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**OF FEBRUARY 6, 2007**

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February 6, 2007

**MEETING OF THE BOARD OF COUNTY COMMISSIONERS**  
**OF INDIAN RIVER COUNTY**

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, February 6, 2007. Present were Chairman Gary C. Wheeler, Vice Chair Sandra L. Bowden, Commissioners Wesley S. Davis, Joseph E. Flescher and Peter D. O'Bryan. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Athena Adams.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Detective Teddy Floyd, Indian River County Sheriff's Office (IRCSO), Crime Prevention Unit, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Chairman Gary Wheeler led the Pledge of Allegiance to the Flag.

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

Addition – Item 13.A.2, Board of County Commission Office Staffing

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the change to the Agenda.

**5. PROCLAMATIONS AND PRESENTATIONS – NONE**

**6. APPROVAL OF MINUTES**

**REGULAR MEETING OF DECEMBER 5, 2006**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the regular Meeting of December 5, 2006. There were none.

ON MOTION by Vice Chairman Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the Minutes of the regular meeting of December 5, 2006 as written and distributed.

**REGULAR MEETING OF DECEMBER 12, 2006**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the regular Meeting of December 12, 2006. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Minutes of the regular meeting of December 12, 2006 as written and distributed

## **7. CONSENT AGENDA**

Commissioner Davis asked to pull, for discussion, Item 7.DD  
Vice Chair Bowden asked to pull, for discussion, Item 7.D  
Chairman Wheeler asked to pull, for discussion, Item 7.Z

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

**1. ANNUAL FINANCIAL REPORT OF UNITS OF LOCAL GOVERNMENT AND THE ANNUAL POST AUDIT REPORT FOR 2005-2006 FISCAL YEAR FOR THE SEBASTIAN INLET DISTRICT COMMISSION.**

**2. INDIAN RIVER FARMS WATER CONTROL DISTRICT – ANNUAL LOCAL GOVERNMENT FINANCIAL REPORT AND THE AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED SEPTEMBER 30, 2006.**

**7.B. APPROVAL OF WARRANTS – JANUARY 12 – 18, 2007**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of January 12-18, 2007 as requested.

**7.C. APPROVAL OF WARRANTS - JANUARY 19 – 25, 2007**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of January 19-25, 2007 as requested.

**7.D. QUARTERLY INVESTMENT REPORT**

Vice Chair Bowden informed the Board that this was a Quarterly Investment Report; there was an Advisory Committee, and they were financially safe. She asked Clerk of Court Jeffrey K. Barton to identify the Advisory Committee.

Mr. Barton named the Advisory Board members as himself (in charge of investments), the Administrator’s representative Jason Brown (Budget Director for the County), two outside members David Koresh (Northern Trust), and Ted Libby (Cypress National Corporation). Additionally, there is Nancy Beckwith, a retired Vice President of Commercial

Lending at Wachovia. He said the report as presented outlines the investment portfolio, what they have, and what they are doing to follow the investment guidelines. He thanked the committee members for the time they give to the County.

Vice Chair Bowden was pleased with what has been done and thanked Mr. Barton for the Report.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously accepted the Investment Advisory Committee Quarterly Report, as recommended in the memorandum of January 22, 2007.

**7.E. 2007 ELECTION OF ENVIRONMENTAL CONTROL HEARING BOARD (ECHB) CHAIRMAN AND VICE CHAIRMAN**

The Board noted the re-elections of Mr. Alan Polackwich, Sr. as Chairman and Mr. Steve Snoberger as Vice Chairman of the Economic Development Council for the year 2007.

**7.F. 2007 ELECTION OF CODE ENFORCEMENT BOARD (CODE) CHAIRMAN AND VICE CHAIRMAN**

The Board noted the elections of Mr. Joe Garone as Chairman and Mr. Keith Hedin as Vice Chairman of the Code Enforcement Board for the year 2007.

**7.G. 2007 ELECTION OF PROFESSIONAL SERVICES  
ADVISORY COMMITTEE (PSAC) CHAIRMAN AND VICE  
CHAIRMAN**

The Board noted the re-elections of Mr. Rodney Paradise as Chairman, and Mr. Warren Dill as Vice Chairman of the Professional Services Advisory Committee for the year 2007.

**7.H. 2007 ELECTION OF CONSTRUCTION BOARD OF  
ADJUSTMENT & APPEALS (CBAA) CHAIRMAN AND  
VICE CHAIRMAN**

The Board noted the re-elections of Mr. Peter Robinson as Chairman, and Mr. Pete Clements as Vice Chairman of the Construction Board of Adjustments & Appeals for the year 2007.

**7.I. OUT OF COUNTY TRAVEL ASSOCIATED WITH SERVING  
ON THE TREASURE COAST REGIONAL PLANNING  
COUNCIL'S FLORIDA REGIONAL COUNCIL**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously authorized reimbursement for travel and lodging expenses associated with attending Council meetings by Commissioner Wheeler, as requested in the memorandum of January 30, 2007.

**7.J. DEED EXCHANGE – KEN MCKELLAR PARCEL AT THE  
NORTH COUNTY REGIONAL WASTEWATER  
TREATMENT FACILITY EFFLUENT DISPOSAL SITE**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the County Deed and authorized the Chairman to execute same, as recommended in the memorandum of January 29, 2007.

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

**7.K. MISCELLANEOUS BUDGET AMENDMENT 009**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved **Resolution 2007-007** amending the fiscal year 2006-2007 budget.

**7.L. IRC JAIL EXPANSION PROJECT DEDUCTIVE CHANGE  
ORDER NUMBER 7**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved Deductive Change Order Number 7 in the amount of \$12,837.90 and authorized the Chairman to execute same, as recommended in the memorandum of January 24, 2007.



Upon approval of the Change Order, the amount of the GMP for the Jail Expansion Project will be reduced to \$18,079,963.93.

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

**7.M. GRANT OF EASEMENT BY INDIAN RIVER COUNTY TO THE CITY OF VERO BEACH FOR PUBLIC UTILITIES – EMERGENCY OPERATIONS CENTER, 43<sup>RD</sup> AVE.**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved and authorized the Chairman to sign the Grant of Easement, as recommended in the memorandum of January 26, 2007.

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

**7.N. BILLY’S AUTO WATER MAIN CONSTRUCTION ON 43<sup>RD</sup> AVENUE, APPROVAL OF FINAL PAYMENT TO CONTRACTOR**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the total labor cost of \$20,645.07 and approved Application for Pay Request No. 1 – Final as final

payment to The Danella Companies, Inc., in the amount of \$2,064.50, as recommended in the memorandum of January 24, 2007.

**7.O. MASTER PLAN 8” FORCE MAIN ON 1<sup>ST</sup> STREET SW FROM 43<sup>RD</sup> AVENUE TO 39<sup>TH</sup> COURT, APPROVAL OF FINAL PAYMENT TO CONTRACTOR**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the total labor cost of \$34,440.60 and approved Application for Pay Request No. 2 – Final as final payment to The Danella Companies, Inc., in the amount of \$3,444.06, as recommended in the memorandum of January 24, 2007.

