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OF BOARD OF COUNTY COMMISSIONERS
OF JULY 10, 2007

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July 10, 2007

REGULAR 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 25th Street, Vero Beach, Florida, on Tuesday, July 10, 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

Teddy Floyd of the Indian River County Sheriff's Department – Crime Prevention Unit, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Sandra L. Bowden led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA /EMERGENCY
ITEMS - NONE

5. PROCLAMATIONS AND PRESENTATIONS

A. PRESENTATION OF PROCLAMATION DESIGNATING JUNE 29 – JULY 5, 2007, AS NATIONAL CLEAN BEACHES WEEK

Commissioner O’Bryan read the Proclamation into the record.

B. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF JULY 2007 AS RECREATION AND PARKS MONTH

Commissioner Davis read and presented the Proclamation to staff of the Parks and Recreation Department.

C. PRESENTATION OF PROCLAMATION HONORING SIG AND GWENN LYSNE

Chairman Wheeler read the Proclamation into the record. The Lysnes’ were not in attendance. Chairman Wheeler and Ray Scent briefly discussed the times they took flying lessons with the Lysnes

6. APPROVAL OF MINUTES

A. REGULAR MEETING OF MAY 8, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of May 8, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved

the Minutes of the regular meeting of May 8, 2007, as written and distributed.

6.B. REGULAR MEETING OF MAY 15, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of May 15, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the regular meeting of May 15, 2007, as written and distributed.

6.C. REGULAR MEETING OF MAY 22, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of May 22, 2007.

Chairman Wheeler asked that the Minutes of May 22, 2007, Item 12.C., page 18, be amended to reflect that it was his intention to have this matter brought back under his item.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Regular Meeting of May 22, 2007, as amended.

6.D. JOINT WORKSHOP WITH CITY OF FELLSMERE – MAY 23, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Joint Workshop of May 23, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Joint Workshop of May 23, 2007, as written and distributed.

6.E. GREEN COUNTY INITIATIVE WORKSHOP – MAY 29, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Workshop of May 29, 2007. There were none.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Green County Initiative Workshop of May 29, 2007, as written and distributed.

7. CONSENT AGENDA

Commissioner O’Bryan asked to pull, for discussion, Item 7.F.

Chairman Wheeler asked to pull, for discussion, Item 7.J.

**7.A REPORT ON FILE IN THE OFFICE OF CLERK TO THE BOARD:
REPORT OF CONVICTIONS FOR THE MONTH OF MAY 2007**

7.B. REPORT ON FILE IN THE OFFICE OF CLERK TO THE BOARD: CITY OF FELLSMERE – COPY OF ANNEXATION AGREEMENT AND COPY OF ORDINANCE 07-15 VOLUNTARY ANNEXING ±2,122.66 ACRES AND ± 2,007.90 ACRES

7.C. APPROVAL OF WARRANTS - JUNE 8, 2007 – JUNE 14, 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 the time period of June 8, 2007 to June 14, 2007, as requested.

7.D. APPROVAL OF WARRANTS - JUNE 15, 2007 – JUNE 21, 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 the time period of June 15, 2007 to June 21, 2007, as requested.

7.E. APPROVAL OF WARRANTS - JUNE 22, 2007 – JUNE 28, 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 the time period of June 22, 2007 to June 28, 2007, as requested.

7.F. RECAPITULATION REPORT OF ERRORS AND INSOLVENCIES FOR THE 2006 TAX ROLL

Commissioner O'Bryan suggested that one copy of the report from the Tax Collector be placed on file, instead of distributing such a voluminous report. Administrator Baird promised to have one copy done in the future.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Recapitulation Report of Errors and Insolvencies for the 2006 Tax Roll, as submitted by the Tax Collector, under cover of memorandum dated July 2, 2007.

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

7.G. 2007 ELECTION OF PLANNING AND ZONING AGENCY (P&Z) VICE CHAIRMAN

The Board noted the election of Mr. George Hamner as Vice Chairman of the Planning and Zoning Commission for the Year 2007, replacing Mr. George Christopher who resigned effective June 5, 2007.

No Board action required or taken.

7.H. 2007 ELECTION OF BOARD OF ZONING ADJUSTMENT (BZA) CHAIRMAN AND VICE CHAIRMAN

The Board noted the elections of Mr. Fred Plair as Chairman, and Mr. Wayne Coment as Vice Chairman of the Board of Zoning Adjustment for the year 2007.

No Board Action required or taken.

7.I. RESIGNATION OF JOHN T. BERRIGAN FROM THE BEACH AND SHORE ADVISORY COMMITTEE, MARINE ADVISORY NARROWS WATERSHED ACTION COMMITTEE, AND TOURIST DEVELOPMENT COUNCIL

The Board accepted the resignation of Mr. John T. “Jack” Berrigan from the following Committees:

- Beach and Shore Advisory Committee - term expiring January 2008;
- Marine Advisory Narrows Watershed Action Committee - term expiring January 2008; and
- Tourist Development Council - term expiring January 2010

7.J. COUNTY CERTIFICATION OPTING INTO STATE FUNDING FOR REPLACEMENT VOTING MACHINES

Chairman Wheeler had concerns about the replacing the machines, and the ultimately cost to the County. Attorney Collins understood that the State would contribute about \$400,000.00 to purchase new machines. He believed the machines would cost much more than that, but this was an opportunity to get some funding.

