PLANNING & ZONING COMMISSION (P&Z) VICE CHAIRMAN**

The Board noted the election of George Hamner as Vice Chairman of the Planning & Zoning Commission for the remainder of the year 2006, completing the term vacated by Bob Bruce who resigned on August 22, 2006.

**7.E. OUT OF COUNTY TRAVEL FOR COMMISSIONERS TO ATTEND THE 21<sup>ST</sup> ANNUAL GOVERNOR'S HURRICANE CONFERENCE – MAY 14-18, 2007 – FORT LAUDERDALE**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized out-of-county travel for Commissioners and staff to attend the 21<sup>st</sup>

Annual Governor's Hurricane Conference in Fort Lauderdale, FL on May 14-18, 2007, as requested in the memorandum of September 20, 2006.

**7.F. OUT OF COUNTY TRAVEL FOR COMMISSIONERS TO ATTEND THE GOVERNOR'S POINTS OF LIGHT AWARDS RECEPTION**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized out-of-county travel for Commissioner Neuberger to attend a reception to honor recipients of the Governor's Points of Light Awards in Tallahassee, on October 17, 2006, as requested in the memorandum of September 27, 2006.

**7.G. OUT OF COUNTY TRAVEL FOR THE COUNTY ADMINISTRATOR**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved out of county for the County Administrator to attend the Concurrency & Infrastructure Solutions Seminar on October 26, 2006, in Orlando, Florida. The Board also approved out-of-county travel for the County Administrator to attend the Florida Government Finance Officers Association School of Governmental Finance, November 15-17, 2006 in Palm Beach County, as requested in the memorandum of September 21, 2006.



**7.H. EXTENSION OF TAX ROLL PRIOR TO COMPLETION OF VALUE  
ADJUSTMENT BOARD HEARINGS**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously extended the tax roll prior to completion of Value Adjustment Board hearings, as requested in the memorandum of September 19, 2006 from Tax Collector Charles W. Sembler.

**7.I. BID AWARD OF IRC BID # 2007/008 – ANNUAL BID FOR ASPHALT  
PAVING AND RESURFACING – PUBLIC WORKS DEPARTMENT / ROAD  
AND BRIDGE DIVISION**

Commissioner Davis wanted to get a list of roads to be blacktopped in this fiscal year and asked that the process be adjusted chronologically to alleviate conflicts in front of schools. He reported “some bad ruts” in portions of Roseland Road and requested a projected timeframe to fix the road.

Public Works Director Jim Davis explained that the County does prepare a list of road resurfacing projects, and the list is usually prepared in the spring and work would be completed by the end of the fiscal year. He could have the list to Commissioner Davis in two weeks.

Administrator Baird explained that this was gas tax and not ad valorem taxes, in response to Commissioner Davis’ question of where the dollars come from.

Commissioner Davis asked for sensitivity when work is being done in front of schools and wanted to see Roseland Road repairs moved up, as it was dangerous especially when it rained.

Director Davis said there was a sizeable Grant from the Department of Transportation (DOT) for Roseland Road and they have to spend that money by July so there are plans to repair Roseland Road prior to July.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously awarded Bid # 2007008 as follows: (1) awarded Items #1 through 14 to Dickerson Florida, Inc., as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; (2) awarded Item # 15 (cost per ton for County to pick up material at Contractor's plant) to multiple vendors, Dickerson Florida, Inc. and Community Asphalt Corporation. A multiple award will allow the County Road and Bridge Division to pick up the material at a plant closest to a job site. (3) Authorized the Purchasing Division to issue blanket purchase orders or individual job purchase orders, as needed, for the period of October 1, 2006, through September 30, 2007 with the recommended bidder; and (4) authorized the Purchasing Manager to renew this Bid for two [2] additional one [1] year periods subject to satisfactory performance, zero cost increase, vendor acceptance and the determination that renewal of this annual contract is in the best interest of the County; and (5) last year's expenditures totaled \$1,672,414.00 and the projected expenditures for 2007 are \$1,800,000.00, all as recommended in the memorandum of September 12, 2006.

**7.J. CHILDREN'S SERVICES ADVISORY COMMITTEE CONTRACT FOR AGENCY FUNDING**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the CSAC Funding Contract for Funding Agencies for FY 2006-07 funding year and authorized the Chairman to execute each of the contracts as submitted, and as requested in the memorandum of September 14, 2006.

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

**7.K. APPROVAL OF AMENDMENT No. 1 TO FDEP AGREEMENT No. G0182 FOR THE INDIAN RIVER COUNTY MAIN RELIEF CANAL POLLUTION CONTROL STRUCTURE**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Amendment No. 1 to the Florida Department of Environmental Protection (FDEP) Agreement No.G0182 and authorized the Chairman to execute the Amendment, with funding as specified and as recommended in the memorandum of September 19, 2006.

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

**7.L. APPROVAL OF FINAL INVOICE AND FINAL RELEASE OF  
RETAINAGE FOR HYDROMENTIA INC.'S WORK ORDER NO. 1 FOR FINAL  
DESIGN OF EGRET MARSH REGIONAL STORMWATER PARK**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized payment of Hydromentia's final Invoice No. IRC 2006-4 (including release of retainage) in the amount of \$13,143.05, with funding as specified, and as recommended in the memorandum of September 19, 2006.

**7.M. IRC BID # 2007011 ANNUAL BID FOR SOD, PUBLIC WORKS  
DEPARTMENT / ROAD AND BRIDGE DIVISION**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously (1) awarded the Bid to Cabrera Landscape & Backhoe Services, Inc., as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders or individual job purchase orders, as needed, for the period of October 1, 2006 through September 30, 2007 with the recommended bidder; and (3), authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, zero cost increase, vendor acceptance and the determination that renewal of this

annual bid is in the best interest of Indian River County, as recommended in the memorandum of September 18, 2006.

**7.N. GRANT OF EASEMENT TO FLORIDA POWER & LIGHT ALONG 12<sup>TH</sup> STREET EAST OF KINGS HIGHWAY**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Alternative No. 1, granting the Easement to Florida Power and Light and authorized the Chairman to execute same, as recommended in the memorandum of September 21, 2006.

COPY OF EASEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.O. RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC. CONTRACT AMENDMENT #12**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved release of retainage to Applied Technology and Management, Inc. in the amount of \$12,220.00 with funding as specified and as recommended in the memorandum of September 20, 2006.

**7.P. FINAL PAYMENT – ADDENDUM NO. 9 (MASTELLER & MOLER, INC.) PROFESSIONAL ENGINEERING SERVICES AGREEMENT, CR 512 CORRIDOR IMPROVEMENTS – IRC PROJECT NO. 9611**

Commissioner Davis got a call this morning regarding the CR 512 corridor improvements and he wanted to know at what time he could tell residents of CR 512 that there would be some type of berm or planting in place.

Director Jim Davis said that would probably be this time next year and there were plans to put in wax myrtles or other plants to create a bushy effect that would not be so susceptible to hurricane damage.

Commissioner Bowden thought they needed to get a list of trees, shrubs or bush that flourish in our community. There was discussion on whether oak trees would be a good buffer or whether a wall should be constructed.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved full and final payment for Addendum No. 9 in the amount of \$4,825.00 to Masteller & Moler, Inc., as recommended in the memorandum of September 13, 2006.

**7.Q. MAINTENANCE MAP APPROVALS/RECORDING 8<sup>TH</sup> COURT, SOUTH  
OF OSLO ROAD**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Maintenance Map and authorized the Chairman to execute same and have it sent for recording, as recommended in the memorandum of September 22, 2006.

**7.R. MAINTENANCE MAP APPROVALS/RECORDING 67<sup>TH</sup> PLACE,  
BETWEEN OLD DIXIE HWY AND US 1**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Maintenance Map and authorized the Chairman to execute same and have it sent for recording, as recommended in the memorandum of September 22, 2006.

**7.S. APPROVAL OF BID AWARD FOR IRC BID # 2006096 COMPACT  
EXCAVATOR, UTILITIES DEPARTMENT / WATER DISTRIBUTION  
DIVISION**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously awarded the Bid to Smith Bros. Contracting Equipment, Inc., 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 September 18, 2006. The lowest bidder did not meet the minimum horsepower required on the specifications.

**7.T. APPROVAL OF BID AWARD FOR IRC BID # 2007010 ANNUAL BID FOR ALUMINUM SULFATE, UTILITIES DEPARTMENT / WASTEWATER TREATMENT DIVISION**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously (1) awarded the Bid to General Chemical Performance Products, LLC as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; (2) authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2006 through September 30, 2007 with the recommended bidder; and (3), authorized the Purchasing Manager to renew this Bid for two (2) additional one (1) year periods subject to satisfactory performance, zero cost increase, Bidder acceptance and the determination that renewal of this annual contract is in the best interest of Indian River County, as recommended in the memorandum of September 25, 2006.



