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OF BOARD OF COUNTY COMMISSIONERS
OF MAY 22, 2007

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May 22, 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, May 22, 2007. Present were Chairman Gary C. Wheeler, Vice Chair Sandra L. Bowden, Commissioners Wesley S. Davis, Joseph E. Flescher, Peter D. O'Bryan. Also present were County Administrator Joseph A. 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

Planning Director Stan Boling delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Joe Flescher led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman Wheeler requested Item 7. J. be deleted from the agenda.

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

Chairman Wheeler requested Item 12.C., an authorization to challenge pending Fellsmere annexations be deleted until after their joint meeting with Fellsmere.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously deleted Item 12.C. from the Agenda.

It was Commissioner Davis's opinion that Item 12.C. was not a legal matter, therefore it should be placed under Commissioners items when it comes back to the Board.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION DESIGNATING MAY 28, 2007, AS MEMORIAL DAY

Vice Chair Bowden read and presented the Proclamation to Larry Wapnik, President of the Veterans Council on Aging. **Mr. Wapnik** presented poppies to each of the Commissioners.

5.B. PRESENTATION OF PROCLAMATION DESIGNATING MAY 2007 AS NATIONAL PRESERVATION MONTH

Commissioner Davis read and presented the Proclamation to Joel Tyson, who represents the Indian River County Historical Society.

5.C. PRESENTATION OF PROCLAMATION DESIGNATING MAY 2007, AS ELDER LAW MONTH

Chairman Wheeler read the Proclamation. No one was present to receive the Proclamation.

5.D. PRESENTATION OF PROCLAMATION DESIGNATING MAY 20-26, 2007 AS EMERGENCY MEDICAL SERVICES WEEK

Commissioner Flescher read and presented the Proclamation to Brian Burkeen, Assistant Chief of Emergency Medical Services (EMS). Commissioner Flescher also presented a Proclamation from Florida Governor Charlie Crist to Mr. Burkeen that observed May 23, 2007 as Trauma Awareness Day and Emergency Medical Services for Children (EMSC) Day.

5.E. PRESENTATION OF INDIAN RIVER COUNTY AGRICULTURE EXTENSION SERVICE STATUS REPORT BY CHRISTINE KELLY-BEGAZO, COUNTY EXTENSION DIRECTOR

Director of Agriculture Extension Service Christine Kelly-Begazo complimented and thanked Administrator Baird and General Services Manager Tom Frame, who have done an excellent job in supporting and carrying out the extension service's local programs. She used a PowerPoint presentation (on file) to provide a status report to the Board of the Cooperative Agriculture Extension Service Program between the University of Florida and Indian River County. She responded to questions from the Board.

Following comments made by Commissioner Davis regarding the Green County Initiative Workshop, Ms. Kelly-Begaso mentioned that Janet Bargar, Water Quality Agent of the Agricultural Extension Service, was going to attend the Workshop scheduled for May 29, 2007.

6. APPROVAL OF MINUTES

A. REGULAR MEETING OF MARCH 13, 2007

The Chairman asked if there were any corrections, deletions or additions to the Minutes of the Regular Meeting of March 13, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Regular Meeting of March 13, 2007, as written and distributed.

7. CONSENT AGENDA

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

7.A. APPROVAL OF WARRANTS – APRIL 27, 2007 – MAY 03, 2007 – MAY 4, 2007 – MAY 10, 2007

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of May 4, 2007 – May 10, 2007, as requested in the memorandum of May 10, 2007.

7.B. RESIGNATION OF VERO BEACH REPRESENTATIVE APPOINTEE TO THE METROPOLITAN PLANNING ORGANIZATION CITIZENS ADVISORY COMMITTEE

The Board acknowledged the resignation of Mr. Jack Phillips, effective May 9, 2007 from the Metropolitan Planning Organization Citizens Advisory Committee, due to illness.