Chairman Wheeler asked Administrator Baird if this could be considered an unfunded mandate, to which he replied, “Yes.” He estimated this would cost \$2 to \$2.5 million and the State would give us \$400,000.00. The Board discussed whether they had a choice in getting the new machines.

Commissioner O'Bryan had spoken with Supervisor of Elections Kay Clem and was informed that since we bought these machines several years ago there have been several updates and improvements to the hard drives. Her opinion was that the current machines would have a \$1 per machine market value if we were to try to sell them ourselves. She said this was the only option available.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the County Certification authorizing the State to negotiate disposal of 255 existing touch-screen voting machines, as recommended in the memorandum of June 28, 2007.

CERTIFIED COPY OF CERTIFICATION ON FILE IN THE OFFICE
OF THE CLERK TO THE BOARD

**7.K. HARBOR CHASE (SITE PLAN) – WARRANTY OF ROAD DRAINAGE
IMPROVEMENTS**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Cash Deposit and Escrow Agreement with RPVB, LLC, and authorized the Chairman to execute same, as recommended in the memorandum of June 19, 2007.

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

7.L. PROCLAMATION HONORING MARY (POLLY) KRATMAN ON HER RETIREMENT FROM INDIAN RIVER COUNTY DEPARTMENT OF UTILITY SERVICES, SOLID WASTE DISPOSAL DISTRICT

The Board acknowledged the Proclamation Honoring Mary (Polly) Kratman who is retiring from the Solid Waste Disposal District.

7.M. PROCLAMATION HONORING WILLIAM TREACY ON HIS RETIREMENT FROM INDIAN RIVER COUNTY DEPARTMENT OF UTILITY SERVICES SOLID WASTE DISPOSAL DISTRICT

The Board acknowledged the Proclamation Honoring William Treacy who is retiring from the Solid Waste Disposal District.

7.N. REQUEST PERMISSION TO ADVERTISE TO AMEND SECTION 305.11 OF THE CODE (COURT COSTS)

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously authorized staff to advertise an amendment to County Code Section 305.11 "Court Costs", for a public hearing to be held on July 24, 2007, as recommended in the memorandum of July 3, 2007.

7.O. RELEASE OF 5% RETAINAGE FOR S.B. BALLARD CONSTRUCTION COMPANY VIA TURNER CONSTRUCTION

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved a partial release of retainage not to exceed \$111,590.77, as recommended in the memorandum of June 30, 2007.

**7.P. CHILDREN'S SERVICES ADVISORY COMMITTEE GRANT REVIEW
SUB-COMMITTEE'S RECOMMENDATIONS FOR FUNDING REPORT,
JUNE 2007**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously accepted the Children's Services Advisory Committee's Grant Review Sub-Committee Recommendations for Funding Report, June 2007, as recommended in the memorandum of June 28, 2007.

**7.Q. SECTORS 1 AND 2 BEACH RENOURISHMENT PROJECT – PHASE 1
FINAL PAYMENT AND FULL RELEASE OF RETAINAGE, GREAT LAKES
DREDGE AND DOCK COMPANY, LLC**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the final payment and full release of the retainage, GLDD application for payment No. 4A, in the amount of \$150,374.92, as recommended in the memorandum of June 26, 2007.

**7.R. SECTOR 7 BEACH RESTORATION PROJECT, PARTIAL RELEASE OF
RETAINAGE, GREAT LAKES DREDGE AND DOCK COMPANY, LLC**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the partial release of the retainage, GLDD application for payment No. 5B, in the amount of \$324,837.44, as recommended in the memorandum of June 26, 2007.

7.S. REQUEST FOR AUTHORIZATION TO APPLY TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS FOR A TECHNICAL ASSISTANCE GRANT FOR PARTICIPATION IN THE 2010 U.S. LOCAL UPDATE OF CENSUS ADDRESSES (LUCA) PROGRAM

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously directed staff to apply for LUCA grant funds and authorized the Chairman to sign all five copies of the Grant Application for submittal to the Florida Department of Community Affairs (DCA). The Board also authorized the Community Development Director to manage the LUCA grant program and to submit any additional documents to DCA, as needed, for this grant, as recommended in the memorandum of July 2, 2007.

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

7.T. FLORIDA DEPARTMENT OF EMERGENCY MANAGEMENT (FDEM) AERIAL PHOTOGRAPHS AND LIDAR MAPPING PROJECT

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved participation with the FDEM Aerial Photograph and Lidar Mapping Project at a total cost not to exceed \$170,000.00, and authorized the County Administrator to sign the related documents, as recommended in the memorandum of June 28, 2007.

7.U. POINTE WEST 16" MASTER PLANNED WATER MAIN ON 16TH STREET FROM POINTE WEST DRIVE TO 74TH AVENUE APPROVAL OF CHANGE ORDER NO. 1, FINAL PAYMENT TO CONTRACTOR AND RELEASE OF RETAINAGE, W.I.P. No. 472-169000-06538, UCP No. 2710

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Change Order No. 1 for \$1,500.00; approved the total project construction cost of \$196,893.71 for SPS Contracting, plus \$4,412.00 in engineering fees; and approved Application for Payment No. 8 – Final as final payment to Pointe West of Vero Beach, in the amount of \$19,401.07, as recommended in the memorandum of July 3, 2007.

