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OF BOARD OF COUNTY COMMISSIONERS
OF OCTOBER 24, 2006

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October 24, 2006

REGULAR MEETING OF THE BOARD OF COUNTY
COMMISSIONERS

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1840 25th Street, Vero Beach, Florida, on Tuesday, October 24, 2006, at 9:00 a.m. Present were Chairman Arthur R. Neuberger, Vice Chairman Gary C. Wheeler, Commissioners Sandra L. Bowden, Wesley S. Davis and Thomas S. Lowther. Also present were County Administrator Joseph Baird, County Attorney William G. Collins II, Executive Aide to the Board Kimberly Massung, and Deputy Clerk Maria I. Suesz.

1. CALL TO ORDER

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

2. INVOCATION

Reverend Ray Huddle, Church of Redeemer Lutheran Church delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Sandra L. Bowden 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. Additional Backup: Item 9.A.2 – Letter from William E. Miller
2. Deletion: Item 12.A – Waterway Village
3. Addition: Item 13.A – Points of Light Reception

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 GUSTAV (GUS) POST ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS, FOR SIXTEEN YEARS SERVICE, DEPARTMENT OF GENERAL SERVICES, BUILDINGS & GROUNDS DIVISION

Chairman Neuberger read and presented the Proclamation and Retirement Award to Gustav Post.

5.B. PRESENTATION OF PROCLAMATION HONORING LORRAINE POST ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS, FOR SEVENTEEN YEARS SERVICE, DEPARTMENT OF UTILITY SERVICES, CUSTOMER SERVICE DIVISION

Chairman Neuberger read the Proclamation and presented the Retirement Award to Lorraine Post who accepted the Award.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF SEPTEMBER 12, 2006

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 12, 2006, as written and distributed.

6.B. SEPTEMBER 12, 2006 – CONTINUED PUBLIC HEARING - TREVISO

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously approved the Minutes of the Continued Public Hearing - Treviso Meeting of September 12, 2006, as written and distributed.

6.C. SEPTEMBER 26, 2006 – JOINT SCHOOL CONCURRENCY WORKSHOP

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 Joint School Concurrency Workshop of September 26, 2006, as written and distributed.

7. CONSENT AGENDA

Commissioner Davis requested Item 7.FF. be pulled for discussion.

7.A. 4 LAKES L.L.C.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS 4 LAKES

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously granted the final plat approval for 4 Lakes Subdivision, as recommended in the memorandum of October 13, 2006.

7.B. MR. MICHAEL STASZEWSKI'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS STASZEWSKI SUBDIVISION

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously granted the final plat approval for Staszewski Subdivision, as recommended in the memorandum of October 13, 2006.

7.C. WINDSOR PROPERTIES, INC.'S REQUEST FOR RELEASE OF EASEMENTS ON LOTS 2, 3, 4 & 5, BLOCK 21, OF WINDSOR PD PHASE III (Administrative)

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-160**, releasing common easements on lots 2, 3, 4 & 5, block 21, Windsor PD Phase III.

7.D. JOHN REXFORD'S REQUEST FOR PARTIAL RELEASE OF EASEMENTS AT 630 EAST POINT COURT SW

**(LOTS 33 & 34, PRESERVATION POINTES PD PHASE
II – TIMBER RIDGE PRD) (Administrative)**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-161**, releasing portions of easements on lots 33 and 34 of Preservation Pointes Phase II (Timber Ridge PRD).

**7.E. LENNAR COMMUNITIES OF SOUTH FLORIDA INC.'S
REQUEST TO REPLAT PORTIONS OF VERONA TRACE
SUBDIVISION AND THE VILLAS AT VERONA TRACE**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously granted approval for the Replat of Verona Trace Subdivision and The Villas at Verona Trace, as recommended in the memorandum of October 13, 2006.

**7.F. CONSIDERATION OF REVISED INDIAN RIVER
COUNTY LOCAL HOUSING ASSISTANCE PLAN FOR
FISCAL YEARS 2006-07 THROUGH 2008-09**

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

Resolution 2006-162, approving the County's revised Local Housing Assistance Plan for FY 2006-2007, 2007-2008 and 2008-2009.

REVISED LHIP PLAN ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.G. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT FOR IRC BID #206104 WINTER BEACH PARK WATER ASSESSMENT PROJECT, UTILITIES DEPARTMENT

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously awarded the Bid to Underground Utilities, Inc., as the lowest most responsive bidder meeting the specifications as set forth in the Invitation to Bid; approved the sample agreement; and authorized the Chairman to execute said agreement when required performance and payment bonds have been submitted along with appropriate certificate of insurance and the County Attorney has approved the agreement as to form and legal sufficiency, as recommended in the memorandum of October 4, 2006.

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

**7.H. APPROVAL OF BID AWARD FOR IRC BID #2007013
ANNUAL BID FOR ZINC ORTHOPHOSPHATE,
UTILITIES DEPARTMENT**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously awarded the Bid to Calciquet, Inc. (in the amount of \$23,472.00) as the lowest and most responsive bidder meeting the specifications as set forth in the Invitation to Bid; authorized the Purchasing Division to issue blanket purchase orders for the period of October 1, 2006 through September 30, 2007 with the recommended vendor; and 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 October 3, 2006.

**7.I. POST HURRICANES FRANCIS & JEANNE
EMERGENCY DUNE RESTORATION – SECTORS 3
AND 5, FINAL PAYMENT AND FULL RELEASE OF
RETAINAGE, RANGER CONSTRUCTION INDUSTRIES,
INC**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the final payment and application for release of the retainage to Ranger Construction Industries, Inc. in the amount of \$463,662.71 with funding as specified and as recommended in the memorandum of October 10, 2006.

7.J. JUNGLE TRAIL SHORELINE STABILIZATION PROJECT, FINAL PAYMENT AND FULL RELEASE OF RETAINAGE FOR LUCAS MARINE CONSTRUCTION, LLC

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the final payment and application for release of the retainage in the amount of \$27,173.91 for Lucas Marine Construction, LLC, with funding as specified as recommended in the memorandum of October 16, 2006.

7.K. APPROVAL OF WORK ORDER NO. 3-RR FOR THE ROCKRIDGE SUBDIVISION SURGE PROTECTION PROJECT

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 3-RR with Malcolm Pirnie, Inc. and authorized the Chairman to execute same, as recommended in the memorandum of October 12, 2006.

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

7.L. FINAL PAYMENT – ADDENDUM NO. 12 (MASTELLER & MOLER, INC) PROFESSIONAL ENGINEERING SERVICES AGREEMENT, CR 512 CORRIDOR IMPROVEMENTS – IRC PROJECT NO. 9611

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved payment to Masteller & Moler, Inc. in the amount of \$5,875.00 for final and full payment for Addendum No. 12, as recommended in the memorandum of October 6, 2006.