**7.P. BELLA VISTA ISLES 6” FORCE MAIN CONSTRUCTION ON 26<sup>TH</sup> STREET, APPROVAL OF CHANGE ORDER NO. 1 AND FINAL PAYMENT TO CONTRACTOR**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the total labor cost of \$14,466.65; approved Change Order No. 1 for \$3,890.50; authorized the Chairman to execute the Change Order; and, approved the Application for Pay

Request No. 1 – Final as final payment to The Danella Companies, Inc., in the amount of \$14,466.65, as recommended in the memorandum of January 23, 2007.

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

**7.0. SCHUMANN DRIVE AND EMPRESS AVENUE CANAL  
CROSSINGS WATER AND FORCE MAIN  
REPLACEMENTS, APPROVAL OF FINAL PAYMENT TO  
CONTRACTOR**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved the total labor cost of \$84,541.74 and approved the Application for Pay Request No. 2 – Final as final payment to The Danella Companies, Inc., in the amount of \$8,454.17, as recommended in the memorandum of January 24, 2007.

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

**7.R. APPROVAL OF RENEWAL FOR A CLASS "E"  
CERTIFICATE OF PUBLIC CONVENIENCE AND  
NECESSITY FOR WE CARE OF THE TREASURE COAST  
INC. TO PROVIDE WHEELCHAIR/STRETCHER SERVICES**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved renewal of the Class "E" Certificate of Public Convenience and Necessity for We Care of the Treasure Coast Inc., to be effective for a period of two (2) years from February 6, 2007, to February 6, 2009, as recommended in the memorandum of January 23, 2007.

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

**7.S. WORK ORDER NO. 5, CARTER ASSOCIATES, INC.,  
SUPPLEMENTAL SERVICES NO. 1**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved Supplemental No. 1 in the amount of \$1,485.00 authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute Supplemental No. 1 to Work Order No. 5, as recommended in the memorandum of January 23, 2007.

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

**7.T. OSLO ROAD WIDENING BETWEEN 43<sup>RD</sup> AVENUE AND  
27<sup>TH</sup> AVENUE, ENGINEERING SERVICES AMENDMENT  
NO. 1 – SIGNALIZATION REVISION AND UTILITY  
LOCATES, OSLO ROAD WIDENING BETWEEN 58<sup>TH</sup>  
AVENUE AND 43<sup>RD</sup> AVENUE**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved Amendment No. 1 in the amount of not to exceed \$49,950.00 with Kimley-Horn, Inc., as recommended in the memorandum of January 19, 2007.

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

**7.U. REQUEST FOR RELEASE OF RETAINAGE ON TURNER  
CONSTRUCTION CONTRACT FOR COUNTY  
ADMINISTRATION COMPLEX**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved that the Retainage be reduced to and remain at 5% (of all work completed on which Retainage can be withheld) for the remainder of the project, and approved that an amount equal to one half of the amount currently being withheld be released to Turner Construction, which total would

currently amount to \$1,682,925.00 x ½ or \$841,462.00, as recommended in the memorandum of January 31, 2007.

**7.V. FINAL PAYMENT AND RELEASE OF RETAINAGE, WORK ORDER NO. 7, SUPPLEMENTAL NO. 1 AND NO. 2, KIMLEY-HORN & ASSOCIATES, INC., OSLO ROAD RIGHT-OF-WAY MAPPING PROJECT PHASE ONE, US1 TO 27<sup>TH</sup> AVENUE IRC PROJECT NO. 0501**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved payment to Kimley-Horn & Associates, Inc., in the total amount of \$10,042.00, which is budgeted and available from the Professional Land Survey Annual Services Contract 0390, as recommended in the memorandum of January 26, 2007.

**7.W. FINAL PAYMENT AND RELEASE OF RETAINAGE, WORK ORDER NO. 8 AND SUPPLEMENTAL NO. 1, KIMLEY-HORN & ASSOCIATES, INC., OSLO ROAD RIGHT-OF-WAY MAPPING PROJECT PHASE 2, 27<sup>TH</sup> AVENUE TO 43<sup>RD</sup> AVENUE, IRC PROJECT NO. 0533**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved

payment to Kimley-Horn & Associates, Inc., in the total amount of \$5,940.00, which is budgeted and available from the Annual Professional Surveying and Mapping Services Account, as recommended in the memorandum of January 26, 2007.

**7.X. OSLO ROAD WIDENING PHASE 1, WEST OF OLD DIXIE  
TO 27<sup>TH</sup> AVENUE, CONSTRUCTION TESTING SERVICES  
AGREEMENT**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the Construction Testing Services Agreement with Ardaman & Associates, Inc., with a “Not to Exceed” amount of \$59,636.00, as recommended in the memorandum of January 24, 2007.

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

**7.Y. CR 512, PHASE III, CR 510 – PROJECT #9611 & 0001,  
GEOTECHNICAL SERVICES WORK ORDER #2,  
DINKELBERGER ENGINEERING & TESTING, INC.**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved Work Order No. 2 to Dunkelberger Engineering & Testing Inc., authorizing the professional services as outlined in

the Scope of Services, and authorized the Chairman to execute the Work Order for an amount not to exceed \$32,820.00, as recommended in the memorandum of January 24, 2007.

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

**7.Z. PROFESSIONAL SERVICE AGREEMENT RENEWAL,  
MARLOWE & COMPANY, SECTOR 5 BEACH  
RESTORATION AND FEDERAL LOBBYING SERVICES  
FOR MISCELLANEOUS PROJECTS**

Chairman Wheeler referred to the contract renewal for a Washington D.C. Government Affairs Lobbyist to provide lobbying and consulting services to the County, and noticed that in addition to the \$3,500.00 monthly fee there would be a \$1,500.00 monthly fee to cover any other projects requested by the County. He asked if the County had any other projects.

Administrator Baird replied, "Yes, we do," and he had met with the Lobbyist and discussed the various items the County is looking to get funding for, namely: storm-water, to get the run-off for the Lagoon; trying to reinstate the money for Vero Beach Sector 5 Beach re-nourishment; money for bus and transport facility; money for landfill gas system; and money for the health Clinic in Gifford.

Commissioner Davis did not know whether it was a county or city issue but felt with the possibility of moving the wastewater facility that is adjacent to the Lagoon, that was something the County could start talking to the Lobbyist about to seek Federal funding.



Administrator Baird would be glad to incorporate that into the County's request for funds, if the City of Vero Beach so wishes. He promised to get with the City of Vero Beach to discuss the matter.

**Jens Tripson**, Pelican Island Audubon Society, felt that might be something the lobbyist could do.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Renewal Agreement with Marlowe & Company for lobbying and consulting services, and authorized the Chairman to execute same, as recommended in the memorandum of January 29, 2007.

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

**7.AA.CONTRACT APPROVAL FOR \$50,000 CITRUS BEST  
MANAGEMENT PRACTICES GRANT**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Grant Agreement thus accepting the \$50,000.00 Florida Department of Agriculture and Consumer Services (FDACS) Grant for Citrus Best Management Practices installations in Indian River County, and authorized the Chairman to execute the Agreement, as recommended in

the memorandum of January 25, 2007.