7.V. FINAL PAYMENT - WORK ORDER NO. 5 (ENGINEERING) WITH ARDAMAN & ASSOCIATES, INC., PROVIDING PROFESSIONAL GEOTECHNICAL SERVICES IN ACCORDANCE WITH THE ANNUAL

GEOTECHNICAL SERVICES CONTRACT No. 0534, 8TH STREET AND 74TH AVENUE ROAD IMPROVEMENTS, IRC PROJECT #03107

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved payment to Ardaman & Associates, Inc., for final Invoice No. SL-007167 for full payment of Work Order No. 5, as recommended in the memorandum of June 27, 2007.

7.W. FINAL PAYMENT - WORK ORDER No. 6 (ENGINEERING) WITH ARDAMAN & ASSOCIATES, INC., PROVIDING PROFESSIONAL GEOTECHNICAL SERVICES IN ACCORDANCE WITH THE ANNUAL GEOTECHNICAL SERVICES CONTRACT No. 0534, 101ST AVENUE EXTENSION FROM C.R. 512 NORTH TO CONNECT TO THE EXISTING 102ND TERRACE, IRC PROJECT #0614

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved payment to Ardaman & Associates, Inc., in the amount of \$2,142.00 for Invoice No. SL-007187, for full payment of Work Order No. 6, as recommended in the memorandum of June 27, 2007.

7.X. CHANGE ORDER No. 1 FOR 4TH STREET/35TH AVENUE CANAL (AKA COOCH DITCH) BRIDGE REPLACEMENT AND 11TH STREET SW PAVING AND DRAINAGE IMPROVEMENTS, IRC PROJECT #9321 & #0209 BID #2006049

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

Change Order # 1 increasing the contract amount by \$7,560.70 and increasing the contract time 21 days with a final completion date of August 27, 2007, as recommended in the memorandum of June 26, 2007.

**7.Y. INDIAN RIVER TURTLE NESTING HABITATS IMPROVEMENTS
NATIONAL FISH AND WILDLIFE FOUNDATION GRANT
#2006-0114-005**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Grant Agreement #2006-0114-005, as recommended in the memorandum of June 28, 2007.

PARTIALLY EXECUTED COPY OF AGREEMENT ON FILE IN
THE OFFICE OF THE CLERK TO THE BOARD

**7.Z. FLORIDA INLAND NAVIGATION DISTRICT 2007-2008 WATERWAYS
ASSISTANCE PROGRAM AMENDMENT 1 TO AUTHORIZING
RESOLUTION FOR DERELICT VESSEL REMOVAL – INDIAN RIVER
COUNTY WATERWAYS**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Amendment 1, **Resolution 2007-071** amending Resolution 2007-057 for assistance under the Florida Inland Navigation District Waterways Assistance Program.

7.AA. PARTIAL RELEASE OF RETAINAGE, ECOLOGICAL ASSOCIATES, INC.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Application for partial release of retainage in the amount of \$9,635.20, as recommended in the memorandum of June 27, 2007.

7.BB. WORK ORDER NO. 1 (UTILITIES) CARTER ASSOCIATES, INC., FOR: SURVEY SERVICES, COUNTY ROAD 510 & US HIGHWAY 1, CONTINUING PROFESSIONAL SURVEY SERVICES CONTRACT 0390 / 2006-2007

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Work Order No. 1 (Utilities) authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of June 27, 2007.

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

7.CC. WORK ORDER NO. 8, CARTER ASSOCIATES, INC., ADDITIONAL SURVEY SERVICES, PROPOSED OLSO ROAD BOAT RAMP DESIGN AND PERMITTING PROJECT, INDIAN RIVER COUNTY PROJECT NO. 0381, CONTINUING PROFESSIONAL SURVEY SERVICES, CONTRACT 0390 / 2006-2007

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Work Order No. 8 authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of June 28, 2007.

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

7.DD. WORK ORDER # 10, APPLIED TECHNOLOGY AND MANAGEMENT, INC., COUNTYWIDE AERIAL PHOTOGRAPHY

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Work Order No. 10 to the Contract with Applied Technology and Management, Inc., and authorized the Chairman to execute said Work Order, as recommended in the memorandum of June 27, 2007.

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

8.A. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS -

A. PUBLIC HEARINGS

**1. TREASURE COAST COMMUNITY HEALTH'S
REQUEST TO REZONE ±1.43 ACRES FROM CH TO CG
QUASI-JUDICIAL**

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

Community Development Director Bob Keating, through a PowerPoint presentation, recapped his memorandum of June 19, 2007, and provided detailed data on this request to secure the necessary zoning to develop the subject property with a community health clinic, changing from one commercial district to another. The Planning and Zoning Commission has recommended approval and County staff also recommends approval of the request to rezone the subject property, located south of 9th Street SW, and approximately 850 feet west of 12th Avenue, SW, from CH to CG. Staff feels the proposed rezoning is compatible with the uses in the area, it is consistent with the Comprehensive Plan, it meets the concurrency tests, and has no environmental impacts.

Commissioner O'Bryan questioned the CG zoning that has a different trip indicator, and wondered if they would have sufficient trips with the widening of Olso Road. Mr. Keating confirmed they would have sufficient trips.

The Chairman opened the public hearing.

Seeing no one, the Chairman closed the public hearing.

ON MOTION by Vice Chair Bowden, SECONDED by
Commissioner Flescher, the Board unanimously adopted
Ordinance 2007-023 amending the Zoning Ordinance and

the accompanying Zoning Map for ±1.43 acres south of 9th Street southwest and approximately 850 feet west of 12th Avenue, S.W., from CH, Heavy Commercial District, to CG, General Commercial District; and providing codification, severability, and effective date.