**7.U. APPROVAL OF BID AWARD FOR IRC BID # 2006093 ANNUAL BID  
FOR CLEANING SERVICES OF THE UTILITY OPERATION CENTER  
UTILITIES DEPARTMENT**

Commissioner Bowden noticed that the low bidder was not able to get insurance, the bottom three Bids were very close, the third was a local firm, but could not tell if the one that was chosen was a foreign company or operating out of Boca Raton. She asked if there was a reason the County could not use the Vero Beach Company.

Utilities Director Erik Olson and General Services Director Tom Frame explained the award of the Bid and the low bidder's inability to get insurance. County Administrator Joseph Baird also explained insurance differences and bid amounts. Commissioner Wheeler agreed with Administrator Baird on the standards followed.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously (1) awarded the Bid to Coverall North America, Inc. d/b/a Coverall Cleaning Concepts, as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid. (The low bidder, Fulmore Cover All of Vero Beach could not meet the County insurance requirements); (2) authorized the Purchasing Division to issue blanket purchase orders or individual job purchase orders, as needed, for the period of October 1, 2006 through September 30, 2007 with the recommended bidder; and (3), authorized the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, zero cost increase, vendor acceptance and the determination that renewal of this annual contract is in the best

interest of Indian River County, as recommended in the memorandum of September 15, 2006.

**7.V. MIZNER GRANDE AT VERO BEACH II L.L.C.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS EAGLE TRACE PHASE II**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for Eagle Trace Phase II Subdivision with recordation of the mylar only after the letter of credit has been received, reviewed, approved and validated by the County Attorney's office and the contract has been executed by the County Administrator, as recommended in the memorandum of September 19, 2006.

**7.W. APPROVAL OF RENEWAL FOR A CLASS "A" CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR INDIAN RIVER COUNTY DEPARTMENT OF EMERGENCY SERVICES**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved renewal of the Class "A" Certificate of Public Convenience and Necessity for the Indian River County Department of Emergency Services, to be effective for a period of two (2) years from October 15,

2006 to October 15, 2008, as recommended in the memorandum of September 7, 2006.

**7.X. PROPERTY ACQUISITION – TAX ROLL REMOVAL AND TAX CANCELLATION (8)**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-146** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*SWDD Yankee-Melvin Purchase*)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-147** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*R/W – 70<sup>th</sup> Ave [Powerline Road] Wilcox*)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-148** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*Environmental [Russell]*)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-149** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*R/W – 82<sup>nd</sup> Street and U.S. Highway 1, IHP Investment Fund III [Bristol Bay]*)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-150** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or

current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*Proposed 18-acre School Site, Shelby Homes at Millstone*)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-151** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*R/W – Oslo Road [9<sup>th</sup> St. SW] Hendley*)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-152** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*R/W – 16<sup>th</sup> Street [Riverside Self Storage]*)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-153** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*Hiatus – Adjacent to 49<sup>th</sup> Avenue*)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-154** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes; authorized the Clerk to send certified copy of the same to the Tax Collector and the Property Appraiser, so that any outstanding delinquent or current taxes may be canceled; and, authorized the Clerk to send copies to Fixed Assets, Budget, and the County Attorney's Office, all as recommended in the memorandum of September 19, 2006. (*R/W – Corner Clip 34<sup>th</sup> Ave. & 12<sup>th</sup> Pl.*)

**7.Y. REQUEST FOR FINAL PAYMENT FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) INDIAN RIVER COUNTY VERTICAL (NAVD88) CONTROL DENSIFICATION PROJECT**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved full and final payment to the Department of Environmental Protection in the amount of \$188,385.00, as recommended in the memorandum of September 22, 2006.

**7.Z. RIGHT-OF-WAY ACQUISITION (2) PARCELS, GENE R. AND ROSEMARY B. GAGLIARDI, 66<sup>TH</sup> AVENUE SOUTH OF STATE RD. 60**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Alternative No. 1, the \$221,000.00 purchase with Gene and Rosemary Gagliardi, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of September 26, 2006.

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

**7.AA. APPROVAL OF PROFESSIONAL SERVICE AGREEMENTS FOR ANNUAL GEOTECHNICAL SERVICES CONTRACT, 2006-2007 – IRC PROJECT NO. 0534**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Fee Schedule and the Agreements with CTI-Construction Testing & Inspection, Inc., Vero Beach, AM Engineering and Testing, Inc., Fort Pierce, Dunkelberger Engineering & Testing Inc., Port St. Lucie and Ardaman & Associates, Inc., Port St. Lucie, as recommended in the memorandum of September 25, 2006.

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

**7.BB. APPROVAL OF PROFESSIONAL SERVICE AGREEMENTS FOR ANNUAL CIVIL ENGINEERING SERVICES CONTRACT, ON AN ON-GOING BASIS**

Commissioner Bowden asked about a bridge, at the new fire station, that the County was not sure they had erected, and wanted to know if approval was granted for that project.

Administrator Baird provided clarification explaining the misunderstanding of communications from Carter and Associates, and our Consultants being contacted for information instead of following County procedures.

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



Agreements with Arcadis G&M, Inc., Carter Associates, Inc., and McMahon Associates, Inc., and authorized the Chairman to execute the agreements, as recommended in the memorandum of September 19, 2006.

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

**7.CC. CONSIDERATION OF RENEWAL OF AGREEMENT FOR MASS TRANSIT SERVICES PROVISION BETWEEN INDIAN RIVER COUNTY AND THE INDIAN RIVER COUNTY COUNCIL ON AGING, INC.**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to execute the Agreement with the Indian River County Council on Aging, Inc., as recommended in the memorandum of September 25, 2006.

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

**7.DD. LITERACY/COMPUTER LITERACY LAB PROGRAM GRANT AGREEMENT**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to execute the agreements and return to the Library Services Director for forwarding to the appropriate State Library

staff, as recommended in the memorandum of September 25, 2006.

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

**7.EE. THE SQUIRE SUBDIVISION WATER ASSESSMENT PROJECT**  
**APPROVAL OF FINAL PAYMENT TO CONTRACTOR AND RELEASE OF**  
**RETAINAGE**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the total project cost of \$43,680.00, and approved the Application for Payment No. 2 – Final as final payment to Underground Utilities, Inc., in the amount of \$7,068.00, as recommended in the memorandum of September 19, 2006.

**7.FF. SUNTRUST BANK ROSELAND WATER SERVICE**  
**INSTALLATION, APPROVAL OF CHANGE ORDER NO. 1 AND FINAL**  
**PAYMENT TO CONTRACTOR**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the total labor cost of \$3,476.80, Change Order No. 1 for an additional \$449.80, and approved the Application for Pay Request No. 1 – Final as final payment to The Danella Companies, Inc., in the

amount of \$3,476.80, as recommended in the memorandum of September 20, 2006.

**7.GG. PROFESSIONAL BRIDGE DESIGN SERVICE AGREEMENT, WORK ORDER NO. 1 WITH BRIDGE DESIGN ASSOCIATES, INC., IRC PROJECT NO. 0530-B 13<sup>TH</sup> STREET SW BRIDGE DESIGN; WORK ORDER NO. 2 WITH BRIDGE DESIGN ASSOCIATES, INC., IRC PROJECT NO. 03107-B 8<sup>TH</sup> STREET BRIDGE DESIGN; WORK ORDER NO. 3 WITH BRIDGE DESIGN ASSOCIATES, INC., IRC PROJECT NO. 0611-B 56<sup>TH</sup> PLACE BRIDGE DESIGN**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Agreement and Work Orders No 1, No. 2 and No. 3; authorized the projects as outlined in the Scope of Services; and, authorized the Chairman to execute the Agreement and Work Orders, as recommended in the memorandum of September 18, 2006.

AGREEMENT (WORK ORDERS 1,2,3,) IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.HH. APPROVAL OF BID AWARD FOR IRC BID # 2006100**  
**GROUND PENETRATING RADAR UTILITY LOCATOR – UTILITIES**  
**DEPARTMENT / WATER DISTRIBUTION DIVISION**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously awarded the Bid to MALA, Charleston, SC, 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 September 18, 2006.

**7.II. APPROVAL OF BID AWARD FOR IRC BID # 2006101 ALUMINUM**  
**SULFATE CHEMICAL FEED SYSTEM, UTILITIES DEPARTMENT/**  
**WASTEWATER TREATMENT DIVISION**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously awarded the Bid to LOC Pump & Equipment Company of Florida, Inc., as the lowest most responsive and responsible bidder, as recommended in the memorandum of September 15, 2006. LOC Pump & Equipment, Inc., took one exception to the bid specification, which has been determined by the Utilities Department as being acceptable.

