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OF BOARD OF COUNTY COMMISSIONERS
OF JANUARY 16, 2007

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January 16, 2007

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, January 16, 2007, at 9:00 a.m. Present were Chairman Gary C. Wheeler, Vice Chair Sandra L. Bowden, and Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan. Also present were County Administrator Joseph Baird; County Attorney William G. Collins II, and Deputy Clerk Maria I. Suesz.

1. CALL TO ORDER

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

2. INVOCATION

Commissioner Wesley S. Davis ~~Reverend Kyle "K.C." Gibson, M. Div, Senior Pastor New Bethel African Methodist Episcopal Church~~ delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Wesley S. Davis led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman Wheeler requested an emergency item be added to the agenda to discuss the Commissioners' office Executive Aide Kim Massung. Vice Chair Bowden was opposed to his request wanting more information. Chairman Wheeler stated that they are in the "Sunshine" Law and he said the public has a right to know that Kim Massung was considering resigning, and wanted to ask the Board for a vote of confidence on her behalf. Vice Chair Bowden commented that the Chairman might be getting into litigation, that it was an issue, and she wanted to know if the others were aware of this. The Chairman was not aware of any litigation and since he did not have a unanimous vote, he called for a "Special Call" meeting immediately following the Board meeting to discuss this matter.

5. PROCLAMATIONS AND PRESENTATIONS

**5.A. PRESENTATION OF PROCLAMATION HONORING TANHUM
GOLDSHMID ON HIS RETIREMENT FROM INDIAN RIVER COUNTY SOLID
WASTE DISPOSAL DISTRICT EFFECTIVE JANUARY 19, 2007**

Chairman Wheeler read and presented the Proclamation to Tanhum Goldshmid.

6. APPROVAL OF MINUTES - NONE

7. CONSENT AGENDA

Commissioner O'Bryan requested Item 7.N be pulled for discussion.

7.A. APPROVAL OF WARRANTS – DECEMBER 29, 2006 – JANUARY 4, 2007

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for December 29, 2006 – January 4, 2007, as requested in the memorandum of January 4, 2007.

7.B RESIGNATION AND APPOINTMENT OF DISTRICT 5 APPOINTEE TO THE UTILITY ADVISORY COMMITTEE

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously accepted the resignation of Dr. Craig McGarvey as the District 5 Appointee to the UAC and approved the appointment of Herbert Whittall to assume Dr. McGarvey's term, which runs through January 2008, as recommended in the memorandum of January 10, 2007.

**7.C. 2007 ELECTION OF PARKS & RECREATION COMMITTEE (P&R)
CHAIRMAN AND VICE CHAIRMAN**

The Board noted the re-election of Scott Chisholm as Chairman and Dale Klaus as Vice Chairman of the Parks & Recreation Committee for the year 2007 for the record.

**7.D. 2007 ELECTION OF UTILITY ADVISORY COMMITTEE (UAC)
CHAIRMAN AND VICE CHAIRMAN**

The Board noted the election of Bill Johnson as Chairman and Mark Grossman as Vice Chairman of the Utility Advisory Committee for the year 2007 for the record.

**7.E. 2007 ELECTION OF LAND ACQUISITION ADVISORY COMMITTEE
(LAAC) CHAIRMAN AND VICE CHAIRMAN**

The Board noted the election of Dr. Richard H. Baker as Chairman and Adam Bolinger as Vice Chairman of the Land Acquisition Advisory Committee for the year 2007, as recommended in the memorandum of January 4, 2007.

**7.F. 2007 ELECTION OF ENTERPRISE ZONE DEVELOPMENT AGENCY
(EZDA) CHAIRMAN AND VICE CHAIRMAN**

The Board noted the election of Karl Zimmermann as Chairman and re-election of Gwenda Thompson as Vice Chairman of the Enterprise Zone Development Agency for the record.