7.C. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT FOR IRC BID #2007059 REHABILITATION OF LIFT STATIONS, 1, 164, 167, 168 SOUTH COUNTY WWTF WASTEWATER DIVISION/UTILITIES DEPARTMENT

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Bid be awarded to J&H Waterstop, Inc, as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; approved the attached 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 May 14, 2007.

7.D. AUTHORIZATION FOR SHERIFF TO OCCUPY AND USE THE FORMER SUPERVISOR OF ELECTIONS MODULAR OFFICES

Commissioner O'Bryan wanted to know where the units would remain if they approved the Sheriff's request to lease the units from the County, and he wanted to know what would happen to the units at the end of that lease.

General Services Manager Tom Frame reviewed several options that the Board could consider, as detailed in his memorandum of May 15, 2007. He advised against relocating the structure because it was not cost effective. He discussed a leaseback option with G. E. Capital Modular Service, advising that if the County was going to use it for any length of time, he suggested they buy it. If they do not buy it, they should pull it out, which was what he originally planned.

There was a lengthy discussion among the Commissioners regarding the options placed before them.

Administrator Baird felt a 25% budget cut from the State would be severe, and was very concerned with the money situation. He suggested postponing any decisions being made now until they see what the State Legislature decides.

MOTION WAS MADE, by Commissioner O'Bryan,
SECONDED by Commissioner Davis for discussion, to
table this item until the State Legislature makes their
determination on property tax issues on June 22, 2007.

There was a question and answer period between Sheriff Raymond and the Commissioners. Commissioner Davis wanted more time to visit with the Sheriff and get a first hand tour before he made his decision.

Administrator Baird agreed and wanted to work with the Sheriff on options.

The Chairman CALLED THE QUESTION, and the
Motion carried.

7.E. RAMELL PROPERTIES, INC.'S REQUEST FOR FINAL PLAT APPROVAL FOR THE BELLA TERRA SOUTH AFFIDAVIT OF EXEMPTION PROJECT (QUASI-JUDICIAL)

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for Bella Terra South, as requested in the memorandum of May 15, 2007.

7.F. MISCELLANEOUS BUDGET AMENDMENT 018

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2007-051**, amending the fiscal year 2006-2007 Budget.

7.G. RESOLUTIONS TO PROVIDE FOR THE PAVING AND DRAINAGE IMPROVEMENTS TO AND SET PUBLIC HEARING DATE FOR: 10TH COURT SW FROM 9TH STREET SW (OSLO ROAD) TO 7TH STREET SW AND THE INTERSECTING STREETS IN OSLO PARK SUBDIVISION, IRC PROJECT NO. 0436

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2007-052**, providing for certain paving and drainage improvements to 10th Court SW from 9th Street

SW (Oslo Road) to 7th Street SW, including the intersecting streets in Oslo Park Subdivision, providing the total estimated cost, method of payment of assessments, number of annual installments, and legal description of the area specifically benefited; and approved **Resolution 2007-053**, setting a time and place at which the owners of property on 10th Court SW from 9th Street SW (Oslo Road) to 7th Street SW including the intersecting streets in Oslo Park Subdivision, County project #0436 and other interested persons may appear before the Board of County Commissioners and be heard as to the propriety and advisability of making paving and drainage improvements to said property as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be specifically assessed against each property benefited thereby.

7.H. MICHAEL CREEK SUBDIVISION DEVELOPER'S AGREEMENT FOR DEVELOPER CONTRIBUTIONS TO INTERSECTION IMPROVEMENTS AT THE INTERSECTION OF SR 510 AND US 1

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Alternative No. 1, approving the Developer's Agreement, as recommended in the memorandum of May 14, 2007.

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

**7.I. ACCEPTANCE OF CHANGE ORDER No. 10, NEW COUNTY
EMERGENCY OPERATIONS CENTER**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Change Order #10 and authorized the Chairman to execute the Change Order, as recommended in the memorandum of May 14, 2007.

CHANGE ORDER NO. 010 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.J. ACCEPTANCE OF CHANGE ORDER No. 11, NEW COUNTY
EMERGENCY OPERATIONS CENTER**

Chairman Wheeler requested Item 7. J. be deleted from the agenda.