**7.JJ. WORK ORDER 1 FOR RIGHT OF WAY ACQUISITION SERVICES,  
AMERICAN ACQUISITION GROUP, LLC, REQUEST FOR RELEASE OF  
RETAINAGE**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved release of retainage to American Acquisition Group, LLC in the amount of \$2,650.00 with funding as specified and as recommended in the memorandum of September 18, 2006.

**7.KK. APPROVAL OF BID AWARD FOR IRC BID #2007007 MOWING  
AT TWO WATER TREATMENT PLANTS, UTILITIES DEPARTMENT /  
WATER TREATMENT DIVISION**

MOTION WAS MADE BY Commissioner Wheeler SECONDED by Commissioner Lowther for discussion, to table this item and ask the Sheriff's Office if they could do the lawn maintenance to save the County some money.

Commissioner Lowther felt that even more important was the fact that inmates could do work at other facilities, noting that the County has increased its jail capacity and there may be a need for more duties/activities for the inmates.

County Administrator Joseph Baird acknowledged that the County uses prisoners to do similar work. He thought maybe they should get with the Sheriff and find out what he is using his prisoners for and see if the County could utilize those services.

Commissioner Lowther felt they should follow through with this. Administrator Baird felt they should have a public presentation from the Sheriff's office on what they could or could not provide.

The Chairman CALLED THE QUESTION and the Motion carried unanimously to table this item for the October 24, 2006 meeting to allow the County Sheriff to tell the Board if his office could or could not provide (through the use of inmates) the maintenance services required.

**7. LL. POST HURRICANES FRANCES & JEANNE EMERGENCY DUNE RESTORATION – JOHN'S ISLAND SEGMENT, FINAL PAYMENT AND FULL RELEASE OF RETAINAGE, RANGER CONSTRUCTION INDUSTRIES, INC.**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved final payment and release of retainage to Ranger Construction Industries, Inc., in the amount of \$111,747.82, as recommended in the memorandum of September 20, 2006.

**7.MM. FINAL PAYMENT – WORK ORDER NO. 6, CARTER ASSOCIATES, INC. AND ADDENDUM TO WORK ORDER NO. 6 FOR: IRC**

**HOBART PARK MAINTENANCE COMPLEX PROJECT PROFESSIONAL  
SURVEYING AND MAPPING SERVICES TO SUPPORT DESIGN NEEDS,  
PROJECT NO. 0623**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved payment in the amount of \$16,562.00 for full and final payment for Work Order No. 6 and \$3,350.00 for full and final payment for Addendum to Work Order No. 6 (to Carter Associates, Inc.) through the Professional Land Survey Annual Services Contract No. 0390 with funding as specified and as recommended in the memorandum of September 18, 2006.

**7.NN. CITRUS SPRINGS SUBDIVISION DEVELOPER'S AGREEMENT  
FOR CONSTRUCTION OF OFF-SITE MASTER PLANNED WATER AND  
SANITARY SEWER FORCE MAIN, APPROVAL OF RELEASE OF  
RETAINAGE AND FINAL PAYMENT TO CONTRACTOR**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Release of Retainage (Invoice No. 101) in the amount of \$4,825.22 as final payment to The Suntree Partners, as recommended in the memorandum of September 11, 2006.

**7.00. REXFORD BUILDERS, INC. DEVELOPER'S AGREEMENT FOR CONSTRUCTION OF OFF-SITE WATER MAIN, APPROVAL OF RELEASE OF RETAINAGE AND FINAL PAYMENT TO CONTRACTOR**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Release of Retainage of \$2,629.50 as final payment to Rexford, Inc., as recommended in the memorandum of September 11, 2006.

**7.PP. HARDEE'S ADDITION TO SEBASTIAN – 8 INCH WATER MAIN EXTENSION – AMENDMENT TO DEVELOPER'S AGREEMENT AND REIMBURSEMENT TO WILLIAM WELSH**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Amendment to the Developer's Agreement for an addition of \$6,471.35 to the original amount of \$10,461.60 resulting in a revised amount of \$16,932.95; approved Attachment 3 based on the new amount of \$16,932.95; and, approved reimbursement to Mr. William Welsh of \$12,829.63, which is the cost of the total project (\$16,932.95), less his 24.232% share (\$4,103.32), as recommended in the memorandum of August 1, 2006.

**7.QQ. CONSULTING SERVICES WORK ORDER No. 5 AMENDMENT No. 1 WITH POST, BUCKLEY, SCHUH, AND JERNIGAN FOR PERMITTING,**



**DESIGN AND CONSTRUCTION SERVICES FOR THE WEST REGIONAL  
WASTEWATER TREATMENT PLANT EXPANSION UCP-2621**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 5, Amendment No, 1 with PBS&J in the amount of \$61,400.00 for design work associated with this project, and authorized the Chairman to execute same, as recommended in the memorandum of September 20, 2006.

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

**7.RR. FLORIDA DEPARTMENT OF LAW ENFORCEMENT FY  
2006/2007 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT  
(JAG) PROGRAM**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Certificates of Acceptance of Subgrant Award for the Substance Abuse Administration Grant in the amount of \$8,161.00, the M.A.C.E. Grant in the amount of \$49,371.00, and Indian River County Drug Testing Grant in the amount of \$24,084.00, as well as, the two agreements between the Board of County Commissioners and the Substance Abuse Council of Indian River County, all as recommended in the memorandum of September 25, 2006.

CERTIFICATE OF ACCEPTANCE IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.SS. RESOLUTION DELEGATING TO THE COUNTY ADMINISTRATOR OR DESIGNEE THE AUTHORITY TO EXECUTE STANDARD CONTRACTS FOR CONSTRUCTION FOR FINAL LIFT OF ASPHALT AND ACCOMPANYING CASH DEPOSIT AND ESCROW AGREEMENTS**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Resolution 2006-155 delegating to the County Administrator or designee the authority to execute standard contracts for construction for final lift of asphalt and accompanying cash deposit and escrow agreements.

**7.TT. CR 512, PHASE III, CR 510 – PROJECT #9611 & 0001 AGREEMENT FOR THE ESCROW OF COSTS FOR CHANGE ORDER #4**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Agreement for the Escrow of Costs for Change Order #4 to CR 512, Phase III, CR 510 Road Project (left turn lane and right turn lane for the Shoppes of Sebastian II development), and authorized the Chairman to execute same, as recommended in the memorandum of September 19, 2006.

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

**7.UU. SOUTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANT, PROFESSIONAL SERVICES BY KIMLEY-HORN & ASSOCIATES, INC. (KHA) FOR UPGRADES AND MODIFICATIONS TO RESTORE CAPACITY – WORK ORDER NO. 14**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 14 to Kimley-Horn & Associates, Inc. in the amount of \$168,500.00 – in a lump-sum, from account as specified, for Professional Services related to South RO Plant Upgrades and Modifications to Restore Capacity, and authorized the Chairman to execute same, as recommended in the memorandum of September 1, 2006.

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

**8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

**A. ROY RAYMOND, INDIAN RIVER COUNTY SHERIFF - FORFEITURE TRUST FUND (NATIONAL CHILD ID PROGRAM)**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved that \$8,552.23 from the Sheriff's Law Enforcement Trust Fund be used to participate in the National Child ID Program, as requested in the letter of September 18, 2006.

**9. PUBLIC ITEMS**

**9.A. PUBLIC HEARINGS**

**9.A.1. INDIAN RIVER DRIVE NORTH – PETITION WATER, INDIAN RIVER COUNTY PROJECT NO. UCP-2632, RESOLUTION III – PUBLIC HEARING**

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

Dan Chastain, Manager of Assessment Projects, reminded the Board of prior actions on this matter, recapped his memorandum of September 20, 2006, and asked the Board to approve Resolution III, which affirms the preliminary assessment roll on the subject property. By way of a slide presentation he pointed out site locations and noted that questions have arisen regarding the site. He asked the County Attorney to better explain.

Attorney Collins thought it would be a good idea to hear from residents that might be affected or benefited by this project. He provided a status report on the matter and recommended that the Board

hear from those who wish to speak on this project but not to approve the resolution confirming it today. He provided legal opinion to support his recommendation.

Chairman Neuberger asked how long it was anticipated this would take to clear up the right-of-way problem.

Attorney Collins said it depended on how many property owners were involved in this situation. He also pointed out that Mr. Barkett's client seemed willing to negotiate rather than contest this. Mr. Chastain noted that there probably were about 12 or 13 properties from Roseland Road northward.