**7.G. OUT OF COUNTY TRAVEL TO ATTEND "THE SUNSHINE LAW"
SYMPOSIUM JANUARY 31, 2007**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved out of county travel and \$40 registration fee for Commissioners and staff to attend "The Sunshine Law" Symposium on January 31, 2007 from 1:00 p.m. to 4:00 p.m., at the Indian River Community College in Ft. Pierce, as requested in the memorandum of January 8, 2007.

**7.H. APPOINTMENT OF INDIAN RIVER COUNTY REPRESENTATIVES TO
THE ALLIANCE OF OKEECHOBEE & THE TREASURE COAST**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously accepted the appointments of Brad Bernauer, Human Services Director, and Staff for the Children's Services Advisory Committee

and Leslie Spurlock, Executive Director of the Indian River County Healthy Start Coalition, as recommended in the memorandum of January 9, 2007.

7.I. 2007/2008 BUDGET WORKSHOP / HEARING SCHEDULE

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Budget Workshop dates of July 18 – 19, 2007, and the dates for the Budget Hearings of September 5 and 12, 2007, as recommended in the memorandum of January 5, 2007.

7.J. PAVING 37TH STREET FROM 66TH AVENUE TO 58TH AVENUE – VERO VILLAGE, LLC

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Alternative No. 1 whereby the entire 1 mile of 37th Street between 66th Avenue and 58th Avenue is paved at the County's cost of \$779,207.48 and the Developer's cost of \$477,323.02, as recommended in the memorandum of January 9, 2007.

**7.K. ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT (SJRWMD)
ENVIRONMENTAL RESOURCES PERMIT (ERP) FOR THE
REPAIR/REPLACEMENT OF THE WABASSO CAUSEWAY FISHING PIERS – G. K.
ENVIRONMENTAL, INC.**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Work Order GKE-WFP with G. K. Environmental Inc. in the amount of \$7,710.00 for the preparation of the ERP, as recommended in the memorandum of January 10, 2007.

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

7.L. MISCELLANEOUS BUDGET AMENDMENT 007

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved **Resolution 2007-002**, amending the fiscal year 2006-2007 Budget.

**7.M. CUSTODIAL SERVICES AMENDMENT #3 (REDUCTION OF AREAS
AND COSTS)**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Amendment #3 to the Beachland Cleaning of Vero Beach

Agreement, as recommended in the memorandum of January 8, 2007.

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

7.N. CHILDREN'S SERVICES ADVISORY COMMITTEE'S ANNUAL REPORT, 2005-06 AND YEAR-END MONITORING REPORT, 2005-06

Commissioner O'Bryan commended County Health Administrator Jean Kline for her hard work.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously accepted the Annual Report and the Year-End Report for 2005-06 of the Children's Services Advisory Committee, as submitted and recommended in the memorandum of January 4, 2007.

7.O. RE-AWARD OF IRC BID # 2006097 DEMOLITION OF (5) CONDEMNED STRUCTURES

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously authorized the cancellation of Purchase Order #43938 and further authorized the issuance of a Purchase Order to the second low bidder, Jarvis Emergency Services, Inc., Vero Beach, Fl. in the amount of \$20,250.00 after receipt and

approval of the required Insurance Certificate, as recommended in the memorandum of January 9, 2007.

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS

9.A. PUBLIC HEARING

9.A.1. BOARD CONSIDERATION TO APPROVE PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS ON THE SEXTON RANCH UNDER THE COUNTY ENVIRONMENTAL LANDS PROGRAM

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

Chairman Wheeler wanted to postpone this public hearing until the updated appraisal was received. Commissioner Davis felt the people who came out for the public hearing had a right to be heard. The Chairman proceeded to hold the public hearing.