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

**7.BB WOODSIDE TIMBERLAKE INC.'S REQUEST FOR FINAL  
PLAT APPROVAL FOR A PLAT-OVER-SITE-PLAN  
SUBDIVISION TO BE KNOWN AS TIMBERLAKE**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously granted final plat approval for Timberlake Subdivision, as recommended in the memorandum of January 26, 2007.

**7.CC. IRC JAIL EXPANSION REQUEST FOR CHANGE ORDER  
#8 (ADDED SCOPE OF WORK)**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved Change Order #8 (re-roofing building C) in the amount of \$157,300.00, and authorized the Chairman to execute the Change Order after the County Attorney's office has reviewed and approved the document, as recommended in the memorandum of January 25, 2007.

**7.DD. PERMISSION TO ADVERTISE FOR PUBLIC HEARING**  
**FEBRUARY 20, 2007, FOR PROPOSED ORDINANCE**  
**PROHIBITING ALL TERRAIN VEHICLES ON UNPAVED**  
**ROADWAYS**

Commissioner Davis argued, “We need to do something about making residential streets safe,” and felt the issue might require State legislative help. He believed that if the County passes this ordinance it would create a problem with regards to legitimate agricultural purposes because some people are convinced an ATV is not necessarily a recreational vehicle but it is also a piece of farm machinery.

Chairman Wheeler wondered if there was a way they could incorporate in the ordinance, with classifications for our County, a criteria where they could register a vehicle as farm machinery and establish in our County that it is used for agriculture.

Attorney Collins doubted they could do that, stating that the State pre-empts this field in terms of definition of what is a farm vehicle. He discussed the distinction between operation on public and agricultural roads and offered to look at the issue to see if there was another option.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized staff to proceed with the required advertisement to hold a public hearing on February 20, 2007 to adopt the proposed ordinance prohibiting all-terrain vehicles on unpaved roadways, as recommended in the memorandum of January 26, 2007.

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

**INDIAN RIVER COUNTY SHERIFF – ROY RAYMOND**  
**RENEWAL OF COMMERCIAL LEASE AGREEMENT LOCATED**  
**AT THE VERO BEACH MUNICIPAL AIRPORT**

ON MOTION by Commissioner Davis, SECONDED by Chairman Wheeler, the Board unanimously approved for the Sheriff's Office to renew its Commercial Lease at the Vero Beach Municipal Airport for an additional five-year term, as requested in the letter of January 25, 2007.

**9. PUBLIC ITEMS -**

**A.1 PUBLIC HEARINGS – VERO 45 LLC'S REQUEST TO REZONE ± 1.81 ACRES FROM CH TO CG iQUASI-JUDICIALi**

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

*(Clerk's Note: This Item was heard after Item 9.A.2 to facilitate the arrival of an interested party.)*

Community Development Director Bob Keating explained that this was a rezoning request to go from CH, Heavy Commercial to CG, General Commercial. He recapped his memorandum of January 3, 2007 and through a PowerPoint Presentation provided background on the matter. He asked the Board to approve staff's recommendation to rezone the subject

property from CH to CG.

Traffic Engineer Chris Mora responded to questions from Commissioner O'Bryan regarding traffic and an increase in trips. Director Keating also responded to questions from Chairman Wheeler regarding trips available and how it would be dealt with.

*The Chairman opened the Public Hearing.*

**Grant Withers**, 1739 Victoria Circle, Grand Harbor, asked what was the impact on the length at 45<sup>th</sup> Street and Indian River Boulevard. Mr. Mora replied that it was up to about 10 trips in the peak hour, so there was an impact on the Boulevard also.

**Bob Johnson**, Coral Wind Subdivision, thought this was an ideal location for heavy commercial and he would rather have the trucks go down route 1 than have them come through his residential neighborhood.

**Freddie Woolfork**, 4590 57<sup>th</sup> Avenue, recalled prior comments that some traffic would divert towards the east, meaning Gifford residential areas. He asked what type of traffic control devices would be placed there and what were the plans for traffic control.

Mr. Mora explained that traffic volumes are reviewed yearly and when required traffic signals are put in.

*There were no additional speakers and the Chairman closed the Public Hearing.*

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

Commissioner Davis believed that to be able to allow a commercial general use on the corner of US 1 and 45<sup>th</sup> Street was appropriate.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board adopted Ordinance 2007-002 amending the zoning ordinance and the accompanying zoning map for ± 1.81 acres located on the southeast quadrant of the intersection of U.S. Highway 1 and 45<sup>th</sup> Street, from CH, Heavy Commercial District, to CG, General Commercial District; and providing codification, severability, and effective date.

*The Chairman called a break at 10:29 a.m. and reconvened the Meeting at 10:43 a.m. with all members present.*

**9.A.2. TRIPLE S. PROPERTIES INC.'S REQUEST TO REZONE 9.63 ACRES FROM MED TO OCR (QUASI-JUDICIAL)**

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

*(Clerk's Note: This item was heard ahead of Item 9.A.1)*

Community Development Director Bob Keating advised that this is a rezoning from one commercial district to another (from MED to OCR zoning district). He recapped his memorandum dated January 22, 2007 and through a PowerPoint Presentation provided background on this matter. He also outlined the purpose of this request, which is to secure the zoning necessary to develop the site with commercial uses that are allowed in the OCR zoning

district and not allowed in the commercial district. Staff felt the proposed request is compatible with the area and recommended approval.

Commissioner O'Bryan was concerned that there would be an intrusion in the middle of the medical zone and not just on the periphery. He was also concerned about the "falling dominoes effect" every time we push a node in and the possibility of losing the medical zoning.

Discussion ensued among staff and the Board regarding concurrency test, an error in the traffic count, and the difference in the development requirements from MED to OCR for parking requirements.

*The Chairman opened the Public Hearing.*

**Bruce Barkett**, 756 Beachland Boulevard, representing the Applicant Triple S Properties Inc., discussed what is permitted in the MED and OCR districts. He felt the hospital node does not need to be 400 acres and did not think it is fair to say this is incompatible.

*The Clerk swore in all who wished to speak on the Quasi-Judicial public hearing items.*

**Joseph Paladin**, Chairman of the Growth Awareness Committee (a private sector organization) did not think this rezoning was a good deal for the County and gave reasons, which involved parking and impact fee issues.

Director Keating responded to the difference in impact fees stating that the fees are dependent on use, not the zoning district, and it does not have any bearing on the impact fees.

**Mr. Paladin**, staff, and the Board engaged in discussion regarding square footage. Mr. Paladin gave a developer's view on the matter regarding parking spaces and why he did not think this was good for the County. He again voiced his opposition to the rezoning request.

**Honey Minuse**, 27 Starfish Drive, indicated that there is a large coalition of people along Indian River Boulevard who are against commercial development; they perceive it as a threat to safely enter their communities; and do not see a commercial development being compatible with residential. She asked the Board to keep in mind the needs and interest of the people on the Boulevard when they make a decision.

**Grant Withers**, 1739 Victoria Circle, Grand Harbor, shared Commissioner O'Bryan's concern about the compatibility of this property with the surrounding area. He suggested they have a wider look at the area and asked the Board to deny the request to rezone.