The Chairman opened the public hearing.

**Brian Atkinson**, 13055 N. Indian River Drive, was opposed to the proposal, saying the lien that would be placed on his property would be a burden and he has no need for this service.

**Roger Birt**, 13155 N. Indian River Drive, handed out a petition from residents against this project. He urged the Board to look at redesigning the project or denying the request because they did not want to see the roads torn up and they did not need the water.

Chairman Neuberger recalled that initially the majority of people were for the project and now they seemed to have changed their minds. He sought legal opinion as to how this would now affect the project, and whether it becomes a moot point now that the majority does not want it.

Attorney Collins referred to page 478 of the backup that showed they never had a majority and page 470 of the backup where it seemed they had more support. He said, in actuality, they never had a majority.

Discussion ensued on whether staff had a majority supporting the project. Director Chastain assured concerned residents that driveways would not be torn up and the County would take care of any complaints.

**Judy Turner**, 13660 N. Indian River Drive, who owns property south of Roseland Road, favored the project saying water is a necessity and this opportunity does not always come along often.

Commissioner Davis asked where the water line came from that provides water to the Inlets of Sebastian. Mr. Chastain responded that it comes from North Central, in through the development, and along the frontage of property on Indian River Drive. In response to another question from Commissioner Davis on whether there currently was a water main north/south along Central Avenue and how far north and south it goes, Mr. Chastain affirmed there is, saying it interconnects at Roseland Road and runs all the way south to the north of Sebastian City limits.

**Sam Jolley**, 13590 N. Indian River Drive favored the water main installation. He however thought the County was “really messed up” in doing a square footage instead of a linear footage that would continue with the same frontage price for everyone.

Commissioner Lowther recalled about three (3) years ago when Westside subdivision came along and a certain resident did not want the water. He asked how did the County deal with that. Mr. Chastain explained that those were included in the assessment that was approved and they did use the square footage method.

Commissioner Lowther commented on septic systems leaking into lagoons. He did not know if that would become an issue later but thought that would be something to look at in the future.

Mr. Chastain confirmed as correct Commissioner Davis’ assumption that the assessment method along Indian River Drive is being done on a square footage method for the lot and not a frontage or unit basis.

**Ms. Turner** wanted to clarify that they have sewer on Indian River Drive.

**Richard Maerz**, 13275 N. Indian River Drive (south of Roseland Road) felt they have not correctly addressed shoreline stabilization. He handed out pictures taken after Hurricanes Francis and Jeanne showing two places south of his property where the road was washed out. He understood that the proposed water main would run approximately 30 inches below the ground and he could not see how, without some proper shoreline stabilization, they would not be vulnerable at the next storm. He also did not think they addressed correctly the amount of concrete debris that was dropped, after the storms, to temporarily stabilize the roads, which has never been taken care of properly. He agreed with Mr. Jolly about assessment procedure and does not think it is fair. He also opposed the installation of a water main.

Chairman Neuberger felt that the comments on the shoreline were a separate issue but was sure it would be addressed in a contract.

**Richard Thomas**, 13845 N. Indian River Drive (north of Roseland Road) had no intent to hook up even if the pipe comes in; was concerned with assessment, and did not want the expense.

**Dan Hess**, 13465 N. Indian River Drive (south of Roseland Road), did not agree with Mr. Chastain on the assessment basis on square footage and was against the project. He commented on Mr. Chastain's failure to mention there was a cap of an acre.

**Charles Borders**, 13025 N. Indian River Drive (south of Roseland Road) opposed the project based on cost and especially that it was not needed. He also thought the water pipes would get washed away during strong storms.

**Dave Schwarz**, 13455 N. Indian River Drive (south of Roseland Road) opposed the project.

**Martin Dowzall**, 13885 N. Indian River Drive (north of Roseland Road), discussed the cost of the project and was against the project.

**Fred Mensing** (does not live on Indian River Drive) wanted to make a point he thought no one else had thought about. He inquired if the County had considered how deep a main is placed underground and provided an example of such, using Capt'n Butcher's Old Flood Tide Marina. He believed the main should be placed on the west side instead of the east side (where the river runs) and suggested County Engineers re-study the project as he felt they would have to go excessively deep to place the water mains.

**Roger Burke** stressed what he thought was an important point that there is already an existing 12" main that runs all the way down to Roseland Road and then up Indian River Drive. Why duplicate a service on Indian River Drive that is not needed, he asked.

Mr. Chastain explained that there is a gravity sewer in that area that should not hinder the installation of this project.

County Engineer Gordon Sparks addressed comments regarding use of existing lines. Discussion ensued regarding location and installation of water lines, and properties to be affected by the proposed water assessment line. Commissioner Davis and Mr. Chastain discussed the significance of completing the loop up to U.S. Highway 1.

**Mr. Atkinson** asked the Board to keep in mind that a minority of people wants this.

**Mr. Borders** reiterated Mr. Atkinson's comments and urged the Board to take a strong look at that.



**Mr. Maerz** thought that given what everyone had discovered, it would be appropriate to have a “preference survey” where everything was laid out and comprehensively presented to property owners for them to make an objective decision as to whether they want it or not.

Chairman Neuberger said they might just take another look at this and at the right-of-way issue as well, and maybe have the Utilities staff provide further comments.

**Lisa Hess**, 13465 N. Indian River Drive, observed that everyone was concerned about the water and did not want it but she was concerned with the safety issues as regards fire hydrants, and what could happen if there was a fire and no hydrant was close by.

There were comments that water could be pumped from the nearest river but Director Chastain said that was incorrect, because he understood from a Fire Chief that they do not pump water from swimming pools, lakes, canals or the river. This project proposes a hydrant every thousand feet, he said, and the Fire Department would like them to cover a 500-foot radius.

Discussion ensued regarding pump trucks, pumping water from the river and fire hydrants.

**John Dodd**, 14015 N. Indian River Drive (north of Roseland Road), supported the project because he believed the County would have to provide water to all the urban service areas and the sooner they do it the better.

**Karen McElveen** 13600 N. Indian River Drive (south of Roseland Road), was in favor of water but was concerned with the amount of assessment cost to homeowners and thought there should be a more appropriate way to get water to homeowners.

Emergency Services Director John King responded to comments on how fires are put out on Indian River Drive if there was no fire hydrant in place. He said it was not common for them to

pump water out of pools because of their location and a water table requirement. He was not sure they could get a truck within ten feet of a river, but they would try if they could.

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

Chairman Neuberger felt they needed to table this item to a time certain so they could look at the legal question on the property.

Attorney Collins said it would not be a time certain because it was not known how long the process would take and they would probably have to re-advertise for another hearing if they were going to reconsider.

The Board and staff discussed how the petition came about and staff's recommendation in that regard. They also discussed whether they would save money if the project were delayed to a future date, sewer, and square footage and smaller lots. Administrator Baird felt that based on information from Attorney Collins they should wait and not move forward today but take the time to look at alternatives, front footage and maybe zoning too.

Director Chastain said they could redesign the project to serve only those areas south of Roseland Road, if the Board wished. The Board discussed further whether to postpone this item until they get some legal advice.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Neuberger, the Board unanimously agreed to table this matter to have staff work out the right-of-way issues.

*The Chairman called a break at 10:36 a.m., and reconvened the meeting at 10:45 a.m., with Commissioner Davis absent.*

## **B. PUBLIC DISCUSSION ITEMS**

### **1. Request to Speak from Fred Mensing Regarding Reverse Contract to do Minor Road Maintenance and Request for Quit Claim Deed**

#### **(1) Minor Road Maintenance**

**Fred Mensing** handed out a sample of a “reverse contract” to Board members, with a \$2.00 bill attached to the Chairman’s copy (*a copy of the “reverse contract” is on file in the Office of the Clerk to the Board*).

*(Clerk’s Note: Commissioner Wesley Davis rejoined the meeting at 10:46 a.m.)*

**Mr. Mensing** said the “reverse contract” was his solution to problems created by Mr. Kirrie in Roseland. He discussed the problems faced by certain residents and outlined the advantages to be had from this request for “non-exclusive right to remove pot holes and wash boarding on 129<sup>th</sup> Street and 130<sup>th</sup> Street south of 78<sup>th</sup> Avenue and only on dirt sections subject to ...” conditions outlined in the sample contract.

County Attorney Collins opined that they did not need a contract, but if people were operating in a right-of-way, typically, they get a right-of-way permit.

Commissioners discussed the Sheriff’s concern of an implement touching the road when the grader is being used.