**9.A.2. KENNETH P. KENNEDY AND THOMAS P. KENNEDY'S
REQUEST TO REZONE ±11.59 ACRES FROM CL TO CG
(QUASI-JUDICIAL)**

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

Community Development Director Bob Keating recapped his memorandum of June 19, 2007, and through a PowerPoint presentation described in detail the nature of the request, to secure the necessary zoning to develop the subject property with uses permitted in the CG zoning district. Said property is located east of US Highway 1 and south of 79th Street. He asked the Board to approve the request based on analysis conducted. The Planning & Zoning Commission voted to deny this request, hence the appeal to the Board. Staff feels the request is compatible with the surrounding areas and uses, and with the Comprehensive Plan, and is exempt from concurrency; therefore, staff recommended approval of the applicant's appeal and adoption of the zoning ordinance.

Commissioner O'Bryan inquired if the appropriate 30-day notice of appeal was exercised, since this is an appeal of P&Z's decision. Director Keating said there was no fee involved, and the applicant had met all appeal criteria. Director Keating responded to further questions from Commissioner O'Bryan regarding an additional 40-foot right-of-way, and zoning for property north of Hobart.

Chairman Wheeler questioned the objective in having CL and CG when they were so close. Director Keating thought there were probably no significant reasons, and maybe they could combine both districts. Commissioner Flescher also questioned the seemingly little or no difference, and why the request had come to the Board.

The Chairman opened the public hearing.

Bruce Barkett, Esquire, on behalf of the Applicant, wanted to supplement one thing Director Keating said regarding some of the differences in the uses. He stated that this property is covered by the Wabasso corridor plan that severely limits the use of the property. He urged the Board to adopt staff's recommendation.

Rene Renzi, Waverly Place, thought they were sending some kind of message, because P&Z voted to deny this request. Director Keating explained the grounds on which P&Z denied the request.

Ray Scent, 1615 71st Court, questioned the 6-1 P&Z vote, and felt it should not be the Committee's business if an applicant gains or loses from a request. He supported the request.

John Lambert, 4196 79th Street, President of Hobart Landings Homeowners Association, and on behalf of the residents of Heritage Trace, handed out copies of a map with an aerial view of Hobart Landings. He stated that the residents of Hobart Landings objected to the request and cited several differences between the zonings. He said this property lies in the Wabasso Corridor regulations, which is under the County code of ordinances (S. 911.18), and that was created to minimize the impact of heavy commercial activities on residential areas. He believed it was not appropriate for Commercial General to go in this area.

Larry Labadie, 3566 Marsha Lane, felt the residents should not be subjected to something that the land was not intended for, and asked the Board to look into any hidden subtleties.

John Reynolds, 3536 Marsha Lane, talked about secondary access, was opposed to the request, and asked the Board to uphold P&Z's decision.

John Williams, Smuggler's Cove, asked what would happen to the other CL properties that are adjacent to or nearby.

Dorothy Hennessy, 4185 79th Street, did not want the zoning changed in any way. She asked the Board to consider their way of life.

Bruce Barkett, Esquire, acknowledged and understood the concerns of the residents and did not want the Board to ignore them. However, he asked that the Board obey the law, and assure the residents that they have several levels of protection. He wanted the Minutes to reflect that he was called a "Power House" Attorney. Mr. Barkett described his client's intent as safe and within the law. Although he understood the residents' concerns, he thought they were not well founded, did not constitute evidence, and furthermore this was a commercially designated property.

Chairman Wheeler asked Mr. Barkett, based on his comments, why his client could not live with the current zoning. **Mr. Barkett** replied that CG is a little more flexible and is highway-oriented property.

Mr. Barkett continued to argue his case with Board members, and the Board discussed whether to do these changes on a case-by-case basis.

It was clarified for Vice Chair Bowden that Mr. Barkett's invitation from staff to appeal the decision was done publicly.

Chairman Wheeler although not disagreeing with some of Mr. Barkett comments, interpreted the matter differently. He did not think it should be a consideration to change the zoning because it means more profit.

Mr. Barkett believed it should be a consideration because there were no adverse impacts to the neighborhood. He agreed that if it is consistent with the County's Comprehensive Plan, with its Zoning Code, and it might help make a profit, then the Board should approve the request.

Chairman Wheeler disagreed with Mr. Barkett and did not think the Commission should be a determining factor about what the profit level or motivation is on any rezoning they do. He felt the Board should look at it individually and independently and make a decision based on that, and not that it is going to make less or more money.

Mr. Barkett reminded Commissioners that they have to comply with the law if there are no adverse impacts or incompatibility with the request.

Attorney Collins concurred that Mr. Barkett was correct, that if his client could show they are consistent with the plan, then they are presumptively entitled, and the burden shifts to the Board to show that not changing it to the use that is consistent with the plan, serves some general purposes and is not unreasonable and arbitrary. He did not think the Board was required to rezone the property, but thought they had to have reasons for not rezoning it, and so long as they were not arbitrary and unreasonable, they have some discretion.

John Lambert wanted to clarify that the community was previously against RM-6 zoning for this property. He again voiced the community's opposition to the request and provided various reasons including case law to support their cause. He did not believe the rezoning was in

favor of the people of Hobart Landings. He was told that the Kennedys were going to limit ingress and egress through the Church property and that was a major concern of the residents.

Mr. Barkett objected to Mr. Lambert's latter comments, as heresy.

Ray Scent felt the Board needed to make a decision on whether the request is reasonable under the law, and whether it is compatible.