**Victor Knight**, 3295 Ranch Road, whose family owns land to north and west of the subject area, gave a brief history of how this all came about. They have no objection to the rezoning request, thinks it is a good transitional use, and urged the Board to approve the request.

**Warren Schwerin**, 667 Ocean Road, and President of Triple S. Properties, argued that his firm is well acquainted with the needs of medical and commercial tenants. He believed this project is complementary to the Medical node and is needed in the County. He defended his Firm's reputation and urged the Board to support their petition.

**Donna Keys**, Planning & Zoning Commission, recalled that when this matter came before the Planning and Zoning Commission County staff had mentioned they had plans for that entire area. She asked for explanations on how this is supposed to all come together.



Director Keating reported that he had been talking to the property owner and they are looking at developing a better system of roadways (between 37<sup>th</sup> Street and 41<sup>st</sup> Street and accessing the Boulevard) with connectivity. He also explained that they do not have a grid or local roads to provide the inter-connections but they have a general agreement among the parties.

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

Commissioner O'Bryan had no problem with the proposed project but was concerned there might be piecemeal zoning particularly if there is potential large-scale changes to this node. He wanted the Board to table this matter and perhaps have a workshop and look at the big picture and see how it all fits in as an overall master plan for the area.

Commissioner Davis believed the best way to go is through the Planned Development (PD) process. Vice Chair Bowden was not opposed to looking at the big picture but had to go with the residents and stay with the Medical zoning.

Director Keating responded to Commissioner Flescher's question of how rezoning would move us closer to the grid concept.

**Mr. Barkett** talked about how the north and south County initiative came about. He argued that it was not reasonable or fair to say you have to work with another property owner in advance to having their property rezoned consistent with the Comprehensive Plan, as the Plan already designates this. He believed it was not what was done in the past and it was not necessary.

Commissioner O'Bryan clarified his concerns.

Chairman Wheeler voiced his concerns and had questions regarding additions to a node including percentages to be filled, and whether an OCR has to establish specific land use.

MOTION WAS MADE by Commissioner Flescher,  
SECONDED by Chairman Wheeler for discussion, to  
deny the request.

Commissioner O'Bryan wanted to see this come back as part of a conceptual plan or as a PD. Discussion ensued among the Commissioners regarding denial and whether the request could come back as a PD, tabling the matter, and the timeframe for rezoning.

Chairman Wheeler WITHDREW his Second. MOTION  
DIED.

Discussion continued among the Commissioners on whether to table this item and the timeframe involved.

**Mr. Barkett** was not sure his client would want to change his application to a PD. He withdrew the Application.

Mr. Bruce Barkett, Esquire, WITHDREW the  
Application/Request from Triple S. Properties Inc., to  
rezone 9.63 acres from MED to OCR.

No Board action was taken.

**9.A.3 GRAND HARBOR NORTH LAND LLC. ET.AL.'S REQUEST TO REZONE ±435.88 ACRES FROM PD TO RS-3, RM-3, AND CON-2, AND BEB INVESTMENTS LTD.'S REQUEST FOR A SMALL SCALE LAND USE PLAN AMENDMENT TO REDESIGNATE ± 1.81 ACRES FROM L-1 TO C/I AND TO REZONE THOSE ±1.81 ACRES FROM PD TO CG; AND TO REDESIGNATE ±1.81 ACRES FROM C/I TO L-1 AND REZONE THOSE ±1.81 ACRES FROM PD TO RM-3 (QUASI-JUDICIAL)**

Community Development Director Bob Keating explained that this is the first of three consecutive public hearings relating to Grand Harbor. He requested that the Board hear all three presentations (Items 9.A.3, 9.A.4. and 9.A.5) at once and vote on them separately.

Director Keating, through a PowerPoint presentation, displayed the area under consideration, which is currently zoned PD (**Item 9.A.3**). He explained the differences between a PD rezoning and a PD special exception, outlining that the proposal is to take the property back to what it was before it was zoned PD. He provided detailed background on the request. He disclosed that this request does not meet the concurrency test, it significantly exceeds the concurrency limits of a PD, is inconsistent with the Comprehensive Plan, and staff recommends denial of the proposed rezoning.

Planning Director Stan Boling presented the application for changing the Grand Harbor DRI Development Order to add the “Riverbend PD” site and the Luther/Victoria Web Site (**Item 9.A.4**). He displayed a map showing the subject areas and provided background on the request, which involves adding 413.67 acres of the “Riverbend PD” site to the overall Grand

Harbor DRI. Staff recommended that the Board deny the applicant's request for the proposed change. Further, if the rezoning concurrency issue were to be adequately addressed in conformance with Chapter 910 criteria, then staff would recommend that the Board determine that the proposed change request does not constitute a substantial deviation and adopt the attached resolution amending the Grand Harbor Development Order and approving the proposed change.

Director Boling responded to questions from Commissioners O'Bryan and Davis regarding Grand Harbor having another three (3) years to build-out, and what would happen if the Board denied the request.

Director Boling presented Grand Harbor North Land LLC's Request for Special Exception Use and Conceptual PD Plan approval for a development to be known as The Isles of Grand Harbor (**Item 9.A.5**). He described the request by recapping his memorandum of January 30, 2007. He discussed environmental issues, and summarized the public benefits to be had, which include increased perimeter buffer width, increased upland preservation, increased minimum open space, and maximized wetland preservation among others. He presented staff's recommendation as outlined in the backup at pages 307-308 and asked the Board to deny the request unless the rezoning concurrency issues were to be adequately addressed.

*The Chairman opened the Public Hearing.*

**Bob Raynes, Esquire**, Land Use Attorney, Gunster Yoakley and Stewart PA, on behalf of the Applicant, thanked the Board for the opportunity to make this presentation. He expressed excitement about this project because they believe this is a "win/win situation" that would allow them to continue the development pattern of Grand Harbor that they want. Through a PowerPoint Presentation Mr. Raynes introduced the Project Team and gave a quick overview of what would result if the Board approved the Request today. He also displayed the properties

involved, discussed the requests before the Board for consideration, pending applications, notice of proposed change, and the reason for the request.

Chairman Wheeler inquired if a PD zoning expires. Director Keating replied, “Yes and No”, and explained future proposals. Director Boling gave his understanding of when a Development Order expires, stating that it does not take away any prior plan approvals that the project may have had. Further, there was no reverter on this property and it is zoned PD.

**Mr. Raines** continued his presentation discussing impact assessment under the proposed project. He felt it was important to understand that the rezoning would be a means to an end. He declared that a PD Special Exception is consistent with the current Planned Development of Grand Harbor.

**Brad Curry**, Certified Planner, Land Design South, presented the Isles of Grand Harbor Project. (**Item 9.A.5**). He outlined the subject property for the proposed conceptual PD plan. He provided a brief history on the purchase and development of the subject land. He also displayed and discussed the site plan pointing out access to and from the project sites. In conclusion he discussed the Eagle Protection Zone and Spoonbill Marsh Access, and FDOT Canal redesign and maintenance.

**Steve Moler**, Engineer, Masteller & Moler, Inc., discussed the importance of the Spoonbill Marsh Project and Grand Harbor’s involvement. He provided a brief history on the subject project. He discussed environmental components, which include the Eagle Protection Zones, Riverbend Wetlands and Native Upland Preservation.