Public Works Director Jim Davis noted that over the years Mr. Mensing has graded the road with a tractor and a box blade. Several years ago he called Mr. Mensing and expressed his concern because of complaints from some residents that he was grading the roads. He also noted how often the County does road maintenance and believed there is a liability for the County if they let citizens on various types of equipment grade public roads. He did not encourage private citizens grading the road system with that type of equipment because someone could get hurt.

Commissioner Wesley thought there would be a “small town revolt” if people could not do it themselves in certain areas like Fellsmere. Discussion ensued on who could grade roads and liability involved.

Attorney Collins discussed differences in residents scraping their private roads to improve the access to their properties and not working within public right-of-ways. There was also discussion on who owns the roads.

Commissioner Wheeler felt that without a contract it would open up liability. He presented a scenario of the use of riding mowers operating without a license or plate and without a contract as well and thought it would be selective enforcement if the Sheriff’s Office did not arrest people on lawn mowers too.

*(Clerk’s Note: Attorney Collins advised the Chairman to return the \$2.00 to Mr. Mensing. The Chairman complied).*

Director Davis, in response to Commissioner Bowden’s question of how often the County grade roads, said every 3-4 weeks depending on the weather and its effect on materials. He also noted that operating on a roadbed is a little more particular than mowing a lawn and there was more liability as well.

The Board and staff had lengthy discussions on legality, inspection, standards and insurance, and the seeming selective enforcement in one neighborhood over another. They also discussed residents' objection to paying for the roads to be paved in front of their houses.

**Mr. Mensing** believed Mr. Kirrie conned the County 20 years ago. He asked if there was something the Commission or staff could do so that what has gone on does not continue.

Discussion ensued on whether to allow such practices on county roads. Commissioner Wheeler did not think they needed to take any action.

No Action Taken or Required.

## **(2) Request for Quit Claim Deed**

**Mr. Mensing** handed copies of a Quit Claim Deed (*copy on file in the Office of the Clerk to the Board*) to the Board reporting that Mr. Kirrie filed application to abandon a portion of parcel 3 between the lots highlighted on the Deed. Mensing wrote to the County and never got a written reply from the County that the land is private property. He provided a brief background on the property of interest with Mr. Kirrie claiming he owns the property, which has resulted in a domestic dispute.

**Mr. Mensing** stated that he was a candidate for County Commission and announced that he could not possibly sit on the Commission because there was an Attorney General's ruling that he could not run for office and file suit against the County at the same time. He asked the County to decide if it had an interest in the property.

Chairman Neuberger thought only the County Attorney could address this matter.

County Attorney William Collins provided background information on the strip of land starting with when Mr. Mensing obtained a Quit Claim Deed. He provided detailed information on the current status of the matter including a lawsuit (with Mr. Kirrie and Mr. Mensing from 3 years ago) that had to do with Code Enforcement action against Mr. Mensing and a counter-claim that the County was trespassing on those strips within the north county conservation. That matter was settled with Mr. Mensing and the County paid him \$5,000.00 for all the strips in the north county conservation area. Attorney Collins described the matter as complicated and thought it would be better resolved in court instead of before the County Commission.

**Mr. Mensing** responded that Mr. Kirrie has no valid claim to the property.

Commissioner Wheeler agreed with Attorney Collins to settle the matter in court and saw no point in further discussions.

Attorney Collins explained that the County would not have to do anything and recommended that it be left as status quo. He also informed Commissioner Davis that Mr. Mensing would have to initiate the suit against Indian River County.

Chairman Neuberger repeated Attorney Collins' recommendation.

Commissioner Davis sought to know the legal ramifications if they move to quit claim, and whether they could avoid the lawsuit.

**Mr. Mensing** replied that it would mean the County renouncing that it does not have an interest in it and let him and Mr. Kirrie battle it out directly.

Attorney Collins again explained that the county does not have an interest in quit claim and referred to his earlier recommendation to have the matter resolved in the court system.

The Board agreed with the County Attorney's opinions and recommendation.

**Mr. Mensing** declared that because the Board could not find a way to renounce an interest in this strip of land it would be impossible for him to continue in the run for County Commissioner and hoped Joe Flescher (Commissioner Candidate) would do well as next District Commissioner.

NO ACTION REQUIRED OR TAKEN.

**2. Request to Speak from Dian S. George Regarding School Board Question Originating from September 19<sup>th</sup> Meeting**

This item was deleted from the Agenda at the request of Dian George.

NO ACTION REQUIRED OR TAKEN.

**3. Request to Speak from Adrienne Cuffe Regarding Road Widening Projects**

This item was deleted from the Agenda at the request of Adrienne Cuffe.

NO ACTION REQUIRED OR TAKEN.

**3. Request to Speak from Mark A. Brackett Regarding 30 Day Extension to the Construction Contract for the Stoney Brook Farm Subdivision**

**Mark Brackett**, 1915 34<sup>th</sup> Avenue, on behalf of Stoney Brook Farms Subdivision, recounted the process from Stoney Brook's recordation of a plat which at that time required them to enter into a

construction agreement with the County and to provide surety to secure the completion of the improvements that were tied to the contract and the subsequent grant of a 60-day extension which expires on October 12, 2006. He said they were near completion of the subdivision and have final release of liens from both utilities and site contractors, but in order to be in compliance with the code and to not leave a gap between completing the project officially and having the appropriate surety in place, they were asking the County to grant them a 30-day extension on the construction contract and the Surety would be extended additionally for the Stoney Brook Farm Subdivision. If they get the extension, they would have \$900,000.00 in Surety for punch list items.

County Attorney William Collins provided further background on staff's prior recommendation for a 60-day extension instead of the one-year extension requested by Mr. Brackett, citing staff's lack of confidence with the company because of past experience with them not honoring conditions to have security in place until a specified date.

Chairman Neuberger sought to know what the Board thought of this. Commissioner Davis had no problem with the request but wanted to hear comments from any homebuilder present.

Administrator Baird and Attorney Collins discussed the Letter of Credit, noting that it is about to expire on October 12, 2006, and were not sure the bank would be willing to extend the Letter of Credit.

**Mr. Brackett** said he had no knowledge that the bank would not extend the Letter of Credit.

Assistant County Attorney Bill DeBaal reminded the Board that there was an issue of turn lanes that needed to be addressed that is part of the security that has been posted, and he did not know how far Mr. Brackett had gotten towards the completion of that project.

**Mr. Brackett** responded that the turn lane is not a condition of the Certificate of Completion and that there is property security up for the turn lane and would remain in place.



Public Works Director Jim Davis clarified the conditions for turn lanes.

MOTION WAS MADE BY Commissioner Davis, SECONDED by Commissioner Neuberger, to grant the 30-day extension on condition that the letter of credit be extended as well.

Administrator Baird cautioned that the Letter of Credit (LOC) has to be extended for more than thirty (30) days because the turn lanes could not be done in thirty (30) days.

**Mr. Brackett** was looking for a 30-day extension on the construction agreement and would accept 180 days on the LOC.

Commissioner Bowden felt they needed to have a working relationship where information from staff is forthcoming prior to when decisions have to be made.

Administrator Baird expressed his dissatisfaction with the way public discussion items are handled, stating that it is hard on staff to know what people are going to say, submit, or discuss and sometimes what the subject matter is. Staff is usually at a disadvantage in providing supporting and factual information. He recommended that the Board approve the form that was designed to get more detailed information from those requesting to speak so that staff may be better prepared to answer questions from the Board.

Commissioner Bowden was not clear on Attorney Collins' position. Attorney Collins explained that he was against it because the last time they were granted an extension they had given assurance that the security would have been extended and it was not. He did not have any level of confidence based on past lack of fulfillments of certain conditions.

**Mr. Brackett** did not have a problem if the extension was made contingent on the LOC being extended as well.

The Board discussed the necessity of the LOC extension noting that in the past it was not extended when they were granted 60-days. Commissioner Bowden sided with the County Attorney to not approve the request. The Board also discussed when to call the Letter of Credit.

Commissioner Davis AMENDED HIS MOTION, SECONDED by Commissioner Neuberger, to grant the 30-day extension on the Construction Contract for the Stoney Brook Farm Subdivision, on condition that the Letter of Credit be extended for the same period and the County Attorney has the amended Letter of Credit in his Office by 12 O'clock on October 9, 2006.

There were no further discussions.

The Chairman CALLED THE QUESTION and the Motion carried unanimously (5-0).

Chairman Neuberger acknowledged the presence of and introduced former Mayor of Sebastian Chuck Neuberger (his big brother).