Joe Mason, resident, talked about safety of children and increased traffic concerns.

Cheryl Barkwell 3546 Marthas Lane, Hobart Landings, was concerned about the impact to their subdivision. She urged the Board to leave the zoning as is.

Richard Hall, President, Heritage Trace at Hobart Homeowners Association, believed the applicant has failed to show overriding public interest for the Board to change zoning. He opposed the request, and urged the Board to uphold Planning & Zoning's decision.

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

Commissioner Davis discussed the differences between the zoning changes. He thought the diversification of a product along the US 1 corridor would be a benefit. Although not opposed to the requested change, he thought P&Z was correct that we should try to combine both. He was in favor of allowing the CG zoning request.

Commissioner O'Bryan believed property owners have the right to the best use of their properties regardless of the profit level; however, that has to be balanced by impacts on neighboring property owners. He did not want to see the County end up in litigation if they up-zone the property and a permitted use application comes before the Board later, and they turn it

down. He stated, that unless the applicant can show a clear need for the request he would not be in favor.

Vice Chair Bowden thought the differences between CL and CG was subtle and there was no real need for an “up-zoning”. She wanted to uphold P&Z’s decision.

Commissioner Flescher defended Director Keating’s recommendations to the Board, as appropriate. He did not believe, based on all the testimonies, the subtleties of the zoning warranted him to support this request.

Chairman Wheeler believed in the best highest use for the property, but has the residents’ interest at heart as well. He did not think the property would be less valuable with the current zoning; did not support the rezoning of the property; and defended Director Keating’s recommendations as appropriate.

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Wheeler, the Board by a 4-0 vote (Commissioner Davis dissenting) upheld the Planning & Zoning Commission’s decision and **DENIED** the appeal to rezone the subject property from CL to CG.

The Chairman called a recess at 10:36 a.m., and reconvened the meeting at 10:50 a.m., with Commissioner O’Bryan absent.

9.B. PUBLIC DISCUSSION ITEMS

1. REQUEST TO SPEAK FROM JOE AND MARY WIGGINS REGARDING TRAILER IN SINGLE HOME DISTRICT

Mary Wiggins, 895 11th Street SW, addressed the Board regarding a Code Enforcement matter that involved a trailer in the back of her home. She believed Code Enforcement punished her family by asking them to move the trailer in which her sick mother resided, because they had complained about certain conditions in the neighborhood. She also believed that because they had to find alternative accommodations for her mother, it lessened the time they spent with her, and also resulted in her subsequent death because of lack of attention. Mrs. Wiggins felt Code Enforcement did not treat them fairly because of similar violations with neighbors who were not cited or asked to move their trailer.

(Clerk's Note: Commissioner O'Bryan rejoined the meeting at 10:51 a.m.)

Community Development Director Bob Keating refuted accusations of punishment, stating that the Code Enforcement Department gets complaints and investigates them. He said if a mobile home was put in place before 1970 it was in compliance with County Code, but anything after that was not. He described the properties with code violations, noting when the mobile homes were put in place, and steps taken by Code Enforcement to address the problems. He explained that because the mobile home was being used as accommodations for the Wiggins' mother, Code Enforcement gave numerous extensions, and finally asked for the trailer to be moved.

Mary Wiggins contradicted comments about a trailer that was thought to be there in the 1970s, but actually came in the 1990s. She questioned why certain trailers with no inhabitants were grandfathered-in, and the one occupied by her mother had to be removed.

Commissioner Davis thought the Code should be enforced equally. Director Keating said staff was exercising the same enforcement with the Jackson's trailer, and the Brown's trailer was determined to be there in 1970s. **Joe Wiggins** said the trailer was not there in the 1970s.

Joe Wiggins stated that he had asked the Board's permission to keep the trailer on his property until his Mother died. The Board agreed, but about two weeks later he received a letter stating that he would be charged \$500.00 a day if he did not get the trailer out. Yet other trailers that came in after were still there.

Chairman Wheeler asked staff to look into the matter, and wanted everyone to be treated equally.

Ray Scent gave a brief history of mobile homes from the 1970s, including the relevant building codes. He stated that the trailer homes do require a tag showing the age of the home.

No Board action required or taken.

9.C. PUBLIC NOTICE ITEMS - NONE

10. COUNTY ADMINISTRATOR'S MATTERS - NONE

11. DEPARTMENTAL MATTERS

A. COMMUNITY DEVELOPMENT

**I. REQUEST FOR AUTHORIZATION FOR STAFF TO SUBMIT A PROPOSAL
IN RESPONSE TO THE UNIVERSITY OF FLORIDA'S INVITATION TO
NEGOTIATE SITE SELECTION FOR A CELLULOSIC ETHANOL PLANT**

ON MOTION by Vice Chair Bowden, SECONDED by
Commissioner Flescher, the Board unanimously authorized
staff to submit a proposal to UF/IFAS in response to the

Invitation to Negotiate Site Selection for a Cellulosic Ethanol Plant, as recommended in the memorandum of June 29, 2007.

11.A.2. CONSIDERATION OF ESTABLISHING AN IMPACT FEE UPDATE REVIEW TASKFORCE

Community Development Director Bob Keating reported that staff was in the process of preparing the mandated update of the County's impact fees. He provided update from a public meeting held last week that led to the belief that they should develop a taskforce. He said staff has looked at Martin County and how they have established a taskforce; and based on that, staff has come up with its recommendations for an Impact Fee Taskforce.