7.M. RIGHT-OF-WAY ACQUISITION, CHARLES W. AND KATHLEEN M. BEHLER, POWERLINE ROAD (70TH AVENUE), PARCEL I.D. #30-39-31-00000-0500-00014.0

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved \$9,100.00 for purchase from Charles W. and Kathleen M. Behler, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of October 4, 2006.

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

7.N. REQUEST FOR RELEASE OF RETAINAGE FOR KIMLEY-HORN AND ASSOCIATES, INC., 4TH STREET BRIDGE REPLACEMENT OVER COOCH DITCH (35TH AVENUE), IRC PROJECT NO. 0209

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the release of retainage to Kimley-Horn and Associates, Inc. in the amount of \$3,507.82, as recommended in the memorandum of October 17, 2006.

7.O. PARTIAL RELEASE OF RETAINAGE OF THE PROFESSIONAL ENGINEERING / LAND SURVEYING SERVICES FOR THE 5TH STREET SW BRIDGE OVER LATERAL "C" CANAL AND 43RD AVENUE BRIDGE OVER SOUTH RELIEF CANAL

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the release of retainage to Bridge Design Associates, Inc. in the amount of \$12,771.25, as recommended in the memorandum of October 10, 2006.

7.P. OSLO ROAD BRIDGE REPLACEMENTS AND ROADWAY WIDENING ENGINEERING SERVICES PARTIAL RELEASE OF RETAINAGE

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the release of retainage to Kimley-Horn and Associates, Inc. in the amount of \$21,085.28, as recommended in the memorandum of October 10, 2006.

7.Q. INDIAN RIVER COUNTY PUBLIC WORKS MAINTENANCE COMPLEX, PROFESSIONAL ARCHITECTURAL / ENGINEERING SERVICES CONTRACT, FINAL PAYMENT AND RELEASE OF RETAINAGE

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved final Payment and Release of Retainage to Hanson Professional Services, Inc. in the amount of \$65,088.06, as recommended in the memorandum of October 11, 2006.

7.R. AMENDMENT NO. 3 TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT FOR 43RD AVENUE ROADWAY AND DRAINAGE IMPROVEMENTS FROM 8TH STREET TO 18TH STREET

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Alternative #1, authorizing the Chairman to execute Amendment No. 3 of the Agreement with Carter Associates, Inc., as recommended in the memorandum of October 16, 2006.

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

7.S. TRI-PARTY SUBLEASE AGREEMENT AMONG VERIZON WIRELESS, CINGULAR WIRELESS, AND INDIAN RIVER COUNTY FOR CO-LOCATION ON TOWER AT SOUTH COUNTY RO PLANT, OSLO ROAD

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Tri-Party Sublease Agreement among Verizon Wireless Personal Communications LP d/b/a Verizon Wireless, New Cingular Wireless PCS, LLC, d/b/a Cingular Wireless, and Indian River County, as recommended in the memorandum of October 17, 2006.

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

7.T. CONTRACT FOR LEGAL SERVICES FOR EMINENT DOMAIN CASES

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the contract and retention of Dorman and Gutman as one of the firms under contract for eminent domain cases, as recommended in the memorandum of October 17, 2006.

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

7.U. PROPOSED SETTLEMENT OF BROWN & BROWN, INC. D/B/A/ PREFERRED GOVERNMENTAL SOLUTIONS V. INDIAN RIVER COUNTY, CIRCUIT COURT CASE 2005-0223-CA-03

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously accepted the mediated settlement amount of \$72,500.00 in full and final resolution of the case, as recommended in the memorandum of October 18, 2006.

**7.V. THE OAKS OF VERO - P.D., PHASE 2, DEVELOPER:
SDG KINGS, INC. (BRET SOVEREL, PRESIDENT),
REQUEST FOR MODIFICATION TO CONTRACT FOR
CONSTRUCTION OF REQUIRED IMPROVEMENTS
AND CONTRACT FOR CONSTRUCTION OF
REQUIRED SIDEWALK IMPROVEMENTS**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Modification to Contract for Construction of Required Improvements No. PD-01-06-15-CFC (2000100085-44643) providing for the substitution of security by Mercedes Homes, Inc. on behalf of SDG Kings, Inc. in the form of a Bank of America, N.A. irrevocable letter of credit in the amount of \$192,670.51 and Modification to Contract for Construction of Required Sidewalk Improvements No. PD-01-06-15-SIDECFC (20000100085-44643) providing for the substitution of security

of Mercedes Homes, Inc. on behalf of SDG Kings, Inc. in the form of a Bank of America, N.A. irrevocable letter of credit in the amount of \$67,613.25, and authorized the Chairman to execute same, as recommended in the memorandum of October 6, 2006, 2006.

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

**7.W. BROOKFIELD AT TRILLIUM PHASE “A”,
DEVELOPER; WOODSIDE TRILLIUM, LLC (WILLIAM
HANDLER, MANAGER), MODIFICATION TO
CONTRACT FOR CONSTRUCTION OF REQUIRED
SIDEWALK IMPROVEMENTS**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Modification to Contract for Construction of Required Sidewalk Improvements No. SD-04-03-15-SIDE (2002040022-38116); and authorized the Chairman to execute same, to extend the completion date to July 6, 2008 and reduce the amount of cash from \$43,225.00 to \$6,885.00, as recommended in the memorandum of October 9, 2006.

**7.X. STONEYBROOK FARM, DEVELOPER:
STONEYBROOK FARMS GROUP, L.L.C.
RATIFICATION OF SECOND MODIFICATION TO
CONTRACT FOR CONSTRUCTION OF REQUIRED
IMPROVEMENTS**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously ratified the Second Modification to Contract for Construction of Required Improvements No. SD-04-05-17-CFC (2003110240-46697) for Stoney Brook Farm, Developer: Stoneybrook Farms Group, L.L.C., as recommended in the memorandum of October 9, 2006.

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

**7.Y. HYDRAULIC IMPROVEMENTS TO LIFT STATION NO.
109 AND UPGRADES OF LIFT STATION NO. 108 AND
LIFT STATION NO. 115, BID NO. 2006013, APPROVAL
OF FINAL PAYMENT TO CONTRACTOR AND
RELEASE OF RETAINAGE, UCP #2493**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the total project cost of \$132,500.00 and approved Application for

Payment No. #3 – Final as final payment to the Contractor, Underground Utilities, Inc., in the amount of \$12,587.50, as recommended in the memorandum of September 21, 2006.

7.Z. RELEASE OF PARTIAL RETAINAGE WITH INDIAN RIVER INDUSTRIAL CONTRACTORS FOR THE CENTRAL PLANT EXPANSION UCP #2347 AMENDMENT 2 TO BID NO. 7029

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Amendment No. 2 to Bid 7029 to Indian River Industrial Contractors, Inc. for reducing the retainage to \$10,000.00 and execute same, as recommended in the memorandum of October 5, 2006.