**C. PUBLIC NOTICE ITEMS - NONE**

**10. COUNTY ADMINISTRATORS MATTERS - NONE**

## **11. DEPARTMENTAL MATTERS**

### **A. COMMUNITY DEVELOPMENT**

#### **1. Consideration of Advanced Construction Agreement for SR 60**

Phil Matson, staff's Director of Metropolitan Planning Organization (MPO), summarized the construction agreement for the widening of SR 60 between 66<sup>th</sup> Avenue and I-95, by reviewing his memorandum of October 3, 2006. There is an opportunity for advancing the projects with local funds and that mechanism requires an interest-free loan to the Florida Department of Transportation (FDOT) and the loss of the use of those funds for a period of time, Director Matson informed. He also presented a cash flow analysis and discussed how the priority process works on the MPO priority list. He asked the Board not to approve the Advanced Construction Agreement based on the Cash-Flow Analysis presented. However, if the Board wished to compromise, in order to maintain LOS, then an agreement should be considered from I-95 to 82<sup>nd</sup> Avenue.

Budget Director Jason Brown continued the presentation explaining in detail the recommendations regarding funding options. He presented advanced funding options, looking at four different alternatives, as well as a Cash-Flow scenario analysis looking at all County roadways including revenue and expenses. He also recommended that the Board not enter into the advanced funding agreements based on funding constraints and cash flow forecast.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Commissioner Bowden for discussion, to  
approve staff's recommendation.

Commissioner Bowden asked if FDOT ever paid back loans with interest. Director Brown was not aware of that or that it has even happened in the past.

**Ralph Poppell**, Florida State Representative (District 29), said it was really State Representative Mayfield who worked in the beginning on securing the money for this project and acknowledged that Mr. Mayfield had done a great job. He, too, felt that the \$67 million (to be advanced for the project) was way out of line and he discussed it with the Department of Transportation Secretary Denver Stutler, Jr., and they all agreed that the cost was too high. He felt the County would be missing a “golden opportunity” to complete the road if they denied the request. He informed the Board of a letter he got from Secretary Jim Wolfe (District 4) showing considerable less dollars involved: instead of the \$37 million it is now \$32.3 million, instead of \$30 million its now \$22.7 million, so they were now looking at \$55 million versus the \$67 million. He recommended that this be kept alive and the Board not deny the project.

**Stan Mayfield**, Florida State Representative (District 80) impressed upon the Board not to make decisions today to withdraw from this proposal because there was no urgency or requirement. He, however, promised to support the Board in whatever they decided.

Administrator Baird acknowledged and appreciated that Representative Mayfield worked hard in getting this opportunity for us and explained the reason why he [Baird] brought this item forward saying he wanted the Board to know that they were going to run a deficit before they make a decision.

Commissioners and staff engaged in lengthy and detailed discussions, which included when capacity for a project could be considered, designation of routes, and whether to keep the resolution in place. Chairman Neuberger acknowledged that they needed to look at this as the future of Indian River County. He could see the importance of this road and he would hate to have a missing link that would keep us from going out of town in the event of a hurricane, but the shortfalls of \$47 million really scared him. He urged the Board to defeat the request and wait for a year.

Commissioner Bowden thanked the delegation and appreciated their hard work, but she did not want to put people in uncomfortable situations. She suggested they weigh all the options before making a decision.

**Mark Brackett**, 1915 34<sup>th</sup> Avenue, appreciated the comments from State Representatives and some from the Commissioners. He urged the Board to use the 30-day delay to consider this further and from a business perspective he was not in favor of loaning our money out interest free. He felt there has to be something else, whether its “crawl”, breaking up the segment and doing the one segment from 66<sup>th</sup> Avenue to 87<sup>th</sup> Avenue, but they needed to look at other solutions/alternative.

Commissioner Lowther sought clarity on Commissioner Wheeler’s Motion thinking it would be a wrong move. Commissioner Wheeler pointed out that his problem was he did not like losing the interest. Discussion ensued on whether to give a few months, and levels of interest rate.

*The Chairman called a break at 12:44 p.m. and reconvened the meeting at 12:54 p.m. with all members present.*

**Chuck Mechling**, 1999 Pointe West Drive, in 1999 informed the Board that Pointe West had many employees out there and if this is passed today that will shut the project down. He does not believe interest free loans are a good concept and was not good for the County either. He feared that if the link goes away then funding would go away. He felt putting a “focus committee” to work on this would be a venue of a pro-action that we could all embrace and at the same time be able to work with our State Representatives to see if there is a better way to handle this.

Commissioner Wheeler recalled talking with Representative Poppell who told him that regardless of what the Board decided they would be starting construction on the 66<sup>th</sup> Avenue to 82<sup>nd</sup> Avenue segment in 2009; so the State is going to move ahead with that link within two (2) years whether or not we put this money out for it.

**Mr. Mechling** felt the economic vitality of our County would have a toppling effect if they stopped the process, and urged the Board to keep this alive.

Commissioner Wheeler commented that if the State was going to do this in two (2) years why should we front the money now.

**Mr. Mechling** interjected that it would be to keep our local economy alive so that we can keep ourselves moving forward.

Commissioners and staff discussed whether the 66<sup>th</sup> Avenue to 82<sup>nd</sup> Avenue segment would still be in the five-year plan if they did not fund this project now. They also discussed the State's 3-year versus the 5-year plan, proportionate share concept and interest involved.

**Joseph Schulke**, Civil Engineers of Schulke, Bittle & Stoddard, LLC, Vero Beach, addressed Commissioner Wheeler's Motion for voting for the project today. He said that he felt like Commissioner Wheeler had given up and/or did not believe that staff or the local community could find a solution. He asked the Board not to vote today but to give staff directive to work towards finding a solution.

**Wayne Kleinstiver**, 4080 8<sup>th</sup> Place, did not think the Board should vote on this today but should look towards the economic impact on the County in the future.

**Joseph Paladin**, 6450 Tropical Way, asked if the County was guaranteed to get its money back and Administrator Baird replied affirmatively noting that it was specified in the Agreement with the State. Mr. Paladin commented that if the Board decided to solve this matter they would need to look at the big picture like Highway 1 (U.S.1) and make a package deal out of it. He could not support the idea of not being paid interest on the money advanced and felt the County should hold on to its money because they were going to need it once they start building roads. He felt the Board needed

to consider all the parameters and keep an open mind towards “crawls” because that was the only way they were going to answer all these questions.

**Bob Swift**, 6450 Glendale Road, questioned comments that there was one link that currently exceeds capacity. He stated that the County’s definition of capacity was too low and that the roads can carry more cars than its capacity limitations indicate. **Chairman Neuberger** informed him they were talking about capacity at the County’s level of service and not at gridlock. **Mr. Swift** concluded asking the Board to take a long look before they make any decisions.

**Richard Bialoski**, Oyster Shell Lane, Vero Beach, suggested the Board give the State time to respond and then have a conference or workshop about “crawls” with consultants, traffic engineers and transportation planners.

**Donna Keys**, Planning & Zoning Commission Chairperson, asked the Board for guidelines on what to do when the next project comes up before Planning & Zoning regarding counting trips, despite any decision made.

Commissioner Wheeler questioned what would happen if the Motion passed and there was no more counting or if it failed and they moved forward with it. Administrator Baird responded that if they made the decision to move forward then staff would have to look at trying to make it work. He also thought the only solution could be that they make anyone who affects the trips on Route 60 pay their proportionate share of the interest cost.

Commissioner Davis felt they needed to add “and US.1” to recommendation. Although the Board discussed and felt it was not the same issue, Commissioner Davis still sees it as one and the same, hoping that they would be addressed and go forward together. Chairman Neuberger thought they should have a separate workshop to discuss US.1 and they should only discuss SR 60.

Commissioner Davis wanted to see some clear direction in four (4) months and would support Commissioner Wheeler's Motion even if he did not amend it to four (4) months.

Commissioner Lowther read a section of the backup regarding "the benefits of accelerating construction ...", stating that he did not think they would want to lower the level of service.

Commissioners Bowden and Lowther agreed that they need to stop the 'flip-flopping' as they have talked this over already.

**Mr. Mechling** again entreated the Board not to lose the vision of the future but have a concept of where this County is going economically.

Chairman Neuberger agreed that they needed to keep this going stating that they could have a workshop to talk about this.

The Board and staff indulged in lengthy and involved discussions on whether there was a time-frame to have this done, the reasons Administrator Baird put this on the Agenda, and whether they could leave the trips off if they extended this for sixty (60) days. Attorney Collins provided legal opinion on whether or not they could count capacity, funded or not, for the two segments (66<sup>th</sup> Avenue to 82<sup>nd</sup> Avenue).

Administrator Baird recommended that they go for six (6) months because it puts pressure on the State Legislature to give us money to help solve the problem. He felt they would need another Motion if they wanted to count or add trips.