Chief of Environmental Planning Roland DeBlois, AICP, presented this matter to the Board using a PowerPoint presentation (copy on file). He wanted Board approval to exercise the option agreement, conditioned upon revised appraisals forthcoming, supporting the purchase price of \$12,000,000.00. He also wanted authorization for staff to amend the agreement to allow tax free exchange (subject to easements), and authorization for staff to proceed with due diligence and closing. He advised that the Land Acquisition Advisory Council (LAAC) at its

January 3, 2007 meeting, voted 10-1 for approval with the knowledge that a new appraisal was forthcoming.

The Chairman opened the public hearing.

Joe Collins, Attorney for the Sexton family, felt it was appropriate to take the testimony from the people that were present. He asked the Board to go ahead and vote, if that is what they intended to do. He also preferred to continue his comments on February 20, 2007.

The Chairman asked what was the pleasure of the Board.

MOTION WAS MADE by Commissioner Flescher to postpone any and all discussion on this matter until February 20, 2007 to have the opportunity to review the updated appraisal, and have this item reviewed again by the LAAC. There was no Second. Motion DIED.

Under discussion, Chief DeBlois clarified that the LAAC Committee made their decision with the knowledge that staff had ordered a new appraisal. Commissioner Davis felt they should hold the public hearing today, and just postpone the decision until February 20th. Commissioner Flescher agreed and amended his motion to hold the public hearing today.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved to hold the public hearing today, and postpone any decision by the Board until February 20, 2007.

Pastor Ray Scent advocated in favor of staff's recommendation.

Sean Sexton gave a presentation of the history of the Sexton Family at the Treasure Hammock Ranch.

Bill Becker, Chairman of the Finance Committee for the City of Vero Beach, felt this was a “bad deal” and was opposed to the County spending millions of dollars to preserve someone’s private enterprise. He wanted the County to buy the land from the Sextons, use the matching funds from the State to buy more land, and benefit from the purchase.

Joe Clark, residing on A1A, N. Hutchinson Island, disagreed with Mr. Becker. He wanted to see the land preserved for agricultural use and to let the Sexton’s maintain the property.

Joseph Paladin, 6454 Tropical Way, thought it was important to keep the Sexton family in ranching, but he had a problem with using taxpayer’s money when the taxpayers would not have access to that property. He did not want the developer’s rights extinguished. He discussed an idea where the County could name a third party beneficiary, such as the Audubon Society or another agency and set up a mitigation bank where they could store the development rights. His idea included capping agricultural planned developments. Indirectly, they would be using development funds to pay for the cost of development rights instead of using the fifty million dollars of bond money,

Joseph DiFanti, 441 Holly Road, opposed this request and asked the Board to think about what value was going to be afforded to the general population with this purchase.

Brian Heady, Vero Beach, suggested the Board reverse what they are doing by giving the Sexton’s the \$12,000,000.00, and give the County title to the property; lease the property back to them for the current taxes; and let them farm it but the County would own it.

Draft

The Board heard input from **Sharon Sexton**, wife of Sean Sexton, who told everyone that as long as they have the property they intend to share it with the people of the Community.

Susie Karen, 8500 Indrio Road, member of the St Lucie County Planning and Zoning Board, as well as the Vice Chair of the Transfer Development Rights Committee (TDR) and Purchase Development Rights (PDR) Committee, spoke of development rights programs and banks that St. Lucie County could provide information on. She did not want the Board to hesitate in making their decision because she felt this was a “steal” for the County, the Sexton family should be honored, and the Board should embrace this project.

Toni Robinson, 1111 Indian Mount Trail, agreed with comments made by Ms. Karen, and spoke of benefits in having a conservation easement in the County.

Clerk's Note: The Chairman called for a recess at 10:31 a.m. and he reconvened the meeting at 10:43 a.m.

Mary Jane Kelly, 7330 36th Court, Executive Director of the Cultural Council, said the Council wanted to preserve historic places and cultural ways of life in this community, and from a cultural perspective it was worth preserving.

Jen Tripsen, 2525 14th Street, wanted to clear up rumors that he was a descendant of Waldo, and his family has no financial stake in this transaction. He spoke in favor of preserving the land for agricultural conservation.