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

7.AA. PROCLAMATION HONORING BETTY M. BOGER ON HER RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS, FOR TEN YEARS OF SERVICE, DEPARTMENT OF UTILITY SERVICES, CUSTOMER SERVICE

The Board noted the Proclamation for the record.

**7.BB. ACCEPTANCE CHANGE ORDER NO. 17, FOR THE
NEW COUNTY ADMINISTRATION BUILDINGS**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized the County Administrator to execute Change Order No. 017 which will then result in a decrease in the GMP of \$322,070.00 and an increase to the Owner's Contingency in the amount of \$19,475.00, as recommended in the memorandum of October 18, 2006.

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

7.CC. MICROSOFT ENTERPRISE AGREEMENT

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Microsoft Enterprise Agreements, and authorized the County Administrator to sign same, as recommended in the memorandum of October 17, 2006.

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

7.DD. MISCELLANEOUS BUDGET AMENDMENT 002

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-163** amending the fiscal year 2006-2007 Budget.

7.EE. CONTINUING SERVICES FOR WATER AND WASTEWATER ENGINEERING CONSULTANTS REQUEST FOR QUALIFICATIONS

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the solicitation of Request for Qualifications for Continuing Consulting services, as recommended in the memorandum of October 10, 2006.

7.FF. COMMISSION AGENDA PUBLIC DISCUSSION FORM

Commissioner Davis did not want the Public Discussion Request Form (copy on file) to prohibit anybody from speaking at a Commission meeting.

MOTION WAS MADE by Commissioner Davis to change the word “shall” to “should” on the Public Discussion Request Form. The MOTION FAILED for lack of a second.

Commissioner Bowden reminded the Board they agreed to hear any discussion, but they would not be voting on any public discussion issues.

Commissioner Davis felt they should not have to use this form just to speak to the Board.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, by a 4-1 vote (Commissioner Davis opposed) the Board approved the “Public Discussion Request Form” for requests to be added to the agenda under Public Discussion Items, as recommended in the memorandum of October 11, 2006.

7.GG. THIRD PARTY CLAIMS ADMINISTRATION AGREEMENT

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the one year extension of the agreement with Johns Eastern Company, Inc. (JEC) to perform third party claims administration services for the self- insurance program, as requested in the memorandum of October 12, 2006.

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

**7.HH. OUT OF COUNTY TRAVEL TO ATTEND PROPERTY
TAX – HOMESTEAD & SAVE OUR HOMES
PORTABILITY WORKGROUP MEETING**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized out-of-county travel for Commissioner Davis and appropriate County staff to travel to Orlando on Wednesday, November 1, 2006 to attend a meeting of the Florida Association of County Property Tax – Homestead and Save our Homes Portability Workgroup, as recommended in the memorandum of October 18, 2006.

**7.II. OUT OF COUNTY TRAVEL TO ATTEND THE FLORIDA
ASSOCIATION OF COUNTIES 2007 LEGISLATIVE
CONFERENCE**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized out-of-county travel for Commissioners and Staff to attend the Florida Association of Counties 2007 Legislative Conference held November 29 – December 1, 2006 at the Sandestin Golf and Beach Resort in Walton County, as recommended in the memorandum of October 9, 2006.

**7.JJ. OUT OF COUNTY TRAVEL TO ATTEND THE 2007
NATIONAL CONFERENCE ON BEACH
PRESERVATION TECHNOLOGY**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized out of county travel for Commissioners and staff to attend the 2007 National Conference on Beach Preservation Technology to be held January 24-26, 2007, at the Bahia Mar Hotel in Ft. Lauderdale, as recommended in the memorandum of October 9, 2006.

**7.KK. OUT OF COUNTY TRAVEL TO ATTEND THE
NATIONAL HURRICANE CONFERENCE**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized out-of-County travel for Commissioners and staff to attend the 2007 National Hurricane Conference to be held on April 2-6, 2007 in New Orleans, LA, as recommended in the memorandum of October 9, 2006.

**7.LL. 2006 ELECTION OF AGRICULTURE ADVISORY
COMMITTEE VICE CHAIRMAN**

The Board noted for the record the election of William C. Graves, IV as Vice Chairman of the Committee for the remainder

of the year 2006, replacing Mark Sanchez who resigned May 2, 2006.

7.MM. RESOLUTION URGING THE FLORIDA LEGISLATURE TO CALL A SPECIAL SESSION TO STUDY AND ENACT LEGISLATION ADDRESSING THE INSURANCE CRISIS IN FLORIDA

The Board noted **Resolution 2006-156** as written for the record.

7.NN. 2006 ELECTION OF SCHOOL PLANNING CITIZENS OVERSIGHT COMMITTEE CHAIRMAN AND VICE CHAIRMAN

The Board noted for the record the re-election of Charles Searcy as Chairman and Peter Robinson as Vice Chairman of the School Planning Citizens Oversight Committee for the year 2006.

7.OO. APPROVAL OF WARRANTS – SEPTEMBER 29 – OCTOBER 5, 2006

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the list of warrants issued by the Clerk to the Board for the time period of September 29, 2006 to October 5, 2006, as recommended in the memorandum of October 5, 2006.

7.PP. APPROVAL OF WARRANTS – OCTOBER 6 – 12, 2006

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the list of warrants issued by the Clerk to the Board for the period of October 6, 2006 to October 12, 2006, as recommended in the memorandum of October 12, 2006.

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

1. Report of Convictions, Month of August 2006
2. Florida Department of Transportation, Public Workshop of Thursday, November 2, 2006 – I-95 Project Development and Environment (PD&E) Study – From the Indrio Road Interchange to the CR 512 Interchange

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARINGS ARE ON FILE IN THE OFFICE
OF THE CLERK TO THE BOARD

9.A. PUBLIC HEARINGS

**9.A.1. PRIME HOMES AT PORTOFINO VILLAGE COMMERCIAL, LTD.'S
REQUEST FOR ABANDONMENT OF A PORTION OF 94TH COURT
(FORMERLY KNOWN AS 133RD AVENUE) NORTH OF STATE ROAD
60 (LEGISLATIVE)**

Planning Director Stan Boling used a PowerPoint presentation (copy on file) to present this item, and recommended approval by the Board.

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

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-164**, providing for the closing, abandonment, vacation, and discontinuance of a portion of 94th Court (Formerly known at 133rd Avenue) lying north of State Road 60 in Vero Tropical Gardens Unit 1, said land lying in Indian River County.