Commissioner Wheeler felt they should first straighten out things with the money, and decide if they are going to allow or freeze more trips. Discussion ensued on whether to do this in three (3) years versus one (1) year. Administrator Baird said they could opt to table this item and give staff 30-45 days to come back with a formula that anyone who ties on that link pays the interest cost and



they would not put any trips on for 30 days. More discussion followed on whether to grant the forty-five (45) days, freeze trips, and come up with a solution.

Administrator Baird thought they should give time to have a plan to try and recoup the interest cost to a developer's agreement and stated that they were all going to work hard at getting State Legislators to help pay for Route 60 and US.1.

Commissioner Wheeler WITHDREW his prior Motion.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Bowden, to table this item for 45 days to give staff time to come back with reasonable solutions, on condition that the trip generation that this resolution allows be frozen.

Commissioner Wheeler added that the 45-day period was an opportunity for people to go out and deal with State Legislators. He thought maybe the State could fund this and that is what he would like to see.

There were no further discussions.

The Chairman CALLED THE QUESTION and the Motion carried unanimously (5-0)

*The Chairman called a break at 2:04 p.m., and reconvened the meeting at 2:14 p.m. with Commissioner Wheeler absent.*

**2. Consideration of Impact Fee Update Consultant Selection Committee Recommendation and Request for Authorization for the Board Chairman to Sign the Impact Fee Update Consultant Services Contract**

Community Development Director Bob Keating recapped prior actions and provided a current status report on this request. He asked the board to approve staff's recommendations.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Wheeler absent) (1) approved the Consultant Selection Committee's proposed ranking; (2) authorized staff to negotiate a contract with the number one ranked Firm; (3) authorized the Chairman to execute an Impact Fee Update Consultant Contract if staff can negotiate a contract at or below the project's budgeted cost of \$150,000.00; and (4), authorized the Community Development Director to sign any subsequent forms/items as needed, all as recommended in the memorandum of September 25, 2006.

- B. EMERGENCY SERVICES - NONE**
- C. GENERAL SERVICES - NONE**
- D. HUMAN RESOURCES - NONE**
- E. HUMAN SERVICES - NONE**
- F. LEISURE SERVICES - NONE**
- G. OFFICE OF MANAGEMENT AND BUDGET - NONE**
- H. RECREATION - NONE**
- I. PUBLIC WORKS**
  - 1. Heron Cay Drainage**

Public Works Director Jim Davis recapped his memorandum of September 25, 2006 regarding a request to staff to investigate the presence of standing water beneath several manufactured homes in Heron Cay. He asked the Board to give consideration to the information presented and to approve the Consultant Selection Committee's proposed ranking (pages 515-517 of Backup).

**Steve MacNamee**, 428 Bimini Cay Circle, discussed the problems faced in his community with water settling under mobile homes. They were told that the system that removes the water from the lakes takes care of the water and channels it out of the lakes and into drainage ditches. (He showed pictures of water under homes north of Queen Drive).

Chairman Neuberger inquired when the pictures were taken and Mr. MacNamee responded “right after the two hurricanes.”

**Mr. MacNamee** apprised the Board of State Law that dictates that there should be no accumulation of water under mobile houses, and informed them that all he was asking for is relief. He read parts of a letter from St. John Water Control District pointing out that the property owner is responsible for the drainage of the entire project. He noted that operators have, in the past, put boots on the end of downspouts to lead the water to drains.

Discussion ensued regarding control elevation and elevation of 12<sup>th</sup> Street.

**Mr. MacNamee** showed pictures of what happens to the water from a normal rain flow.

**Mr. MacNamee** responding to the Chairman’s question as to what he wanted the Board to do, said that Judge Hawley had said he wanted the Code Enforcement Board to take into consideration all the things they have (photographs etc.) and he would designate what could be fixed, but Code had done nothing.

County Attorney William Collins addressed the matter on behalf of the Code Board and updated the Board on prior actions by the Code Board in handling this matter. The facts they have from Surveys do not support any violations to bring to Code Enforcement, he said.

Discussion ensued on what was deemed a code violation and where property owners would go for relief.

Chairman Neuberger was not sure what the County was supposed to do since the Code Board found no violations. Attorney Collins explained that it had not gone to Code Enforcement because staff had no evidence that there were violations.

**Mr. MacNamee** believed they should have a Code Enforcement hearing and then take the matter to a judge to make a final decision. Attorney Collins did not see how they could send it to the Code Board without a good faith violation.

MOTION WAS MADE by Commissioner Lowther, SECONDED by Commissioner Neuberger, that manufactured homes (with water under them) that have been in after the 1990 Rule would be the explicit homes that come before the Code Enforcement Board.

**Gwen Ripp**, President of the Heron Cay Homeowners Association, said this did not affect all homeowners in the Park so the Association did not have a specific responsibility to address it. She, however, questioned Code stipulation regarding stormwater drainage systems and felt the system should take the water around the house into drains and not under it, and that meant having a swale between homes. She believed putting more sand or extending downspouts would not correct the problem, and it was the park owner's responsibility to maintain stormwater drainage systems.

**Dan Perry**, Attorney representing Park Owners, explained that what happened was a code enforcement action that was brought against the park owner asserting that there was something wrong with the way the development was built. He believed the property ought to be surveyed and it was really a landlord/tenant issue.

Commissioner Bowden addressed the two recommendations from staff stating the County spent over \$18,000.00 to add sand underneath the units and to extend roof gutters, and asked if the Park owner would be willing to do this.

**Attorney Perry** responded that the gutters belong to homeowners and it is their responsibility. He said they were willing to provide sump pumps to help alleviate the problem, which he felt resulted

from no swales being between the houses for the water to run off. He promised to work with residents and help as much they could.

Commissioner Lowther AMENDED HIS MOTION to have documentation come back to the board in 45 days from the owner that they are in compliance or that there is some sort of resolution to the problem. (*Clerk's Note: There was no SECOND to this Motion Amendment.*)

More discussion ensued regarding code enforcement action with Attorney Collins again explaining the code enforcement process.

**Attorney Perry** proposed that the code enforcement action be dismissed and they would get rid of the Injunction and try to work with owners and be back before the Board in 45 days. He felt there was no basis for a code enforcement action.

There was also discussions on who would maintain the pumps placed under homes when residents are away, drainage problems and whose responsibility it was. Administrator Baird believed under the houses and downspouts were owners' responsibility and while he appreciated the concern, felt they were getting into private property rights.

Community Development Director Roland DeBlois explained the criteria for taking this to the Code Enforcement Board.

Commissioner Davis asked if it was illegal or against County code for water to be under a mobile home. Attorney Collins explained jurisdictional responsibilities and Mr. MacNamee read provisions of the 1985 Prospectus regarding storm sewer system.

Chairman Neuberger noted that that would mean they have a problem with the developer and felt both parties needed to work this out on their own.

**Attorney Perry** would be glad to meet with Mr. MacNamee in thirty (30) days to see what they could sort out.

No Board Action Taken.

**11.I.2. Florida Department of Transportation, Joint Participation Agreement Amendment No. Two to FDOT Agreements, Contract Nos. ANW-75 (Hurricane Frances) and ANX-78 (Hurricane Jeanne)**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Alternative 1, approving Amendment No. 2 to FDOT Agreements, Contracts Nos. ANW-75 (Hurricane Frances) and ANX-78 (Hurricane Jeanne) and authorized the Chairman to execute the contracts, as recommended in the memorandum of September 18, 2006.

**11.I.3. Professional Engineering Services Agreement, CR 512 Corridor Improvements – IRC Project No. 9611 Addendum No. 12 (Masteller & Moler, Inc.)**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Addendum No. 12 in the amount of

\$5,875.00, amending Task II of Addendum #10 to include charges for Environmental Services, Inc., not previously billed for additional services for permitting for CR 512, Phase III Roadway improvements per letter from Environmental Services, Inc., as recommended in the memorandum of September 13, 2006.

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

**11.I.4. Amendment No. 4 to the Professional Services Agreement with Carter Associates, Inc. for Roadway Improvements, 66<sup>th</sup> Avenue from 4<sup>th</sup> Street to SR 60 – IRC Project No. 9810**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Alternative No. 1, approving Amendment No. 4 to the Professional Services Agreement for 66<sup>th</sup> Avenue Paving and Drainage Improvements with Carter Associates, Inc., as recommended in the memorandum of September 27, 2006.

AMENDMENT NO. 4 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD



**11.I.5. CR 512 Phase III, CR 510 – Project #9611 & 0001, Bid Number 2006065, Change Order #5**

Commissioner Davis asked if this would also mean fixing the traffic lights in front of Sebastian River High School. He wanted an estimate of the time in getting this done.