Renee Renzi, 301 Waverly Place, supported staff's recommendation.

Dr. Richard Baker, spoke of the educational workshops the Sexton family participated in. He supported the Board considering the appraised values and whether they want to buy the

property. He suggested talking to Representative Stan Mayfield and Senator Ken Pruitt to have them come up with some matching funds.

Melissa Tripsen, 2525 14th Street, spoke in favor of staff's recommendation.

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

Discussion ensued and Commissioner Davis related that Dean Sanders, a former legislature during the Governor Chiles administration, told him that funds might be obtainable through a program called the "Florida Rule in Farmstead Stewardship Act." He suggested they start now and put some emphasis on their Lobbyist.

Commissioner O'Bryan mentioned concerns addressed at the LAAC meeting regarding the appraisal and thought it was wise to wait in making a decision. He said the same members did proceed with their vote, even with their concerns, because there was strong support for the actual project. He spoke of economic benefits of having the ranch and the revenue it brings to the community. He wanted to make sure the Sexton family were recognized for their outstanding stewardship of the property, their land management techniques, their best management practices, and it gave him a great deal of confidence to know that they have a "pending agreement" that they will continue to do the right thing by the land and the community.

Clerk's note: This public hearing will be continued on February 20, 2007.

9.A.2. PUBLIC HEARING FOR APPROVAL OF A RESOLUTION ELECTING TO USE THE UNIFORM METHOD FOR THE LEVY, COLLECTION AND ENFORCEMENT OF NON AD VALOREM ASSESSMENTS FOR THE WEST WABASSO STREET LIGHTING MUNICIPAL SERVICE BENEFIT UNIT

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

Assistant County Attorney William DeBraal reviewed his memorandum of January 10, 2007 asking the Board to perform the second step in a three step process, to open the public hearing, take testimony, and approve the Resolution electing to use the Uniform Method for the Levy Collection and Enforcement of Non Ad Valorem Assessments for the West Wabasso Street Lighting Municipal Service Benefit Unit. If this is approved, there will be a second public hearing coming back to the Board in February.

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

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chair Bowden, the Board unanimously approved **Resolution 2007-003**, electing to use the uniform method for the levy, collection, and enforcement of non ad valorem assessments pursuant to Florida Statute 197.3632 to recover the costs of street lighting and maintenance in the West Wabasso area.

9.B. PUBLIC DISCUSSION ITEMS - NONE

9.C. PUBLIC NOTICE ITEMS

9.C.1. SCHEDULED FOR PUBLIC HEARING FOR JANUARY 23, 2007:

9.C.1.A. CONTINUATION OF PUBLIC HEARING FROM DECEMBER 5, 2006 MEETING. PROPOSED AMENDMENTS TO LDR CHAPTER 910, CONCURRENCY MANAGEMENT SYSTEM; TITLE X, IMPACT FEES; AND CHAPTER 912, SINGLE-FAMILY DEVELOPMENT (LEGISLATIVE)

9.C.2. NOTICE OF SCHEDULED PUBLIC HEARING FOR FEBRUARY 6, 2007:

9.C.2.A. VERO 45 LLC: REQUEST TO REZONE ±1.81 ACRES LOCATED AT THE SOUTHEAST QUADRANT OF THE INTERSECTION OF U.S. HIGHWAY 1 AND 45TH STREET FROM CH, HEAVY COMMERCIAL DISTRICT, TO CG, GENERAL COMMERCIAL DISTRICT. VERO 45, LLC, OWNERS. NEW URBAN GROUP, AGENT (QUASI-JUDICIAL)

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9.C.2.D. GH VERO BEACH DEVELOPMENT LLC AND GRAND HARBOR NORTH LAND LLC: REQUEST FOR A PROPOSED CHANGE TO THE GRAND HARBOR DRI DEVELOPMENT ORDER TO ADD THE "RIVERBEND PD" SITE – QUAS- JUDICIAL