**9.A.2. WCI COMMUNITIES INC.: REQUEST TO ABANDON TWO SEGMENTS
OF 46TH AVENUE (SUNRISE STREET) BETWEEN US HIGHWAY 1 AND
CR 510 IN WABASSO (LEGISLATIVE)**

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS

ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

Planning Director Stan Boling reviewed this request for abandonment of two segments of 46th Avenue and CR 510 in Wabasso for road widening purposes. He explained this abandonment involved a swap with the developer, who owns property along CR 510, which could be abandoned and become part of the development. He explained that the Bristol Bay project has been approved as a mixed-use project, mostly residential, but there is a final site plan for a residential project and site plan conceptually that is laid out for the Commercial portion. He pointed out that Bristol Bay is putting in a road that will parallel Sunrise Avenue and a new roadway to CR 510. The ultimate improvement of the area involves new access to County Road 510 at 85th Street.

Community Development Director Bob Keating reported that Mr. Miller, who owns multi-family property in this area, had expressed concerns and staff would be addressing them. Director Keating recommended approval with conditions that they retain a drainage utility easement in the right-of-way areas, which leads to a traffic improvement.

The Chairman opened the public hearing.

Dennis Cork, Esq., representing Bill Miller, said his client's concern was that his access to CR 510 would be diminished. **Attorney Cork** related part of Mr. Miller's concern was that he lives on a corner lot, and he is afraid the abandonment would take away his visibility someday when it becomes commercial property. Because **Mr. Cork** had not seen the final plan, he stated

that he was not sure how his client's access would be affected, and that it was premature to go ahead and vacate that road.

Commissioner Wheeler agreed that it was premature at this point. He commented that he would like to see interconnectivity between Mr. Miller's site and the commercial property.

Discussion ensued by Commissioner Wheeler and staff regarding why the abandonment was not moved down to the next block.

David Knight, Knight, McGuire and Associates, Project Engineer for Bristol Bay, said with the legal description they developed for the easement for public access, they anticipate a full connection to CR 510 with a turning radius onto the new road that Bristol Bay is constructing onto 85th Street.

Jerry Swanson, P&S Properties, handed out a letter he received from Mr. Miller (copy on file) asking him to give him an easement because of his concern of being eliminated from direct access to CR 510 from his property. **Mr. Swanson** agreed to give Mr. Miller an easement, but it could not be done until they get their final site plan. Mr. Swanson found Mr. Miller very difficult to deal with, although he tried to do everything he could to accommodate him. Mr. Swanson said he would be very much opposed to postponing this item.

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

ON MOTION by Commissioner Lowther, SECONDED by
Commissioner Wheeler, to approve staff's recommendation.

Discussion continued by the Commissioners regarding the right-of-way.

The Chairman CALLED THE QUESTION. The Motion carried approving **Resolution 2006-165** providing for the closing, abandonment, vacation and discontinuance of a portion of 46th Avenue (Sunrise Street) between Orange Street and CR 510 and a portion of 46th Avenue (Sunrise Street) between US Highway 1 and 84th Street as shown on plats of Weona Park, Graves addition to Wabasso, and maintenance map of 46th Avenue, reserving a drainage and utility easement over the entire right-of-way, said land lying in Indian River County, Florida.

9.A.3. IHP'S REQUEST TO REZONE 3.52 ACRES FROM CG TO OCR
(QUASI-JUDICIAL)

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

Community Development Director Bob Keating presented this proposed rezoning using a PowerPoint Presentation (copy on file) and recommended approval by the Board. The purpose for this rezoning is to secure the zoning necessary to develop the site for residential use that would be allowed under the Office, Commercial, Residential (OCR) zoning district, which is consistent with the land use designation C/I.

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

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2006-037** amending the zoning ordinance and the

accompanying zoning map for ± 3.52 acres located south of CR 510 and approximately 272 feet east of 46th Avenue, from CG, General Commercial District to OCR, Office, Commercial, Residential District; and providing codification, severability, and effective date.

9.A.4. DOUBLE R&D INC.'S REQUEST TO AMEND THE COMPREHENSIVE PLAN TO REDESIGNATE + 40.23 ACRES FROM R TO L-1, AND TO REZONE THOSE + 40.23 ACRES FROM A-1 TO RS-3 (LEGISLATIVE)

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS

ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

Community Development Director Bob Keating announced that if anyone wished to speak on these public hearing items, he asked that they give their name to Gale Carmony, Senior Planner, which is a requirement of the Department of Community Affairs (DCA). He gave a brief overview of the Comprehensive Plan amendment process. Director Keating reviewed staff's memorandum and used a PowerPoint presentation detailing the purpose for this amendment which is to provide the land use designation and zoning necessary to develop the property with residential units at a density that is consistent with the land use plan densities of adjacent properties. Staff and P&Z recommended approval by the Board.

The Chairman opened the public hearing.

Renee Renzi, 301 Waverly Place, said the Board did not mention the overload in the school population in that area. She felt the Board should hold off until they get the school situation straightened out.

Director Bob Keating stated that the school concurrency laws were put on the books in 2005, but they do not become effective until 2008. At this time he advised they cannot deny development based on the lack of school facilities.

David Cox wanted the Board to be aware that all tributaries that reach the South prong of the St. Sebastian River have been important in supporting a range of threatened and endangered fish species that have bred that far up, even into agricultural ditches. They have worked with one of the developer nearby in an effort to try to preserve those tributaries, which all have great environmental significance, and it seems they are losing one after the other.

Dr. Richard Baker, President of the Audubon Society, agreed with Mr. Cox, and he stated this is not the direction to take. He remarked that the more density that is put in, the more difficult it becomes. He commented that he would like to see us protect the Sebastian Tributary and going this route is not the way to do it.

Bruce Barkett, Esq., representing the applicant, said they do not have any problem with the site plan concerns that were raised. He told the Board his client was going to go forward with the PD against his recommendation.

Mark Brackett, 1915 34th Avenue, represented the CR 510 group, that is the Blue Water Bay development at the southern portion of this property told the Board the Group is not opposed to rezoning the property to RS-3. "They would like to see the Board move forward with the rezoning, and see the roads get built," he related.

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

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Commissioner Bowden, to deny this request.

Discussion continued and Commissioner Davis stated he was concerned that the surrounding property owners may try to put forth some connectivity on the road, and find that there is no right-of-way in place. He would like to put in infrastructure “as growth” occurs or “even ahead of growth, if at all possible.”

Bruce Barkett advised that the time to do that is at the site plan approval.

The Chairman CALLED THE QUESTION, and the Motion carried; by a 4-1 vote (Commissioner Neuberger opposed) the Board denied Double R&D Inc.’s request to amend the Comprehensive Plan to redesignate the subject property from R, Rural Residential to L-1, Low-Density Residential-1, and to rezone the site from A-1, Agricultural, to RS-3, Single Family Residential.

The Chairman called for a brief recess at 10:21 a.m. and he reconvened the meeting at 10:35 a.m. with all members present.

After the recess, **Bruce Moyer**, MGB Engineering, respectfully requested that the last item be reconsidered. After talking to his client, he reported that they definitely wanted to dedicate the right-of-way and they hoped they could discuss the appropriateness of this matter.