**Mr. Curry** discussed the Grand Harbor DRI (**Item 9.A.4**). He displayed a map of the overall boundary of the DRI and provided a brief history on the DRI since its inception/approval. He discussed build-out of Grand Harbor DRI, the Grand Harbor Tradition,

and the Riverbend PD providing history on its approval, which occurred in 2000.

**Jason Matson**, Vice President and Transportation Project Manager, Kimley-Horn and Associates, Inc., summarized Transportation as it pertains to external peak hour trips. He talked about current transportation reanalysis associated with the applications, and trip reduction. He discussed access to Indian River Boulevard and talked about benefits gained from Grand Harbor. One of the conditions of this approval would be the installation of flasher signals until further warranted for full signals, he stated.

**Mr. Raines** summed up the presentation recapping the results of approval if the Board so granted. He outlined reduction in road trips and repeated his client's requests. If the project were approved, there would be significant public benefits, which he also outlined.

*Chairman Wheeler called a break at 12:13 p.m. and reconvened the meeting at 12:28 p.m. with all members present.*

*Chairman Wheeler reopened the public hearing.*

**Mr. Curry** responded to Commissioner O'Bryan's concerns regarding the twenty-three (23) plus acres that are not owned by Grand Harbor

**Joseph Paladin** asked Attorney Collins if he considered the acquisition of the 413 acres, as part of the original DRI, a substantial deviation. Attorney Collins replied, "No," and explained the provisions of the Florida Statutes regarding DRIs. **Mr. Paladin** continued to discuss DRIs, vested rights, meeting concurrency test and the Spoonbill Marsh Project.

**Mr. Seymour** responded to questions from Mr. Paladin, discussed the acreage involved, and what the project is designed to accommodate. He also responded to questions and

concerns from the Board.

**George Christopher**, Planning & Zoning Commission, discussed substantial deviation and confusion therewith. He argued that the only relevance is whether it needs regional review because if it is substantial deviation it must go through regional review. He felt the question before the Board is whether they have to approve this change to the Development Order and whether or not that change has to apply with the Comprehensive Plan and other laws that guide us.

Discussion ensued regarding vested rights, the Riverbend PD, and whether a new owner would still have to meet concurrency. There was also discussion regarding case law and vested right to a change, greater rights, and traffic impacts.

**Spencer Simmons**, Simmons Home, agreed with staff that if this DRI is allowed and they are given until 2012, they would have to bring this back before the Board again.

**Alfred Baldwin**, Lindsay Lanes, felt all the arguments were about Items 9.A.4 and 9.A.5 and he had not heard anything about the rezoning (Item 9.A.3). He did not understand and needed clarity on the change from a PD to other zoning. He also believed that what was being proposed has got to have impact and wondered if the Commissioners were losing control.

Chairman Wheeler gave his understanding of a PD zoning and asked for staff's concurrence. Director Keating said he was correct.

**Jens Tripson**, 2525 14<sup>th</sup> Street, was concerned about the wide discrepancy of the difference between what they say could be built. Director Keating explained the difference.

**Mr. Tripson** questioned the portion on 63<sup>rd</sup> Street to be closed off, asking if those owners were going to be gated in. He did not see making a public road into a private road beneficial to the public.

Director Boling explained that the Board's approval would not include closing any portion of 63<sup>rd</sup> Street.

**Lyndall Soule**, Roseland Road, who owns 4 acres at the easternmost border of 63<sup>rd</sup> Street, was not notified by Grand Harbor that they have a conceptual plan of closing the road. She wanted to make sure she has access to her property and did not think closing 63<sup>rd</sup> Street and making it a private road would benefit the people.

**Richard Bialosky**, Oyster Shell Lane, remarked that if the owners of property on 63<sup>rd</sup> Street would end up behind Grand Harbor's gates, they would be delighted. He also stated that many residents feel it is a huge benefit to them.

**Don Studley**, 1060 East Polo Grounds Drive, considered the impact and wondered why there was concern about cars when someone was bringing jobs and spending money for the County.

*There were no other speakers and the Chairman closed the Public Hearing.*

The Board and staff discussed staff's recommendation, concurrency, rezoning, vested rights, and density. Commissioners Davis and Bowden wanted to support staff's recommendation. Attorney Collins explained to Commissioner O'Bryan what it would take for the rezoning to be approvable. He also explained why the Board has no authority to approve.



Chairman Wheeler felt this hinges on Grand Harbor trying to keep its vesting rights and he could not support that concept. He also did not like the idea of extending this to 2012, agreed with staff's recommendation and opposed the rezoning.

**Mr. Raines** said he was willing to ask the Board to table the matter for a couple weeks instead of the Board voting against it today. Chairman Wheeler was not opposed.

Discussion ensued among Board members, Mr. Seymour and others regarding timeframe for tabling this item.

MOTION WAS MADE by Commissioner Davis,  
SECONDED by Chairman Wheeler, to table Public  
Hearing Items 9.A.3, 9.A.4 and 9.A.5 to the second  
meeting in March 2007.

**George Christopher** felt they would have to re-advertise so it would not be a time-certain.

Discussion continued on whether the developer's agreement would have to go back to P&Z.

**Mr. Seymour** suggested they table for thirty (30) days and let the traffic engineers work this out.

There was continued discussion on the Motion and whether to table to a time certain.

Chairman Wheeler WITHDREW his SECOND to the  
Motion. MOTION DIED.

**Mr. Seymour** explained the main difference between tabling versus denying.

Chairman Wheeler RETURNED his Second to the Motion. MOTION STANDS.

Commissioners Bowden and Flescher supported staff's recommendation.

The Chairman CALLED THE QUESTION and by a 3-2 vote (Commissioners Bowden and Flescher opposed) approved to table Items 9.A.3, 9.A.4 and 9.A.5 to the second meeting in March 2007.

*The Chairman called a break at 1:48 p.m. and reconvened the meeting at 2:00 p.m. with all members present.*

**9.A.4 GH VERO BEACH DEVELOPMENT LLC AND GRAND HARBOR NORTH LAND LLC'S REQUEST FOR A CHANGE TO THE GRAND HARBOR DRI DEVELOPMENT ORDER TO ADD THE "RIVERBED PD" SITE AND THE LUTHER/VICTORIA WEST SITE (QUASI-JUDICIAL)**

This item was tabled. See Item 9.A.3 for discussions.

**9.A.5 GRAND HARBOR NORTH LAND LLC'S REQUEST FOR SPECIAL EXCEPTION USE AND CONCEPTUAL PD PLAN APPROVAL FOR A DEVELOPMENT TO BE KNOWN AS THE ISLES OF GRAND HARBOR**

This item was tabled. See Item 9.A.3 for discussions.

**9.A.6 AMENDMENT TO INDIAN RIVER COUNTY CODE SECTION 102.06. RULES OF DEBATE (LEGISLATIVE)**

Assistant County Attorney William DeBaal, reminded the Board that at the January 9, 2007 BCC meeting they directed staff to draft a proposed ordinance that would change the rules of debate to allow the Chairman to make motions and pass the gavel. He then presented the amended ordinance to the Board for consideration and adoption.