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

**8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL
AGENCIES**

**8.A. INDIAN RIVER COUNTY SHERIFF – ROY RAYMOND
2007 CRITICAL INFRASTRUCTURE PROJECT**

The Board noted for the record, the information as stated in the letter from Sheriff Raymond dated May 9, 2007.

NO ACTION TAKEN OR REQUIRED.

9. PUBLIC ITEMS

9.A.1. PUBLIC HEARING

27TH DRIVE PETITION WATER SERVICE (NORTH OF 4TH STREET)

INDIAN RIVER COUNTY PROJECT NO. UCP-2906

RESOLUTION III (ADMINISTRATIVE)

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

Manager of Assessment Projects Dan Chastain presented this item to the Board.

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 O'Bryan, the Board unanimously approved **Resolution 2007-054**, confirming the special assessments in connection with water main expansion along 27th Drive North of 4th Street in Indian River County, Florida; and providing for special assessment liens to be made of record.

9.B. PUBLIC DISCUSSION ITEMS

9.B.1. REQUEST TO SPEAK FROM JOSEPH PALADIN, BOARD OF DIRECTORS, GIFFORD YOUTH ACTIVITY CENTER, REGARDING COUNTY FUNDS FOR GIFFORD YOUTH ACTIVITY CENTER

Joseph Paladin, Atlantic Coast Construction, wanted to give a few facts regarding the Gifford Youth Activity Center, because it is an area that is going to affect us. He provided statistics indicating 100% success rate of the Children's Achievement Program (CAP), pointing out they do not have a lack of kids, but a lack of funds to take care of those kids. He asked the Board to find a way to provide funds to help them.

John Dean, Chairman of the Board at the Gifford Youth Center, asked the Board for their continued commitment to work with them.

Michael Hubler, 1515 Compass Point Circle, Executive Director of the Gifford Youth Center, handout out a PowerPoint presentation and to make his presentation to the Board regarding the Center. Chairman Wheeler interrupted his presentation, apologized and advised that he needed to follow proper procedure, and to take his presentation to the Children Services Committee. Commissioner O'Bryan, liaison to the Children Services Committee agreed.

Discussion ensued among the Commissioners regarding budget cuts and how it would affect non-profit organizations.

NO ACTION REQUIRED OR TAKEN.

9.C. PUBLIC NOTICE ITEMS

9.C.1. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR JUNE 5, 2007

9.C.1.A. CONSIDERATION OF PROPOSED AMENDMENTS TO SECTION 913.10.2 OF THE CODE OF INDIAN RIVER COUNTY TO LOWER THE RATING ON BONDS SECURING WARRANTY OF SUBDIVISION IMPROVEMENTS (COUNTY INITIATED) (LEGISLATIVE)

9.C.1.B. CONSIDERATION OF PROPOSED AMENDMENTS TO CHAPTER 972 OF THE CODE OF INDIAN RIVER COUNTY TO LIMIT TEMPORARY VEHICLE SALES LOCATIONS (COUNTY INITIATED)(LEGISLATIVE)

9.C.1.C. INDIAN RIVER COUNTY PETITION FOR CLOSING, ABANDONMENT, AND VACATION OF A 3' STRIP OF MOORING LINE DRIVE ADJACENT TO LOT 138 OF THE MOORINGS SUBDIVISION (LEGISLATIVE)

9.C.2. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR JUNE 5, 2007 MEADOWLARK WOODS PETITION WATER SERVICE (61ST AVENUE NORTH OF 41ST STREET), INDIAN RIVER COUNTY PROJECT No. UCP-2324 (ADMINISTRATIVE)

9.C.3. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR JUNE 5, 2007 ADOPTION OF AN ORDINANCE CONTAINING A NEW ELECTRIC FRANCHISE AGREEMENT WITH FLORIDA POWER & LIGHT COMPANY (LEGISLATIVE)

The Chairman read the notices into the record.