MOTION WAS MADE by Commissioner Davis,
SECONDED by Commissioner Bowden, for discussion, to
reconsider this request.

Attorney Collins advised the Board since this item had to be submitted to the DCA during the submittal window, he thought this was the best time to reconsider this action.

Commissioner Davis would not support the Comprehensive Plan change unless he was confident from staff that acquisition of this property would enable provisions for connectivity at the north end of the County.

Discussion ensued and **Bruce Barkett** advised they would deliver the deed to escrow as soon as they get a legal description, and they would work out the terms with the County Attorney.

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

The Chairman CALLED THE QUESTION, and the Motion carried, 3-2 (Commissioner Wheeler and Bowden opposed). The Board approved **Resolution 2006-166** amending the future land use map by changing the land use designation for approximately 40.23 acres located west of 86th Avenue and south and east of the City of Sebastian City limits from R, Rural Residential (up to 1 unit/acre), to L-1, Low Density Residential-1 (up to 3 units/acre); and providing codification, severability, and effective date.

The Board additionally approved to have the deed delivered into escrow, and to have the County Attorney work out any additional terms with Double R&D, Inc.

**9.A.5. COUNTY INITIATED REQUEST TO AMEND THE COMPREHENSIVE
PLAN FUTURE LAND USE MAP BY REDESIGNATING ±3,088 ACRES
FROM C-1 TO AG-2 (LEGISLATIVE)**

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

Community Development Director Bob Keating used a PowerPoint Presentation (copy on file) to present the County's request on behalf of St. John's River Water Management District (SJRWMD) to redesignate ±3,088 acres from C-1 Conservation-1, to its previous designation of AG-2, and to rezone from Con-1 on the land use map, to its previous zoning district of A-2. The P&Z Commission recommended, by a 4-1 vote, that the Board approve submittal to the Department of Community Affairs. He addressed a concern that this property serves as an impediment to the City of Fellsmere to annex to the south and expand further. He also mentioned that the C-1 land use designation applies only to publicly owned conservation, and that staff consider this as a swap of land between St. Johns River Water Management District and private property owners.

Director Robert Christenson, SJRWMD, displayed maps and gave a brief overview of what SJRWMD's basic goals are: He explained the conditions that apply to the land purchase/exchange agreements they entered into with private property owners and the conditions of the agreements.

The Board posed questions to Mr. Christenson regarding this project.

Joseph Paladin, Chairman of the Growth Awareness Committee, had questions regarding annexation by the County and the City of Fellsmere.

Attorney Collins clarified that Cities annex property, not the County, and it has to be contiguous to a municipality.

Discussion ensued regarding annexation.

Dr. Richard Baker displayed a map that SJRWMD presented at the Land Advisory Acquisition Committee (LAAC) showing the area under SJRWMD, and the property owned by the City of Fellsmere. He felt this was more important than moving the urban service area line because this project may determine whether the urban service area could be moved later. He believed there needs to be more dialogue between SJRWMD and the County. He saw Brevard County benefiting from this project, and he believed this water definitely needed to be saved for the County.

Discussion ensued.

David Cox said he would like to encourage SJRWMD and the Indian River Lagoon North County Feasibility Study to consider restoring the west prong of the Sebastian River to what it was before.

Al Baldwin, 4740 47th Court, Vero Beach, questioned why a matter of this importance never had a workshop.

Discussion continued.

Peter O'Bryan, County Commissioner Candidate for District 4, was concerned the County was giving up a limited type of environmental land to acquire more fresh water. He felt they are losing diversity and important habitat in that ten-mile area. He shared Commissioner Bowden's concern regarding where the water was going to be distributed. He was very concerned why SJRWMD already had a backup clause, and he wanted to see a written guarantee as to how much to that water stays in Indian River County.

Mr. Christenson responded to questions regarding conservation value of what exists and what will be created. He was willing to work with the County in workshops to identify the needs and concerns and be their partner.

Discussion continued and the Commissioners asked for additional information.

Adriene Cuffe, 695 43rd Avenue, wanted to know what rights would be available to the private owner if the project was not completed.

John Baker advocated in favor of this proposal.

Ital Veron, 280 S. Peppertree Drive, spoke in opposition to this request. He suggested, based on the knowledge of the questions brought forward, that the Board not have a knee-jerk reaction.

Bea Gardner was not in favor of the Board approving this item.

Amy Thelma, 1910 82nd Avenue, told the Board it is their responsibility to communicate with SJRWMD, and to find out what is going on, and determine if a workshop is necessary.

Discussion ensued regarding the rights of the property owners after the rezoning.

Karen Swanson, 1048 E. Boulevard, said she could support staff and SJRWMD.

Jens Tripson, 2525 14th Street, thought the County should start planning to drink potable water in the North County Marsh area. “The idea sounds good if we use some of that water for citizens,” he said.

Robert Johnson, Coral Wind Subdivision, spoke in favor of the workshop.

Judy Orcutt felt the property should be acquired under the Land Acquisition Funding so it could stay zoned as Conservation.

George Christophe, member of P&Z, inquired if the County has a written commitment from SJRWMD to turn that land into a Conservation area. Upon hearing the response from staff, he urged the County to table this item and hold a workshop.

Donna Keys, Chairman of P&Z, stated that she was compelled to vote in favor of this item at the P&Z meeting.

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

Commissioner Davis did not want to table this item. He was concerned if the Board does not get the answers needed this item could be defeated. He also was concerned with the issues regarding getting wells permitted, and believed this is an alternative supply that Indian River has to have. He mentioned he would like to be added to the list of future areas of concern for water supply in the next 20 years.

Administrator Baird recommended moving this forward, and scheduling a special agenda workshop with several hours to work out the issues. He suggested that SJRWMD attend to meet with staff and other interest groups.

Chairman Neuberger did not see it as a necessity at this time.

Vice Chairman Wheeler disagreed.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Lowther, to move ahead and hold a Special Agenda Workshop to workout the issues with SJRWMD, staff and other interest groups.

Commissioner Bowden recommended that a date be scheduled.

Administrator Baird replied he would come back at the next meeting with a date.

The Chairman CALLED THE QUESTION and the motion carried unanimously. The Board approved Resolution 2006-167 approving the transmittal of a proposed County Comprehensive Plan Future Land Use Map Amendment to the State of Florida Department of Community Affairs, and approved directing the County Administrator to bring back to the Board a date for their approval to hold a Special Agenda Workshop to work out the issues addressed at this public hearing with SJRWMD, Staff, and other interest groups.

The Chairman called for a recess at 12:45 p.m. and reconvened the meeting at 12:58 p.m. with all members present.

**9.A.6. COUNTY INITIATED REQUEST TO AMEND THE COUNTY'S
COMPREHENSIVE PLAN TO REDESIGNATE ±46.51 ACRES FROM L-
2 TO PUB (LEGISLATIVE)**

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

Community Development Director Bob Keating used a PowerPoint Presentation (copy on file) to present this item. Staff and P&Z recommended that the Board approve this proposal for submittal to DCA.