Board members discussed whether to appoint a taskforce, or to hold workshops. They also discussed and made suggestions for the membership and organization of the task force.

Nancy Offutt, representing Treasure Coast Builders Association, concluded that now was not the time to increase impact fees because the economy is so fragile. The Association suggested a taskforce for the future, and not to look back at the past. She said they were okay with creating a taskforce for the future, and supported the idea for workshops.

In response to Commissioner Davis's question of whether they wanted it formalized, Ms. Offutt said maybe for the future, and have it broad based. She had no problem taking the informal approach that the Board wants.

Chairman Wheeler wanted to have input from everyone, and then make a decision. Administrator Baird asked that staff be directed on whether or not to have workshops.

Chuck Mechling, Pointe West, believed having the taskforce was a good idea, and that it should be a more private situation. He thought maybe the Chamber could spearhead a group meeting type concept.

Penny Chandler, Indian River County Chamber of Commerce, said she would be happy to coordinate the workshops.

Joseph Paladin, Chairman Growth Awareness Committee, supported Ms. Chandler heading up the committee, and offered to be a part of that committee.

Commissioner Davis did not like the proposed structure, and believed others should have an opportunity to be a part of this, because with the current proposal they would not have a seat. Director Keating said staff would like to work with the Chambers of Commerce in putting together this workshop, and to make sure everyone gets invited.

MOTION WAS MADE by Commissioner O'Bryan,
SECONDED by Vice Chair Bowden, to **not** create a
taskforce at this time.

Commissioner O'Bryan encouraged the Chamber of Commerce to host a couple of informal meetings with interested parties, so that when we have the public workshops they might be able to come up with a consensus.

The Chairman CALLED THE QUESTION and the Motion
carried unanimously to not create a taskforce at this time.

11.B. EMERGENCY SERVICES - NONE

11.C. GENERAL SERVICES - NONE

11.D. HUMAN RESOURCES

1. BOCC OPTION 6 COMPARISON

Human Resources Director James Sexton reminded the Board that on May 8, 2007 the Board approved Option 5, to have five (5) Commissioner Assistants and one Receptionist. At its June 19, 2007 regular Board meeting, the Board directed staff to analyze an additional Option 6 for reorganizing the Board of County Commissioners' Office. Mr. Sexton compared and outlined the differences in Options 5 and 6. He asked the Board to consider whether they wanted to go with Option 5 or 6.

Commissioner Davis inquired whether Options 5 or 6 meet the requirements for us to come within our budget reductions.

Chairman Wheeler discussed coordination of the Commissioners' office, and Administrator Baird's suggestion to have his Executive Assistant do the coordinating. Other Board members discussed whether to have the Chairman's Assistant coordinate.

There was CONSENSUS that Option 5 was already approved, the Chairman's Assistant would coordinate the office, and the receptionist would work closely with the Chairman's Assistant.

Discussion ensued among Board members regarding the salary range for the Chairman's Assistant. They all agreed to leave the salary as is until Cost of Living Adjustment (COLA) catches up.

No action taken.

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 – AWARD OF BID # 2007070, 79TH STREET
(106TH AVENUE TO 101ST AVENUE), IRC PROJECT # 0535
AND 87TH STREET (106TH AVENUE TO 102ND AVENUE), IRC
PROJECT #0536**

Public Works Director Jim Davis recapped his memorandum of June 28, 2007 describing the Bids received for paving of two (2) Streets in Vero Lake Estates, west of 101st Avenue, being 79th Street and 87th Street. He asked the Board to approve staff's recommendations to award the Bid to Sheltra Construction Company, and to authorize staff to move ahead with those contracts.

On Motion by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved for the low Bid to be awarded to Sheltra and Sons Construction, in the amount of \$1,093,552.00, as recommended in the memorandum of June 28, 2007.

11.J. UTILITIES SERVICES –

1. GRAND HARBOR SPOONBILL MARSH SITE, WORK ORDER No. 20 WITH MASTELLER, MOLER, REED & TAYLOR, INC., FOR SPECIFIC PURPOSE SURVEY OF THE BRINE DISPOSAL LINE ROUTE THROUGH THE ISLES OF GRAND HARBOR

On Motion by Commissioner O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 20 with Masteller, Moler, Reed & Taylor, Inc., in the amount not to exceed \$7,000.00 to provide survey services for the Brine disposal route through the Isles of Grand Harbor site for connection to the Spoonbill Marsh Site; and, authorized the Chairman to execute said Work Order, as recommended in the memorandum of June 25, 2007.

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

11.J.2. CENTRAL REGIONAL WASTEWATER TREATMENT FACILITY PERMIT RENEWAL

On Motion by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved Work Order No. 18 with Kimley-Horn, Inc., in the amount of \$56,900.00 to prepare and submit permit renewal

package, as recommended in the memorandum of June 27, 2007.

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

12. COUNTY ATTORNEY MATTERS

A. BOND REFERENDUM FOR PIPER RETENTION

County Attorney William Collins explained that on June 21, 2007, the Board of County Commissioners and Vero Beach City Council unanimously approved an incentive package to retain Piper Aircraft. A part of that involved the issuance of a \$40 million General Obligation Bonds, which would be used to reconstruct Piper's manufacturing facilities and construct additional facilities for a new jet that they are proposing to build, as well as, to purchase the property with a leaseback arrangement to Piper. He asked the Board to approve and authorize the Chairman to execute the resolution, and to forward a certified copy of said resolution to the Supervisor of Elections notifying her, and to obtain her consent to call the Special Election for the purpose of approving the General Obligation Bonds.