(CLERK'S NOTE: The Chairman called for a recess at 10:27 a.m. and he reconvened the meeting at 10:42 a.m. with all members present.

10. COUNTY ADMINISTRATOR'S MATTERS - NONE

11. DEPARTMENTAL MATTERS

11.A. COMMUNITY DEVELOPMENT - NONE

11.B. EMERGENCY SERVICES - NONE

11.C. GENERAL SERVICES - NONE

11.D. HUMAN RESOURCES - NONE

11.E. HUMAN SERVICES - NONE

11.F. LEISURE SERVICES - NONE

11.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

11.H. RECREATION - NONE

11.I. PUBLIC WORKS - NONE

11.J. UTILITIES SERVICES

11.J.1. DASIE HOPE CENTER/DOUGLAS SCHOOL PRIVATE LIFT STATION AND FORCE MAIN, APPROVAL OF WORK AUTHORIZATION DIRECTIVE NO. 2007-003, UCP No. 2940, WIP No. 472-169000-07514

Utilities Director Erik Olson presented this item to the Board stating that the purpose is to install a lift station and take away the septic tank at Dasie Hope Center/Douglas School.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the project at a total cost of \$81,204.50 and authorized the Chairman to execute Work Authorization Directive No. 2007-003 to the Utilities Department Labor Contractor Underground Utilities, Inc. authorizing payment to him of up to \$51,964.64, as recommended in the memorandum of May 10, 2007.

DOCUMENTS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

11.J.2. SOUTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANT, PROFESSIONAL SERVICES BY KIMLEY-HORN & ASSOCIATES, INC. (KHA) FOR UPGRADES AND MODIFICATIONS TO RESTORE CAPACITY – WORK ORDER NO. 14 AMENDMENT NO. 1

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved (a) Amendment 1 to Work Order No. 14 to Kimley-Horn & Associates, Inc. in the amount of \$27,640.00 – not to

exceed, for Professional Services related to South RO Plant Upgrades and Modifications to Restore Capacity; and (b) authorized the Chairman to execute Amendment No. 1 to Work Order No. 14, as recommended in the memorandum of May 7, 2007.

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

12. COUNTY ATTORNEY MATTERS

12.A. RESPONDING RESOLUTION UNDER PART II OF CHAPTER 171, FLORIDA STATUTES – INTERLOCAL SERVICE BOUNDARY AGREEMENTS

County Attorney William Collins, II, read his memorandum dated May 14, 2007 explaining that the City of Fellsmere initiated a Resolution under Chapter 171 of the Florida Statutes that allows Interlocal Service Boundary Agreements to be negotiated. He prepared a responding resolution for Board approval that identified the issues to be involved in the discussions, which shows the entire incorporated and unincorporated areas of Indian River County as the areas subject to discussion and negotiation on the interlocal agreements on annexations and/or service issues.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-055**, identifying additional land areas and designating additional issues for negotiation pursuant to section 171.203(2) of the Interlocal Service Boundary Agreement Act codified at Florida Statutes Section 171.20 et. seq.

12.B. “STAND DOWN RESOLUTION” (INTERLOCAL AGREEMENT)

Attorney Collins related that a group of City Mayors proposed a “stand down resolution” that is really an Interlocal Agreement between the County and all the Municipalities as an option to Charter Government, whereby all parties would agree that there would be no annexations, increase in density, or increase in heights for a 1-year period during which the interlocal agreements were being negotiated. In that “stand down agreement”, Fellsmere has excluded any applications for annexation and the County has the right to challenge those applications. Any change to these restrictions would only be changed by a super majority vote of all the parties to the agreement. This does not apply to lands for which annexation petitions were submitted before May 1, nor does it preclude any party from bringing a challenge to the annexation, or related Comprehensive Plan amendments. He concluded, stating that the idea was to maintain the status quo and give all the local governments a chance to work on the interlocal agreements that they were discussing in the prior resolution.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Commissioner Davis for discussion, to approve the “stand down resolution”/Interlocal Agreement as an interim step towards implementing interlocal agreements on annexation.