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved **Resolution 2006-0168** approving the transmittal of a proposed Indian River County Comprehensive Plan Future Land Use Map Amendment to the State of Florida Department of Community Affairs.

**9.A.7. QUAIL RIDGE OF VERO BEACH, LLC'S REQUEST TO AMEND THE
TEXT OF THE COMPREHENSIVE PLAN'S FUTURE LAND USE
ELEMENT (LEGISLATIVE)**

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

Community Development Director Bob Keating disclosed that this Comprehensive Plan Future Land Use Amendment, at the request of Quail Ridge of Vero Beach, changes the text to

Policy 5.8. He used a PowerPoint presentation (copy on file) to review the proposed amendment to Future Land Use Element (FLUE) 5.8, and read the amended policy 5.8 as revised by the Planning and Zoning Committee. Another alternative he presented to the Board was the applicant's proposed amended policy 5.8 (copy on file) that was handed out at this hearing. Director Keating informed the Board that staff did not support this request because it does not meet any of the Comprehensive Plan's criteria to warrant a text amendment, the request would undermine the purposes of the FLUE policies that would be amended, and it is in conflict with the Committee for a Sustainable Treasure Coast report. He concluded with staff's recommendation to retain the current FLUE Land Use Element Policy 5.8, add the Best Management Practices, add perpetuity language and recommended approval of the Resolution to transmit the amended FLUE Policy 5.8 to DCA for review.

There were questions posed by the Board to Director Keating regarding this item.

The Chairman opened the public hearing.

Joseph Paladin, President of Atlantic Coast Construction, advised he is a principal in the Quail Ridge of Vero Beach PD, and he addressed the proposed changes to the Comprehensive Plan. He spoke of conflicting theories on "open space" and told the Board his goal is "not to ever" change the urban service line. He commented on the recommendations made by the Planning & Zoning Commission, which is just the opposite of Policy 5.8 as it is now, stating that he was under the impression that P&Z was very receptive to this project.

Engineer **Dave Knight**, Knight, McGuire and Associates and Engineer of the Quail Ridge PD, explained that their intent was to permanently preserve low density in an agriculture PD. He outlined their version of Policy 5.8 that he proposed after reviewing the packet for this meeting. In conclusion, he said they are looking for flexibility.

Al Baldwin, 4040 47th Court, felt the Board would be setting precedence by approving this item. He felt it will affect the whole County, and he wondered if it needed more time and a public workshop.

Discussion ensued and the Commissioners commented on the issues Mr. Baldwin addressed.

Ital Veron, 280 S. Peppertree Drive, a member of the Indian River Neighborhood Association, believed one of the County's greatest concerns would be the water supply.

Greg Schlitz, 6425 53rd Street, failed to see the negatives of this proposal and he urged the Board to consider revising the requirements.

Rob Lindsey, representing the Lindsey and Kromhout families, read a letter written by Lex Krumhout (copy on file) that disputed the language and provisions recommended by staff. In his opinion staff's provisions countermanded the Planning and Zoning Commission's actions with regard to agricultural planned development. He asked the Board to review and reject those provisions.

Country Simmons, Simmons Construction, advocated in support of this item.

Adriene Cuffe, 695 43rd Avenue, advocated in support of this item.

Engineer **Amy Thelma**, 1910 82nd Avenue, felt this development was definitely necessary and a great first step to getting some new ideas in the community.

Ken Grudens, 931 Starflower Avenue, Sebastian, Executive Director of the Indian River Land Trust, stated the Land Trust's desires to see opportunities allowing projects to be separated,

so the community could tell what the overall picture would be like. He spoke of an opportunity for the Land Trust to be involved in holdings and perpetuity, and he would like to talk about at a later time.

David Cox discussed clustering and BMPs. He supported the amendment.

Donna Keys, Chairman of the P&Z Committee, reviewed the recommendations, line per line by the applicant, P&Z, and staff, stating that they could compromise the issues such as having no minimum lot size, and guarantee a certain amount of open space.

Steve Smith, Developer of Quail Ridge, agreed with Ms. Keys. Under the existing rules, he found it literally impossible to design something attractive for the next 40-50 years for Indian River County that led to this request.

John Baker, Agent for Mr. Kromhout, felt they needed to have as much flexibility as possible. He would like to see 3 1/2 acres taken out of the policy. He agreed with Mr. Paladin regarding not moving the Urban Service Area line. He hoped the Board comes as close to the conditions that the P&Z recommended as they can.

Jens Tripson encouraged the Board to fine-tune some of the details and move forward with this item.

The Chairman called for a recess at 3:18 p.m. and he reconvened the meeting at 3:28 p.m. with all members present.

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

MOTION WAS MADE by Commissioner Lowther, SECONDED by Commissioner Davis, to approve the applicants proposed revised Policy 5.8, eliminating 3.5 acres, and to approve the transmittal of the Resolution to DCA for review.

Discussion ensued by the Board regarding additional changes to be included in the revised Policy.

MOTION WAS AMENDED by Commissioner Lowther, SECONDED by Commissioner Davis, to approve the applicant's revised Policy 5.8 with the following: (1) omitting 3.5 acres in paragraph 2, line 2; (2) changing the word "held" to "created" in paragraph 3, line 4; and (3) adding "with infill prohibited" to paragraph 3, line 4.

The Chairman CALLED THE QUESTION and the Amended Motion carried unanimously. The Board approved **Resolution 2006-169** approving the transmittal of a proposed Indian River County Comprehensive Plan Amendment to the text of the Future Land Use Element to the State of Florida Department of Community Affairs.

The Board also approved to include the following changes to Policy 5.8: the omission of 3.5 acres in paragraph 2, line 2; amending paragraph 3, line 4 to read as follows: easement(s), to be created in Deed Restrictions with (residential) infill prohibited.

Commissioner Bowden stated for the record that the Board needed to work out the following concerns in the LDRs: golf courses, water, and drought.

**9.A.8. FIRST OF TWO PUBLIC HEARINGS TO ENLARGE COUNTY SEAT –
OFFICE OF THE SUPERVISOR OF ELECTIONS**

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

Assistant County Attorney Marian Fell recapped her memorandum of October 6, 2006 pointing out that the request by the Supervisor of Elections to move offices to 4375 43rd Avenue requires two public hearings because the location is outside of the County Seat.

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

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board unanimously approved to retain any public comment on record for consideration at the November 7, 2006 public hearing, as recommended in the memorandum of October 6, 2006.

9.B. PUBLIC DISCUSSION ITEMS

**9.B.1. REQUEST TO SPEAK FROM JOSEPH PALADIN, CHAIRMAN OF THE
GROWTH AWARENESS COMMITTEE REGARDING EX-PARTE
COMMUNICATION WITH BOARD OF COUNTY COMMISSION AND/OR**

**STAFF BY OPPOSING COUNSEL UNDER RULE 4-4.2 RULES
REGULATING THE FLORIDA BAR**

Clerk's note: This item was heard following Item 9.B.2.