Supervisor of Elections Kay Clem said the law requires her to get 30 days notice, but she would like to have 45 days to send out overseas ballots. She acknowledged that sixty (60) days would be sufficient time to get things ready. To Commissioner Davis's question of how much time would be needed for individuals who are not registered, Mrs. Clem said twenty-nine (29) days. Attorney Collins pointed out that the Tuesday nearest to 60 days, September 11, would be a horrible day to set an election. Chairman Wheeler thought 90 days would give them an opportunity to educate the public and have things available. He stated that October 9, 2007, would be the election date.

Ted Robinson, 50 N. Caserea Court, Indian River Shores, accused the County, Vero Beach City Council, and the Chamber of Commerce of handling Piper secretly and plotting to shift \$76.5 million from taxpayers to Piper that is not in the overall public's interest. He believed there should be no referendum; that voters need to have an opportunity to decide if they want to engage in the aircraft manufacturing business; and there should be a study of how the \$76.5 million tax increase would impact the County's economy, compared to the impact of Piper leaving. He thought it would hurt the economy more if Piper stays. He thought there should be an independent legal opinion of whether the County, the City and the Chamber of Commerce are acting in the public's interest.

Administrator Baird clarified that the only thing the Board voted on was to put the \$40 million offer on the ballot. He also confirmed that the County had gotten outside legal opinion from a Bond Counsel that this was authorized legal use of public funds.

Joseph Paladin believed the impact on the economy would be devastating if Piper is allowed to leave; and the chances of attracting a business like Piper, should Piper leaves, would be much more difficult. He thought we should come together as a community and let Piper know we appreciate and want them to stay here.

Dennis Drake believed that because of the state of affairs in this country, corporations are holding municipalities in blackmail. He challenged the Board to be creative, and suggested that language be placed in the referendum saying County and City would sell land and share the burden.

Chairman Wheeler clarified comments regarding the sale of property. He asked Administrator Baird to explain why we were having a referendum. Administrator Baird said this resulted because of tax reform requirements from the State.

Jens Tripson, 2525 14th Street, took exception to Mr. Robinson's statement that he was representing 90% of the people in the County who did not have anything to do with Piper. He said Mr. Robinson was not representing him. He urged the Board to move ahead, get the facts out, and let the voters decide in a referendum, because Piper is a big part of our economy.

Mrs. Clem informed the Board that she did not have money in her budget to conduct this election, because they had not planned it. She said it probably would cost about \$100–\$120,000.00. She clarified that her office does not charge to inform the public of the pros and cons of any issue.

Penny Chandler, Indian River Chamber of Commerce, thought the issue was whether or not to approve the language and move forward. She responded to comments about secrecy in the handling of the Piper issue, and urged the Board to move forward with the referendum.

At the request of Chairman Wheeler **Ms. Chandler** gave an overview of the Piper process to allay any confusion as to how we got to this point. She said Piper hired a consulting firm to help them make a corporate decision on where was the best location for that firm to be located in order to be profitable. The Consultants put together a proposal and asked that the matter be not played out in the media or in public, and requested that everyone obey a confidentiality rule, with which we have complied. She explained that because of the Sunshine Law they could only ask one Commissioner and one City Councilmember to be on the team.

Commissioner Davis suggested a change in certain language of the resolution, but Administrator Baird and Attorney Collins agreed that under Bond law, the wording was very important, and they would not “mess” with the wording.

Commissioner O'Bryan suggested additional language to the title language of the resolution to read, ... “ ... to finance the cost of acquisition, renovation of exiting facilities and construction of additional facilities.”

Vice Chair Bowden inquired whether they were talking about new and/or used facilities. Administrator Baird explained that they were looking at purchasing the existing facilities, renovating their existing facilities, and maybe building an additional facility on the property that purchased.

Charlie Wilson, 1057 6th Avenue, said he had not made up his mind if he was for or against this process. He complimented Ms. Chandler on the work the Chamber has done. Mr. Wilson recounted how Port St. Lucie's Trauma Tax failed because the people believed the information was rushed to the ballot, and they were not fully apprised of the issues. He cited as the largest objection of the people, putting taxpayers' money into private business. Mr. Wilson hoped the Board would consider that, and felt that as long as the community knows the benefits, and thinks they have had a fair conversation, and a chance at this, they might vote for the Piper referendum.

Administrator Baird assured Mr. Wilson that staff plans to make the public aware.

Motion was made by Commissioner O'Bryan, Seconded by Commissioner Davis, to approve the Resolution with modifications to add the word “existing” in the Title, and to set a 90-day window for the election.

Mr. Kennedy announced that they would be doing a “Piper Night” baseball game on July 30th at Dodgers Stadium. Admission is free, and the gates open at 6:00 p.m., with game time at 7:00 p.m. game. Piper's CEO Jim Bass would throw the first pitch.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved **Resolution 2007-073**, as amended, authorizing the issuance, subject to the Bond Referendum herein provided for, of General Obligation Bonds of Indian River County, Florida payable from the full faith and credit and unlimited Ad Valorem taxing power of the County, to provide net proceeds of \$40,000,000 to finance the cost of acquisition, renovation and construction of additional facilities constituting a capital project for an industrial or manufacturing plant described as Piper Aircraft, for economic development, providing for and calling a Bond Referendum of the qualified electors of the County to be held on _____, 2007; providing for official ballots; providing for Bond Referendum procedures; establishing its intent to reimburse such capital expenditures incurred with proceeds of such General Obligation Bonds; and providing an effective date.