Commissioner Davis expressed his views on the matter and Commissioner Bowden discussed the wording of the ordinance.

*The Chairman opened the Public Hearing.*

There were no speakers and the Chairman closed the Public Hearing.

MOTION WAS MADE by Vice Chair Bowden,  
SECONDED by Commissioner Flescher, for the Board of  
County Commissioners to continue as they have always  
proceeded where the Chairman is able to make a

nomination and to second motions but not be able to pass the gavel to make a motion.

There was no further discussion.

The Chairman CALLED THE QUESTION and by a 3-2 vote (Commissioners Davis and Wheeler opposed) the Motion carried.

## **9. PUBLIC DISCUSSION ITEMS**

### **B.1. REQUEST TO SPEAK FROM JAMES & PATRICIA WAWRZYNIAK REGARDING CODE ENFORCEMENT FINE**

**James Wawrzyniak**, 1432 3<sup>rd</sup> Court, asked the Board to eliminate his Code Enforcement fine on the basis of miscommunication between himself and the Code Enforcement Officer, which he explained.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously waived the Code Enforcement fine against James Wawrzyniak in the amount of Two Thousand Dollars (\$2,000.00).

**9.B.2. REQUEST TO SPEAK FROM AL BALDWIN REGARDING  
INDIVIDUAL AIDE FOR COMMISSIONERS**

Mr. Alfred Baldwin, 4740 47<sup>th</sup> Court, Lindsay Lanes, speaking on behalf of other community residents, discussed the contract of the Executive Aide and the Board's handling of the matter at its last meeting. He also wanted to address handling of taxpayers' money and believes citizens should come forward and raise warning flags when there is something that concerns them and the county. He asked whether the public would be given an opportunity to address the matter of hiring individual Aides, and what would be the cost to the taxpayers. He questioned the need for individual Aides at a high rate of pay to taxpayers, and the justification for hiring Aides without public input.

Chairman Wheeler assured Mr. Baldwin that there would be public discussions, the public would have input, and the issue of individual aides has not yet been decided.

*No Board action required or taken.*

**9.B.3. REQUEST TO SPEAK FROM JOSEPH PALADIN,  
CHAIRMAN, GROWTH AWARENESS COMMITTEE  
REGARDING CHAPTER 910 AND PROPORTIONATE  
SHARE SENATE BILL 360**

Mr. Joseph Paladin, Chairman, Growth Awareness Committee (a Private Sector Organization) brought up this item seeking clarity on how Proportionate Share is being applied (with the newly adopted Chapter 910) and what was the intent of the Board. He discussed the options he thought they had which include vested building permits. He also discussed staff's recommendation, and the rationing program. He challenged Director Keating's comments

regarding Proportionate Share agreement and the number of trips available. He understood that one was not allowed to vest unless there was a building permit and believed that is what was voted on.

Commissioner Davis provided some clarity to Mr. Paladin's concerns. Detailed discussion ensued among the Board, staff and audience members regarding proportionate share, counting trips, what they are going to do on Route 60, and the provisions of Senate Bill 360 (SB 360) regarding entering into a proportionate share agreement.

Chairman Wheeler felt they needed to bring this back at another meeting.

There was CONSENSUS to bring this back at another meeting.

Discussion continued among Board members and Mr. Paladin regarding broken links on US1 that are not "prop sharable", and inability to change the ordinance.

Commissioner Flescher explained his intent when he made reference to SB 360 regarding the rationing issue.

**Andrew Kennedy**, 535 Eugene Road, sought confirmation on his understanding that the ordinance would be effective March 1<sup>st</sup>. After being told, "Yes", he inquired whether these scenarios would "bump this back continually".

There was more discussion on adopting a pending ordinance, and vesting on a broken link.

There was CONSENSUS to bring this matter back for discussion at a meeting in March 2007.

**9.B.4. REQUEST TO SPEAK FROM JOSEPH PALADIN,  
CHAIRMAN, GROWTH AWARENESS COMMITTEE  
REGARDING UPDATE ON BONDING OUT**

**Mr. Joseph Paladin** offered to table this Item to a future meeting.

**9.B.5. REQUEST TO SPEAK FROM NANCY B. WOOD, THE  
GREEN TEAM, REGARDING AN INVITATION TO THE  
COMMISSIONERS AND PUBLIC TO PARTICIPATE IN  
EFFORTS TO PLANT TREES, IMPLEMENT RECYCLING  
PROGRAMS, ETC.**

**Nancy B. Wood**, 590 26<sup>th</sup> Avenue, Laurelwood, thanked the Board for the opportunity to speak to them about their “newly formed and growing effort called The Green Team” She provided a brief history on the inception and goal of the group, which is to raise awareness on ecological concerns facing us today. She was not asking for money but formally invited the Board to its next meeting on February 22, 2007 at 7:30 at the Bethel Creek House. (Her daughter Alyssa handed out baskets of “ecologically sound gifts” to Board members). Ms. Wood asked the Board to support their effort of planting trees and implementing recycling programs by attending the Earth Day event. In closing she quoted Margaret Meade, “Never doubt that a small group of thoughtful and committed individuals can change the world. Indeed, it is the only thing that ever has.”

**9.C. PUBLIC NOTICE ITEMS -**

**1. NOTICE OF SCHEDULED PUBLIC HEARINGS FEBRUARY 13, 2007:**

**A. CHESTNUT AND SMITH: REQUEST TO REZONE ±3.35 ACRES LOCATED EAST OF US HIGHWAY 1 AND APPROXIMATELY 1,000 FEET SOUTH OF 77<sup>TH</sup> STREET FROM CL, LIMITED COMMERCIAL, TO CG, GENERAL COMMERCIAL. KENNETH CHESTNUT AND VICTOR AND KATHY SMITH, OWNERS, MBV ENGINEERING, INC., AGENT (QUASI-JUDICIAL)**

**B. UNITED INDIAN RIVER PACKERS LLC AND HIGHPOINTE LLC: REQUEST FOR A SMALL SCALE LAND USE MAP AMENDMENT TO REDESIGNATE 8.36 ACRES FROM L-2, LOW DENSITY RESIDENTIAL-2 (UP TO 6 UNITS/ACRE), TO C/I, COMMERCIAL INDUSTRIAL, AND TO REZONE THOSE 8.36 ACRES FROM RM-6, MULTI-FAMILY RESIDENTIAL (UP TO 6 UNITS/ACRE), IL, LIGHT INDUSTRIAL; AND A REQUEST TO REDESIGNATE 8.36 ACRES FROM C/I, COMMERCIAL INDUSTRIAL, TO L-1, LOW DENSITY 1 (UP TO 3 UNITS/ACRE). UNITED INDIAN RIVER PACKERS LLC AND HIGHPOINTE LLC, OWNERS. WILLIAM CALDWELL, AGENT. (LEGISLATIVE)**



**2. NOTICE OF SCHEDULED PUBLIC HEARINGS**  
**FEBRUARY 13, 2007:**  
**ESTABLISHMENT OF THE WEST WABASSO**  
**STREETLIGHTING MUNICIPAL SERVICES BENEFIT**  
**UNIT AND AMENDMENT TO INDIAN RIVER COUNTY**  
**CODE SECTION 200.07 (LEGISLATIVE)**

The Chairman read the notices into the record.