Joseph Paladin, President of the Growth Awareness Committee, discussed the Board setting up a policy to help prevent a negative situation occurring when Attorneys who have an existing lawsuit against the County and intend to speak at one of the Board meetings. He suggested establishing a form for those speakers to fill out defining their discussion.

George Christopher agreed with Mr. Paladin.

Attorney Collins felt it would be better to advise them not to speak to the Board, and tell them to speak to the County's attorney.

NO ACTION REQUIRED OR TAKEN.

**9.B.2. REQUEST TO SPEAK FROM RICHARD E. TORPY, ESQUIRE,
REGARDING CONTRACTOR/DEVELOPER BONDING REQUIREMENTS
IN REFERENCE TO THE LAKES AT SAND RIDGE SUBDIVISION**

Richard E. Torpy, 202 N. Harbor City, Melbourne, pointed out that the Lakes at Sand Ridge Subdivision received its Certificate of Completion prior to the adoption of Ordinance 2006-007 that set new maintenance requirements (Bonding). He came to ask the Board that Phase I be excused from those requirements, and to work out the details of Phase II later.

Attorney Collins responded that it is unfair to apply a three-year bonding requirement to a project that was already in the process, and should the Board approve this request only two other projects would be affected by their decision.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved to release the Bond in the amount of \$135,387.50 for Phase 1 of the Lakes at Sand Ridge based on the old Ordinance, upon final inspection by staff and to work out details regarding Phase II.

**9.B.3. REQUEST TO SPEAK FROM SCOTT DILLON REGARDING
CONDEMNATION OF A PROJECT AND DESTRUCTION OF PERSONAL
PROPERTY**

Scott Dillon asked for an extension beyond December 17, 2006 to the condemnation of 2933 1st Court SE. He said he needs an additional 60-days to complete the renovation.

Attorney Collins disclosed that under the “house moving” permit they have a year to get everything finalized. In August, the Building Department determined that the house was uninhabitable and it appeared unsafe. Rather than wait a year, the Building Department decided to be proactive, and started the Notice period a couple months prior to the year expiring.

Chairman Neuberger asked Director of Building James “Buddy” Akins to do another inspection on December 17, 2006.

Catherine Thomas, 2109 SE 2nd Avenue designated spokesman for the homeowners, suggested that the house be torn down now. She read a letter from the homeowners stating that they waited a year to ask the Board to not let them continue this rebuilding.

Bob Hamner, Scott Dillon's partner, described the events that took place causing their delay in completing the renovations.

Chairman Neuberger stressed that they need to get it done.

Buddy Akins described the interior and exterior condition of the house (pictures on file). He would not say it could not be fixed, but he believed completion was a long way off.

MOTION WAS MADE by Commissioner Lowther, for the condemnation to stay in place. Motion DIED for lack of a SECOND.

Chairman Neuberger commented that he would like to give Mr. Dillon another 30 days.

Danny Moore, 2103 2nd Avenue SE, spoke in opposition to any extension.

Elizabeth Rimes, 2174 1st Avenue SE, advocated against an extension.

Discussion ensued regarding the unsafe condition of the house, and whether it could feasibly be completed by December 17, 2006.

Buddy Akins reported it is not built according to the plans of the architect, and he affirmed it will not be safe.

Chairman Neuberger asked if anybody wanted to Motion for an extension.

Discussion continued and Mr. Dillon argued the safety of this house.

Chairman Neuberger did not hear a Motion for extension and he ended the discussion.

9.C. PUBLIC NOTICE ITEMS - NONE

10. COUNTY ADMINISTRATORS MATTERS

10.A. USE OF INMATES/TRUSTEES FOR MAINTENANCE SERVICES

Administrator Baird asked the Sheriff if he could do the maintenance at the water plants and he said he was unable to do that. Mr. Baird then asked the Board to award the Bid to the contractor as discussed at the previous meeting.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously awarded Bid #2007007 Mowing at the Two Water Treatment Plants to Mike's Lawn and Landscape in the amount of \$13,200.00, as the lowest and most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; 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; 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 18, 2006.

11. DEPARTMENTAL MATTERS

11.A. COMMUNITY DEVELOPMENT

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Bowden, the Board unanimously declared said structures unsafe and a nuisance, and ordered the buildings demolished with related debris removed from the property by a private vendor approved through standard bid procedures, and approved **Resolution 2006-170**, providing for the demolition of unsafe structures and the recovery of costs. (Owners: Lisa Clark, Tyrus Clark, & Bobby Jean Jones; Glenn W. Legwen; Johnnie L. Paris and Susan D. Canon; and Ernestine Webb Williams)

Chairman Neuberger announced he was approached by Ernestine Williams who asked for an extension, because she wanted to do her own demolition at her own expense.

There was a CONSENSUS to grant Ernestine Williams 60-days to remove her structure at her own expense, but to remain on the list as the County goes through the bid process.

11.B. EMERGENCY SERVICES - NONE

11.C. GENERAL SERVICES - NONE

11. D. HUMAN RESOURCES - NONE

11.E. HUMAN SERVICES - NONE

11.F. LEISURE SERVICES – NONE

11.G. OFFICE OF MANAGEMENT AND BUDGET – NONE

11.H. RECREATION - NONE

11.I. PUBLIC WORKS

**11.I.1. PROPERTY ACQUISITION, 8866 92ND COURT, CR 510 WIDENING
AND IMPROVEMENTS, COUNTY PROJECT No. 0610, DEVANAND &
ROOKMINEE MAHARAJ, OWNERS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Option 1, Property acquisition in the amount of \$319,500, and leaseback, and authorized the Chairman to execute the Agreement to Purchase and Sell Real Estate, as recommended in the memorandum of October 9, 2006.

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

11.1.2. FALCON TRACE SUBDIVISION – THIRD AMENDMENT TO THE DEVELOPER’S AGREEMENT

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Alternative No. 1, whereby the Amendment #3 is approved to the Developer’s Agreement and authorized the Chairman’s signature. This will allow the County to construct one project, and avoid closing the road three times and avoid construction overlaps, as recommended in the memorandum of October 17, 2006.

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

11.1.3. PROPERTY ACQUISITION, 8865 91ST AVENUE – CR 510 WIDENING AND IMPROVEMENTS, IRC PROJECT NO. 0610, GINA HOWER, OWNER

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved Option 1, purchase and the leaseback, and authorized the Chairman to

execute the Agreement to Purchase and Sell Real Estate, as recommended in the memorandum of October 18, 2006.