Discussion ensued by Vice Chair Bowden, regarding the Chairman having been voted as their “point person” at a prior meeting. Attorney Collins felt staff received direction from the full Commission to work with staff of the other cities to go forward, and was hopeful that these meetings would give them direction on major policy issues. He was not under the impression that there was a “point person”.

Jason Nunemaker, City Manager of Fellsmere, advised that his Council members were concerned with the applicability of this agreement and did not approve it.

Attorney Collins stated that the restrictions are primarily agreements the cities put together, and they felt it would take 12 months to enter into these agreements.

Chairman Wheeler would not support the agreement as long as it had the clause that ends the 1-year agreement which states, "This ceases to exist if we have a first reading of the Home Rule Charter Ordinance, and also if the negotiation of the urban service boundary is stopped." He felt this agreement places the County at a tremendous disadvantage. He wanted everyone to understand that the 20,000 acres to be annexed by Fellsmere were not on the table for negotiation, and if that continues, it stops the County from doing anything, and completely limits their option to move forward with Charter Government.

Attorney Collins related that this was the provision inserted at the request of the Town of Orchid in the event the County schedules a public hearing on Charter; it would allow them to get out of the 1-year "stand down agreement".

Chairman Wheeler felt it was a big mistake to close the public out. He believed it was very important and this position takes the public out of the process.

Mr. Nunemaker disagreed saying that Fellsmere's ultimate goal was to find common grounds, taking in all the goals (preservation), and setting aside areas to meet those goals. He said they would not take any steps to annex until everyone was in agreement to proceed.

Chairman Wheeler reiterated his support of the agreement if they remove the "1-year" clause.

Discussion ensued among the Commissioners regarding the 1-year clause.

Vice Chair Bowden wanted to move forward.

Commissioner O'Bryan opposed the Motion because it takes away their ability to have a public hearing.

The Chairman CALLED THE QUESTION and the Motion carried, by a 3-2 vote (Commissioner O'Bryan and Chairman Wheeler opposed). The Board approved to use the "Stand Down Resolution"/Interlocal Agreement as an interim step toward implementing more fully developed interlocal agreements on annexations.

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

12.C. AUTHORIZATION TO CHALLENGE PENDING FELLSMERE ANNEXATIONS

Chairman Wheeler requested Item 12.C., an authorization to challenge pending Fellsmere annexations be deleted until after their joint meeting with Fellsmere.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously deleted Item 12.C. from the Agenda.

It was Commissioner Davis's opinion that Item 12.C. was not a legal matter, therefore it should be placed under Commissioners items when it comes back to the Board.

Chairman Wheeler requested that this item be brought back under his items (Item 13.A.).

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

**1. UPDATE ON ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT
LAND SWAP WITH CORRIGAN FAMILY**

Commissioner O'Bryan provided a brief update stating that SJRWMD postponed their vote on the land swap until June 12th. He advised that they are looking at June 6, 2007 to hold a workshop to give the public a chance to hear more about the land swap.

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. Those Minutes are being prepared separately and appended to this document.

**1. APPROVAL OF MINUTES OF REGULAR MEETING OF MARCH 13,
2007**

2. APPROVAL OF MODIFICATION #1 TO GRANT AGREEMENT 06-DS-3W-10-40-01-277

14.B. SOLID WASTE DISPOSAL DISTRICT

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

14.B.1. APPROVAL OF MINUTES OF REGULAR MEETING OF FEBRUARY 20, 2007

14.B.2. APPROVAL OF MINUTES OF REGULAR MEETING OF APRIL 3, 2007

14.B.3. APPROVAL OF BID AWARD FOR IRC BID #2007063, 20 CUBIC YARD ROLL OFF CONTAINERS/UTILITIES DEPARTMENT/SOLID WASTE DISPOSAL DISTRICT

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 11:20 a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/MIS/2007Minutes