**10. COUNTY ADMINISTRATOR'S MATTERS - NONE**

**11. COMMUNITY DEVELOPMENT**

**A. COMMUNITY DEVELOPMENT**

**1. REQUEST TO MODIFY THE COUNTY'S IMPACT FEE**  
**FINANCING PROGRAM LOCAL ECONOMIC**  
**DEVELOPMENT INCENTIVE**

Community Development Director Bob Keating announced that this item has returned with changes, which he outlined. He asked the Board to approve staff's recommendation to revise the impact fee financing program as proposed.

Chairman Wheeler inquired about the County's options, whether we would be the first lien holder or we would not file a lien depending on the credit. Director Keating advised "or we could opt not to do the financing too."

Commissioner O'Bryan advised that as liaison to the EDC they purposely wanted this to be a little bit open ended to allow for some negotiations. Further, the terms need to be approved by the Board of County Commissioners, so we would have final say.

On Motion by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved for the revision of the impact fee-financing program, as proposed and as recommended in the memorandum of January 29, 2007.

**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.1 PUBLIC WORKS – APPROVAL OF BID AWARD AND  
SAMPLE AGREEMENT FOR IRC BID # 2007033, GIFFORD  
PARK SECURITY HOUSE/PUBLIC WORKS DEPARTMENT**

Public Works Director Jim Davis updated the Board on the Bid process. He asked the Board to approve staff's recommendation to award the Bid to Passage Island Homes.

**Brian McKenney**, B'Mack Construction, misunderstood some things on the Bid form. He defended his qualifications and expertise for doing this job, gave reasons why he should be awarded this Bid, and argued that his Bid would be a savings to taxpayers.

*(Clerk's Note: Attorney Collins left the meeting at 3:09 p.m.)*

Director Davis addressed Mr. McKenney's Bid and outlined staff's concern with certain issues. He stated there were no references or evidence provided to support Mr. McKenney's claim to being qualified. Therefore, he stood by staff's recommendation.

MOTION WAS MADE by Commissioner Davis,  
SECONDED by Commissioner O'Bryan for discussion, to  
approve staff's recommendation.

Commissioner Flescher inquired if there was an established need for the security house. Director Davis stated that it was a combination of civic groups and County staff that decided the need for security, based on investments in the area and known vandalism on properties.

*(Clerk's Note: Attorney Collins rejoined the meeting at 3:16 p.m.)*

Commissioner Flescher continued to debate the need for 24-hour security in that area. He read results of a law enforcement response to crime in the Gifford Youth Activity Center area and wondered if that warranted the County investing that amount of money when it was not proven that such security presence might reduce crime.

Commissioner Davis felt there were opportunities for crime to exist there and security presence does keep everyone in place.

Discussion ensued regarding purchasing a home for 24-hour police security and the possibility of future needs by other communities, the type of building to put on the property, who would maintain it, and whether it was budgeted item.

Commissioner Davis WITHDREW HIS MOTION to approve staff's recommendation. MOTION DIED.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Davis to disapprove the endeavor of going forward with a building for the specified area under this Bid.

The Chairman clarified the Motion and there was no further discussion.

The Chairman CALLED THE QUESTION and the Motion carried unanimously to reject staff's recommendation and pursue other avenues.

**11.J.1 UTILITIES SERVICES –**

**APPROVAL OF BID AWARD AND SAMPLE AGREEMENT  
FOR IRC BID # 2007025 MASTER IN-LINE PUMP STATION -  
UTILITIES DEPARTMENT**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Wheeler, the Board unanimously: (1) awarded the Bid, including the addition of the “Bumpless Transfer” alternative, to TLC Diversified, Inc., as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; (2) approved the Sample Agreement; and (3) 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, all as recommended in the memorandum of January 29, 2007.

**11.J.2. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT  
FOR IRC BID # 2007026 WATER, SEWER & RECLAIM  
WATER LINE REPLACEMENT/EXTENSION (ANNUAL  
LABOR CONTRACT BID) - UTILITIES DEPARTMENT**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously awarded the Bid jointly to Underground Utilities, Inc. and Derrico

Construction Corp., as the lowest most responsive and responsible bidders meeting the specifications as set forth in the Invitation to Bid. Term of this agreement will be two (2) years with an option to renew for an additional period of up to two (2) years. The Board also approved the Sample Agreement and authorized the Chairman to execute said Agreement with each Contractor when required Certificate of Insurance has been received and approved by Risk Management and the County Attorney has approved the Agreement as to form and legal sufficiency, all as recommended in the memorandum of January 30, 2007. Submittal of Performance and Payment Bonds will be required on an individual project basis for all projects with a cost exceeding \$25,000.00.

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

**11.J.3 APPROVAL OF BID AWARD AND SAMPLE AGREEMENT FOR IRC BID # 2007028, PHASE I FORCE MAIN WEST WASTEWATER TRANSMISSION SYSTEM - UTILITIES DEPARTMENT**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Wheeler, the Board unanimously awarded the Bid to SPS Contracting, Inc., as the lowest most responsive and responsible bidder meeting the

specifications as set forth in the Invitation to Bid. The Board also 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, all as recommended in the memorandum of January 29, 2007.

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

**11.J.4 VERO VILLAGE DEVELOPER'S AGREEMENT FOR OFF-SITE 8-INCH WATER MAIN AND 6-INCH SEWER FORCE MAIN CONSTRUCTION ON 37<sup>TH</sup> STREET WEST OF 58<sup>TH</sup> AVENUE**

Utilities Director Erik Olson presented this item as a standard Developer's Agreement where the Developer either pays 100% or we get reimbursed through line extension fees. He provided background on the matter by recapping his memorandum of January 17, 2007 and asked the Board to approve staff's recommendation.

Director Olson also responded to questions from Commissioner O'Bryan regarding associated costs and whether the fees were fixed.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved the Developer's Agreement, authorized the Utilities Department to recover capacity charges and line extension

fees from future development, and authorized the Chairman to execute said Agreement, as recommended in the memorandum of January 17, 2007.

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

**11.J.5 GRAND HARBOR SPOONBILL MARSH SITE, AMENDMENT TO GRANT RESTORATION, ACCESS AND RECREATION EASEMENT**

Director Olson said this was a continuation of what was talked about earlier today. He provided background recapping his memorandum of January 26, 2007. He asked the Board to approve staff's recommendation to approve the agreement in concept until Grand Harbor has signed the Agreement. He also recommended a waiting period of 10-12 days after which he would return to the Board with a report.

On Motion by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Amendment to the Restoration, Access and Recreation Easement in concept and Director Olson would bring back the signed agreement to the Board in two (2) weeks for the Chairman's signature.

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



**11.J.6 GRAND HARBOR SPOONBILL MARSH SITE, WORK ORDER NO. 17 WITH MASTELLER, MOLER, REED & TAYLOR, INC. FOR SPECIFIC PURPOSE SURVEY OF THE SUBMERGED LAND LEASE AREA**

Director Olson explained that this is a Department of Environment Protection (DEP) requirement on survey associated with the submerged lands and it is not part of the original survey.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chair Bowden, the Board unanimously approved Work Order No. 17 with Masteller, Moler, Reed & Taylor, Inc., in the amount not to exceed \$22,450.00 to provide additional survey services for the Spoonbill Marsh Site, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of January 26, 2007.