Public Works Director Jim Davis explained that this has to do with some conduits and the project would provide inter-connect conduits for the traffic signals so they all work in coordination. It would be about a year from now before the project is complete and all the signals are in, he said.

Commissioner Bowden asked whether about Indian River Boulevard was completed. She agreed that staff could take some time to look into it and get back to her.

Commissioner Davis stated that the traffic situation as it is right now is slowing things down, and if staff could get the lights working as soon as possible he would appreciate it.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Change Order No. 5 increasing the contract amount by \$125,931.97 with funding from account specified, as recommended in the memorandum of September 25, 2006. The new contract amount will now be \$13,748,262.60.

**11.I.6. Amendment No. 1 to the Professional Civil Engineering Services Agreement for Civil Engineering and Bridge Design Services with Bridge Design Associates, Inc. RFQ 7058**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Amendment No. 1 to the Professional Services Agreement for Bridge Design Services with funding as specified and as recommended in the memorandum of September 12, 2006.

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

**11.I.7. Addendum No. 2 Work Order No. 6 (Engineering/Survey) Kings Highway Extension, South, Phase 1. Oslo Road through 21<sup>st</sup> St. SW, Topographic/Design Survey**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board by a 4-0 vote (Commissioner Wheeler absent) approved Addendum No. 2 to Work Order No. 6 for \$33,885.00 authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute said Addendum, as recommended in the memorandum of September 20, 2006.

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

**11.I.8. Amendment No. 3 to the Civil Engineering and Land Surveying Agreement for Intersection Improvements at 58<sup>th</sup> Avenue and SR 60 Thoroughfare Network Analysis and Traffic Modeling Study**

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

Commissioner Lowther inquired whether this would include a network analysis for College Lane as well. Assistant Public Works Director Chris Mora answered affirmatively noting that they would be looking at additional north/south roads on either side of SR 60.

The Chairman CALLED THE QUESTION and the Board by a 4-0 vote (Commissioner Wheeler absent) approved Alternative 1 authorizing the Chairman to execute Amendment No. 3 for a total lump sum fee of \$37,200.00 with Kimley-Horn and Associates, Inc., for professional engineering and survey services, as recommended in the memorandum of September 25, 2006. The new contract amount is \$561,340.00.

AMENDMENT NO. 3 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**9. Property Acquisition, 7135 66<sup>th</sup> Avenue – 66<sup>th</sup> Avenue Widening and Improvements County Project No. 0417, Justo Manuel Hernandez & Blanca Lleo Hernandez, Seller**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board by a 4-0 vote (Commissioner

Wheeler absent) approved Option 1, approving the transaction and leaseback, allowing the 66<sup>th</sup> Avenue widening project to commence and approved the \$338,000.00 purchase, plus payment of the pre-payment penalty not to exceed \$8,947.20, and the leaseback, and authorized the Chairman to execute the Agreement to Purchase and Sell Real Estate and accompanying Lease, as recommended in the memorandum of September 14, 2006.

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

**11.J. UTILITIES SERVICES - NONE**

**12. COUNTY ATTORNEY**

**A. REQUEST FROM ADRIAN REAL ESTATE INVESTMENTS II, LLC  
FOR MODIFICATION TO NOTE AND MORTGAGE FOR INFRASTRUCTURE  
FOR THE INDIAN RIVER PARK OF COMMERCE**

Assistant County Attorney William DeBaal recapped prior actions taken on this matter which included a \$1.5 million loan to Adrian Real Estate Investments II, LLC, approved by the Board in May 2006 for use on infrastructure installation. Adrian has now offered to include two (2) other properties in what they would call a “spreader mortgage”. The downside for the County is we would take third position and on the upside there is a much larger land value involved. Attorney DeBaal restated the recommendation, which is to consider Adrian’s proposed new spreader mortgage (as outline in the memorandum of September 27, 2006) and keep the existing mortgage in place and unchanged.

Administrator Baird expressed, for the record, that “staff does not recommend doing this.”

**Brian May**, Chief Operating Officer with Adrian Development Group, clarified certain things for the record. He said the County is in third position behind \$11 million of debt and what occurred at their end was a mistake on their bank’s (Ocean Bank’s) part, which he explained. He wanted to offer an amendment/revision to their request which would involve two aspects: (1) they are willing to reduce the term from ten (10) years to six (6) years; and (2) they are also willing to convert this loan from an interest free loan (currently) to a 5% interest rate on any portion that is outstanding. So in exchange for the County taking a different risk profile Adrian Group would be willing to make those concessions in order to move this forward.

*(Clerk’s Note: Commissioner Wheeler rejoined the meeting at 3:30 p.m.)*

Discussion ensued and Administrator Baird did not see the same “upside” that the County Attorney sees and upheld staff’s recommendation on the matter, saying that he did not think they should weaken the County’s position with the public’s money for a 5% interest as they could lose a million dollars. They also discussed and presented scenarios of what could happen if this falls apart completely.

**Mr. May** clarified comments and defended the Group’s proposals.

Assistant County Administrator Mike Zito in support of staff’s recommendation asked why would the bank not be attracted to additional collateral that was now being offered to the County over the “spreader agreement”, noting that the bank should be just as attracted to it as the County and if it is right for the County it is right for the bank.

Chairman Neuberger suggested they could postpone this until everyone had gotten together to discuss it.

Administrator Baird responded that they have had discussions and Adrian Group did not like our answer. He again wanted the record to reflect "... that if anything goes wrong on this one, staff did not recommend this."

**Mr. May** understood the fundamental principle of not wanting to move from a stronger position to a slightly less position.

Commissioner Davis understood Mr. May's arguments, but thought they should look at whether they were making the loan to Adrian Development to get a higher interest rate, to get the money back sooner, or to force an economic development in the industrial park. Although it is for economic development as a Commissioner he was more concerned about "the bird in the hand" which is taxpayers millions. He felt where the backup mentions 'recommendations' it should read 'options'.

**Mr. May**, in his defense, informed the Board that if they voted this down Adrian Group would have to return the money, there would be no more loan, and they would still have to deal with restrictions in the Park.

Chairman Neuberger thought a lot of this was over their heads, but would agree to go with his financial advisor Administrator Baird.

Discussion ensued regarding chances of losing the money, debt coverage ratio, whether the properties were over or under leverage and not having enough information to determine the chances of losing the money.

**Mr. May** had no problem with the matter being tabled.

MOTION WAS MADE by Commissioner Lowther, SECONDED by Commissioner Neuberger, to table this item for 45 days.

Commissioner Wheeler wanted to make Motion to keep existing mortgage in place and leave it unchanged, as we are not in the banking business.

Chairman Neuberger agreed they needed to take a further look at this and have more detailed information.

The Chairman CALLED THE QUESTION and by a 3-2 vote (Commissioners Wheeler and Bowden opposed) the Motion carried to table this item for 45 days allowing staff to further study the request and provide additional information to the Board.

### **13. COMMISSIONERS ITEMS**

#### **A. COMMISSIONER ARTHUR R. NEUBERGER, CHAIRMAN**

##### **1. Request for a Resolution Supporting a Special Session to Study and Enact Legislation to Address the Current Insurance Crisis in Florida**

Attorney Collins noted that there was a resolution from Collier County and one from Hernando County and they were identical. He felt they could just change the name to Indian River and have the Chairman change it without bringing it back.

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

Resolution 2006-156 (to be prepared by the County Attorney's Office) supporting a Special Session to study and enact legislation to address the current insurance crisis in Florida.

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

**C. COMMISSIONER SANDRA L. BOWDEN - NONE**

The County Administrator provided a "great" Request Form that Commissioner Bowden wanted to put in use from this point on.

MOTION WAS MADE by Commissioner Bowden, SECONDED by Commissioner Neuberger, to start using the "Request Form" for public discussion items.

The form would provide more insight into what each speaker would be addressing (under "Public Discussion Items") thus enabling County staff to better prepare and provide more detailed responses. Commissioner Davis did not mind using the form but did not want to make it a requirement.

The Chairman CALLED THE QUESTION and the Motion carried 4-1 (Commissioner Davis opposed).

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



*E. COMMISSIONER THOMAS S. LOWTHER - NONE*

**14. SPECIAL DISTRICTS AND BOARDS**

*A. EMERGENCY SERVICES DISTRICT – NONE*

*B. SOLID WASTE DISPOSAL DISTRICT - NONE*

*C. ENVIRONMENTAL CONTROL BOARD - NONE*

**15. ADJOURNMENT**

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

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 3:51 p.m.

ATTEST:

\_\_\_\_\_  
Jeffrey K. Barton, Clerk  
Minutes Approved: \_\_\_\_\_  
AA

\_\_\_\_\_  
Gary C. Wheeler, Chairman