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

11.J. UTILITIES SERVICES

11.J.1.HOBART INDUSTRIAL PARK MASTER PLANNED WATER MAIN ALONG 77TH STREET WEST OF US HIGHWAY 1, APPROVED PROJECT FOR PUBLIC BID AND RETAINING W. F. MCCAIN AND ASSOCIATES, INC. FOR ENGINEERING SERVICES

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the project for a total cost of \$315,000.00 (rounded); approved the proposal for construction phase engineering services from W. F. McCain and Associates for \$11,365.00, and authorized the Chairman to execute same, as recommended in the memorandum of September 26, 2006.

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

11.J.2. CONSULTING SERVICES WORK ORDER No. 3 WITH NEEL- SCHAFFER, INC. FOR SURVEYING, ENGINEERING AND CONSTRUCTION SERVICES FOR THE REPLACEMENT OF THE ROSELAND WATER TANK – UCP-2478

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

Order No. 3 with Neel-Schaffer, Inc. in the amount of not-to-exceed \$105,138.00 for survey, geotechnical, design, permitting and construction services to replace the Roseland Water Storage Tank, 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 OF THE BOARD

11.J.3.THE SQUIRE SUBDIVISION PETITION WATER SERVICE (57TH AVENUE NORTH OF 33RD STREET) IRC PROJECT No. UCP-2535 RESOLUTION IV – FINAL ASSESSMENT

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2006-171**, certifying “as-built” costs for installation of water service to the squire subdivision (57th Avenue at 33rd Street) in Indian River County, Florida, and such other construction necessitated by such project; providing for formal completion date, and date for payment without penalty and interest.

11.J.4.POINT-O-WOODS SUBDIVISION PETITION WATER SERVICE (ROBIN LANE – RIVERSIDE – OFF ROSELAND ROAD) INDIAN RIVER COUNTY PROJECT No. UCP-2613 RESOLUTION IV – FINAL ASSESSMENT

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved **Resolution 2006-172**, certifying “as built” costs for installation of water service to Point-O-Woods subdivision (Robin Lane) in Indian River County, Florida, and such other construction necessitated by such project; providing for formal completion date, and date for payment without penalty and interest.

11.J.5. UTILITY CONSTRUCTION STANDARDS 2006 – UCP 2821

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the revised Water and Wastewater Utility Standards, as recommended in the memorandum of October 24, 2006.

UTILITY STANDARDS IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD

11.J.6. NORTH & SOUTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANTS WORK ORDER #7 – ALTERNATIVE WATER SUPPLY MASTER PLAN BY CAMP DRESSER & MCKEE, INC.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 7 to CDM, Inc. in the amount of \$58,340.00 – Upper Limit, Account No. 472-169000-04521, for Alternative Water Supply Master Plan; and authorized the Chairman to execute same, as recommended in the memorandum of October 13, 2006.

12. COUNTY ATTORNEY

12.A. WATERWAY VILLAGE – DRI VESTING

Attorney Collins requested that this item be deleted.

12.B. PROPOSED SETTLEMENT OF CHARLES L. LAFEVERS, JR., AS TRUSTEE OF THE JILL V. LAFEVERS TRUST AND SULLIVAN OF VERO BEACH LIMITED PARTNERSHIP V. INDIAN RIVER COUNTY

Attorney Collins reviewed his memorandum of October 4, 2006 recommending settlement of the lawsuit by payment of \$143,100 (\$10 per square foot) to the property owners in exchange for a deed for title to the property taken during the road improvements to 8th Place.

Administrator Baird recommended they “tear” the road out.

Attorney Collins argued that other people may benefit from the use of the road if they were driving East to 6th Avenue instead of to US 1. He thought we could still have exposure for damages even if we tore the road out, because for whatever time the road has been there we have been occupying this property. He advised that the County would have to pay the property owner for that use, and would have to pay their attorney fees.

Chairman Neuberger wondered how we ever built on somebody’s property.

Attorney Collins explained that the Public Works Department was engaged in negotiations to acquire the property, but it never resulted in a deed, and they received grant money from SJRWMD and probably did not want to lose the grant money.

Public Works Director Jim Davis described his discussions with Charles Sullivan in 2004, whereby he explained to Mr. Sullivan that SJRWMD has given grants to the County and that the County needed additional right of way (about 70 feet). Mr. Sullivan at the time indicated he did not see a problem. Mr. Sullivan asked for connection to the road, and also if he could get drainage to his site, so that he could use it.

Discussion ensued.

Attorney Collins talked to staff weeks before this became an agenda item. He did not want the road taken out.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Neuberger, by a 3-2 vote, Commissioners Bowden and Wheeler opposed, the Board approved County Attorney's recommendation, settlement of the lawsuit by payment of \$143,100.00 to the property owners in exchange for a deed for title to the property taken during the road improvements to 8th Place. Each party will pay their own costs and attorney's fees, as recommended in the memorandum of October 4, 2006.

13. COMMISSIONERS ITEMS

13.A. COMMISSIONER ARTHUR R. NEUBERGER, CHAIRMAN

Chairman Neuberger wanted to show recognition to Mr. Cameron Mays, who was a Points of Light Recipient whom he met when he attended the Governor's Points of Light Reception in Tallahassee.

13.B. COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN

13.B.1. MOBILE HOME PARKS

Commissioner Wheeler read his memorandum of October 9, 2006 requesting the Board to direct staff to amend the Comprehensive Land Use Plan and change the Land Use designation of all existing Mobile Home Rental Parks in an effort to secure Park renters from potential rezoning leading to their eviction from their home sites.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Lowther, the Board unanimously approved to direct staff to include in the January 2007 submittal window of Land Use changes to the Department of Community Affairs (DCA) to amend the Comprehensive Land Use Plan to establish a Mobile Home Rental Park (NMHRP) Land Use Category that allows mobile home rental parks with accessory uses (clubhouses, swimming pools, etc.) and no other types of uses; and directed staff to change the Land Use designation of all

existing Mobile Home Rental Parks to MHRP-6 (for existing RMH-6 parks) or MHRP-8 (for existing RMH-8 parks), as recommended in the memorandum of October 9, 2006.

13.C. COMMISSIONER SANDRA L. BOWDEN - NONE

13.D. COMMISSIONER WESLEY S. DAVIS - NONE

13.E. COMMISSIONER THOMAS S. LOWTHER - NONE

14. SPECIAL DISTRICTS AND BOARDS

14.A. EMERGENCY SERVICES DISTRICT

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

14.A.1. APPROVAL OF MINUTES OF MEETING OF AUGUST 22, 2006

14.A.2. APPROVAL OF MINUTES OF MEETING OF SEPTEMBER 12, 2006

14.A.3. UTILITY EASEMENT FOR EMERGENCY SERVICES STATION NO. 5

14.B. SOLID WASTE DISPOSAL DISTRICT - NONE

14.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 5:11 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Arthur R. Neuberger, Chairman

Minutes Approved: _____

MIS/ BCC2006Minutes