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

**11.J.7 AMENDMENT NO. 3 TO WORK ORDER NO. 1 WITH ECOTECH CONSULTANTS, INC. FOR PERMITTING SERVICES FOR THE SPOONBILL MARSH SITE**

Director Olson explained that this finalizes a very complex design process. Further, staff had met with the Department of Environmental Protection, the Corp of Engineers, and they are putting the final elements of the design components together on this.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Addendum No. 3 to Work Order No. 1 with ECI in the amount not to exceed \$99,475.00 to provide additional design and permitting services for the Spoonbill Marsh Site, and authorized the Chairman to execute said Addendum, as recommended in the memorandum of January 26, 2007.

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

*The Chairman called a break at 3:35 p.m. and reconvened the meeting at 3:46 p.m. with all members present.*

**12. COUNTY ATTORNEY - NONE**

**13. COMMISSIONERS' ITEMS**

**A. CHAIRMAN GARY C. WHEELER**

**1. RECONSIDERATION OF BOARD OF COUNTY COMMISSION OFFICE AREA IN NEW COUNTY ADMINISTRATION BUILDING**

Chairman Wheeler asked the Board to reconsider the County Commission's office areas for the possibility of having Aides/Secretaries offices in front of each respective office as a

matter of privacy. Between Drawings “A – E” he preferred drawing “B”.

Vice Chair Bowden discussed the most convenient and efficient settings for the office as she saw it and wanted to stay with what was approved earlier.

Chairman Wheeler was concerned with distractions from a general office area and the need for privacy.

The Board and staff engaged in discussions regarding the differences between Drawings A & B, the possibility of more informal meeting rooms, and what could be done.

MOTION WAS MADE by Commissioner O’Bryan,  
SECONDED by Commissioner Wheeler, to reconsider the  
request and adopt drawing “B”.

Commissioner O’Bryan explained his reasons for making the Motion. More discussion ensued regarding the layout of the office. Director Frame responded to Commissioner Flescher’s question of how much of a cost factor would be associated with the change from one plan to another.

The Chairman CALLED THE QUESTION and by a 4-1  
vote (Vice Chair Bowden opposed) approved Drawing  
“B” for the changes to be made to County Commissioners  
office layout.

### **13.A.2 COUNTY COMMISSION OFFICE STAFFING**

Chairman Wheeler read his memorandum to the Board dated February 5, 2007 and an E-mail from the County Attorney regarding Board of County Commission Office staffing. He outlined the changes that have been effected relative to administrative staff in the County Commission's office since the release of the Executive Aide on January 23, 2007.

Commissioner Davis questioned whether they were putting another individual in a hostile working environment, as was the former employee.

Chairman Wheeler did not share Commissioner Davis' views. He recommended they move forward and decide whether they want personal aides or not. Commissioner Bowden agreed with the recommendation.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Chairman Wheeler, to accept staffing provisions presented, with the caveat that (1) Darcy is empowered to serve as Interim Executive Aide and make decisions appropriate as she sees fit; and (2) if she may resign from the Interim duties she could resume her status prior to that staff change.

Commissioner Flescher asked if they needed a Motion in this regard. Discussion ensued regarding whether a Motion was needed.

Further discussion ensued among Commissioners regarding alleged pressure on employees and whether they were putting another employee in the same position as the former Aide because there were no substantiating facts.

Commissioner Davis suggested they give Ms. Vasilas the 5% increase to assume the position of Executive Aide without any title. Commissioner Flescher felt they should move forward with some other initiative. Chairman Wheeler explained the intent of the proposal.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved to move Darcy Vasilas, Assistant to the Executive Aide, to the Interim Executive Aide position with a 5% increase in hourly wages; remove Misty Pursel, Staff Assistant III, from probationary status into the open Staff Assistant IV position on an interim basis; and hire a temporary employee through Manpower to staff the front desk serving as a receptionist. All new employees will be hired as temporary until a decision is reached by the Board of County Commissioners on how the office should be staffed, all as recommended in the memorandum of February 5, 2007.

### **13.B. VICE CHAIR SANDRA L. BOWDEN**

#### **1. REQUEST FOR DONATION OF UP TO THREE COMPUTERS FROM SURPLUS TO MARIAN FELL LIBRARY**

Vice Chair Bowden announced that they have received three (3) computers for the Library in Fellsmere. The computers were being declared surplus and are being donated to the Marian Fell Library.

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board unanimously approved for three (3) surplus computers to be donated to the Marion Fell Library, as requested in the memorandum of January 30, 2007.

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

**13.D. COMMISSIONER JOSEPH E. FLESCHER- NONE**

**13.E. COMMISSIONER PETER D. O'BRYAN**

**1. REQUEST FOR A RESOLUTION TO BE DRAFTED FOR THE FLORIDA FOREVER PROGRAM**

Commissioner O'Bryan referred to Ken Grudens' presentation last week regarding the Florida Forever Program. He asked the Board to approve the recommendation for staff to move forward with drafting a resolution in support of the Florida Forever Land Conservation Program.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved for staff to draft a resolution supporting additional funding for Florida Forever and the creation of a successor program, as requested in the memorandum of January 30, 2007.

**2. REQUEST FOR CONSIDERATION OF HIRING A  
CONSULTANT TO ASSIST STAFF WITH CHARTER  
GOVERNMENT ORDINANCE**

Commissioner O’Bryan reminded the Board that two weeks ago they voted and directed staff to draft an Ordinance for Charter Government to be brought back for a voter referendum. The Board also approved at that time a requisition of up to \$25,000.00 for the hiring of a Facilitator/Consultant to help organize and run various workshops to get public input. He presented the Resume of Mr. Kurt Spitzer for consideration, announcing that Mr. Spitzer came recommended by Virginia “Ginger” Delegal of the Florida Association of Counties.

MOTION WAS MADE by Commissioner O’Bryan,  
SECONDED by Chairman Wheeler, to move forward with  
writing up a contract to hire Mr. Kurt Spitzer as a  
Facilitator/Consultant for the County.

Vice Chair Bowden inquired if there was a timeframe on how long the job would take. Commissioner O’Bryan had an estimate from Mr. Spitzer which include his fees and how many public hearings it would take.

Discussion ensued regarding associated costs and whether they have to go out to Bid.

The Chairman CALLED THE QUESTION and the  
motion carried. By a 4-1 vote (Commissioner Flescher  
opposed) the Board approved the hiring of Consultant  
Kurt Spitzer to assist with development of a Charter  
Government Ordinance, as requested in the memorandum

of January 30, 2007.

**14. EMERGENCY SERVICES DISTRICT AND BOARDS**

**A. EMERGENCY SERVICES DISTRICT - NONE**

**B. SOLID WASTE DISPOSAL DISTRICT - NONE**

**C. ENVIRONMENTAL CONTROL BOARD - NONE**

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

**15. ADJOURNMENT**

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 4:23 p.m.

ATTEST:

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

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

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

BCC/AA/2007 Minutes

**February 6, 2007**

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