9.C.2.E. GRAND HARBOR NORTH LAND LLC: REQUEST FOR SPECIAL EXCEPTION USE AND CONCEPTUAL PD PLAN APPROVAL FOR A DEVELOPMENT TO BE KNOWN AS THE ISLES OF GRAND HARBOR. GRAND HARBOR NORTH

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NORTH RELIEF CANAL, BETWEEN US HIGHWAY 1 AND THE INDIAN RIVER
LAGOON, SOUTH OF 63RD STREET - QUASI-JUDICIAL**

Executive Aide Kim Massung read the notices into the record.

10. COUNTY ADMINISTRATOR'S MATTERS - NONE

11. DEPARTMENTAL MATTERS

11.A. COMMUNITY DEVELOPMENT

**11.A.1. REQUEST FOR APPROVAL OF A RESOLUTION ENDORSING BY THE
RIVER, INC. AS A SPONSORING AGENCY FOR AN ASSISTED LIVING
COMMUNITY UNDER THE FLORIDA COMMUNITY CONTRIBUTION TAX
CREDIT PROGRAM**

Community Developer Director Bob Keating reviewed his memorandum of January 3, 2007 asking the Board to endorse "By the River, Inc." as a sponsoring agency, and to approve the Resolution.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2007-004**, endorsing By the River, Inc. as a sponsoring agency under the Florida Community Contribution Tax Credit Program; and finding that the proposed By The River Assisted Living Facility is

consistent with the Indian River County Comprehensive Plan and the Indian River County Land Development Regulations.

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. GIFFORD PARK MULTI-PURPOSE FIELD LIGHTING SYSTEM
CONTRACT AWARD MUSCO SPORTS LIGHTING, LLC**

Public Works Director Jim Davis presented this item to the Board.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved to use the City of Jacksonville price agreement contract as a contract for this project in the amount of \$184,414.00, and authorized FPL to install the appropriate service at a cost of \$17,915.23, as recommended in the memorandum of January 4, 2007.

11.J. UTILITIES SERVICES

11.J.1. WORK ORDER NO. 3 WITH SCHULKE, BITTLE & STODDARD, LLC FOR CONSTRUCTION OF A 6-INCH MASTER PLANNED FORCE MAIN FROM OLD DIXIE HIGHWAY TO THE LATERAL G CANAL AND REVISION OF A DEVELOPER'S AGREEMENT WITH HIGH POINTE SUBDIVISION FOR OFF-SITE UTILITIES – UCP 2598

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved Work Order No. 3 with SBS in the amount of \$25,440.00 to provide surveying, design revisions, permitting and construction services for the subject 6-inch force main; approved the revised Developer's Agreement with High Pointe Subdivision; authorized the Utilities Department to recover capacity charges and line extension fees from benefiting property owners in perpetuity; and authorized

the Chairman to execute the same, as recommended in the memorandum of November 7, 2006.

WORK ORDER NO. 3 IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD

12. COUNTY ATTORNEY MATTERS - NONE

13. COMMISSIONER ITEMS

13.A. COMMISSIONER GARY C. WHEELER, CHAIRMAN - NONE

13.B. COMMISSIONER SANDRA L. BOWDEN, VICE CHAIR - NONE

13.C. COMMISSIONER WESLEY S. DAVIS - NONE

13.D. COMMISSIONER JOSEPH E. FLESCHER - NONE

13.E. COMMISSIONER PETER D. O'BRYAN - NONE

14. SPECIAL DISTRICTS AND BOARDS

14.A. EMERGENCY SERVICES DISTRICT - NONE

14.B. SOLID WASTE DISPOSAL DISTRICT - NONE

14.C. ENVIRONMENTAL CONTROL BOARD - NONE

15. ADJOURNMENT

Draft

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 11:14 a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/MIS/2007Minutes