Ms. Chandler invited everyone to visit the Chamber's website at www.indianriverchamber.com to get the facts.

LETTER OF ACCEPTANCE FOR SPECIAL COUNSEL SERVICES ON FILE
IN THE OFFICE OF THE CLERK TO THE BOARD

The Chairman called a recess at 12:42 p.m., and reconvened at 12:59 p.m., with all members present.

**12.B. RESOLUTION PROVIDING FOR OR REJECTING PER DIEM
COMPENSATION FOR VALUE ADJUSTMENT BOARD MEMBERS**

(Clerk's Note: Administrator Baird apologized to the Indian River Neighborhood Association (IRNA) for comments he made on the Piper issue that might have been offensive.)

On Motion by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, the Board unanimously approved **Resolution 2007-074**, rejecting statutory per diem compensation for the 2007 Value Adjustment Board members.

13. COMMISSIONERS' ITEMS

A. CHAIRMAN GARY C. WHEELER

1. AUTHORIZATION TO CHALLENGE PENDING FELLSMERE ANNEXATIONS

Chairman Wheeler asked Director Keating to provide an update on what has occurred so far, and where we are on the Interlocal agreement. Director Keating reported that a few weeks ago the City of Fellsmere passed an initiating resolution, pursuant to Chapter 171 of the Florida Statutes that allows local governments to initiate the process to do an Interlocal Service Boundary Agreement. He explained that that type of agreement is focused on identifying future annexation areas for municipalities, and identifying how and who would provide the services in those areas. The County subsequently passed a responding resolution that agreed with Fellsmere's initiating resolution, putting some additional issues on the table, and actually expanded the

geographic scope of the proposed agreement. The focus of recent meetings attended was to try to identify reserved areas for each municipality, and those are the areas that each municipality seeks to annex in the next 20-year period. Director Keating said the committee was still working on these issues trying to flush out a lot of the parameters of the annexations.

Commissioner Davis asked if Director Keating was suggesting that litigation would help facilitate this process. Director Keating said he was not suggesting anything; he was only stating the way things are going now, and that the Interlocal Service Boundary Agreement was not following the intent of the County's responding resolution where everything is on the table.

Chairman Wheeler explained why he brought this item back to the Board. He felt our resolution did not exclude the 18,000 acres, and referred to the Minutes where Mr. Nunemaker agreed not to take the 18,000 annexations off the table, but would for certain others. Chairman Wheeler believed there was legitimate reason to question and challenge the legality of the application for the 4,000 acres. He outlined all the problems he has with Fellsmere's annexations. He also felt it was important that this annexation be challenged and to see what could be done about turning a large portion of the County over to the City of Fellsmere.

Commissioner Davis acknowledged that a Charter did not force this series of annexations, but by a heavy-handed approach from this Commission. He believed the only way to keep an open dialogue of the unknown was to not do it in front of a judge, and to keep it out of the courtroom. He felt we have set the groundwork with the ILA, and wanted to see some transfer of development rights from the agricultural areas to be set-aside in perpetuity.

Chairman Wheeler responded to Commissioner Davis's comments about a heavy-handed approach, and inferiority. He stated that he was not inferring that the County was superior or that Fellsmere was inferior because of the number of votes they had, but was simply stating a fact that that many votes are determining the future of this County in a big way. He

thought that to use the argument that we would have more affordable housing because we would have cheaper lands did not “float” for him.

Chairman Wheeler asked Attorney Collins what would be the steps taken if we were to challenge this. Attorney Collins explained that staff would have to come back next week with a resolution initiating a dispute resolution procedure under Chapter 164, Florida Statutes, and the resolution would state the conflict, the justification for initiating a dispute resolution, and a proposed date and location for meeting, along with suggestions as to who should be present at the meetings. Further, that would go for a minimum of probably 2 1/2 to 3 months before one could work through that process; and if there is failure to resolve a dispute as to the legality of the annexation, then the County could file a certiorari petition in the Circuit Court, and attempt to have them strike down the annexations as illegal.

Chairman Wheeler told Commissioner Davis that we could not negotiate in good faith when we have no bargaining chips at all, because this Commission has decided to move forward and ignore the 18,000 acres.

Commissioner O’Bryan agreed with Commissioner Davis that we have a process in place to help resolve some of these conflicts, but felt the bottom line is, it is only going to work if both parties follow the rules, and in this case, Fellsmere has not followed the rules of Chapter 171.2, which he explained. Commissioners Davis and O’Bryan debated whether Fellsmere broke the rules according to Florida Statutes.

Commissioner Flescher questioned at what point the 18,000 acres were added to the responding resolution, and Chairman Wheeler and Commissioner O’Bryan explained. Commissioner Flescher believed legal action would not allow the opportunity for constructive negotiations for the future of this County.

Chairman Wheeler said the ILA would continue if both parties continue to negotiate. Lengthy discussion ensued between Chairman Wheeler and Commissioner Davis. Attorney Collins explained why we would have 100% success in court if we challenged the 4,000 annexations. Commissioner Davis was not willing to spend taxpayers' money to sue taxpayers over something they could otherwise resolve.

Commissioner Davis had many questions for the City of Fellsmere: (1) where were they going to put densities; (2) how many densities would be put in; (3) where would they have an opportunity for economic development; (4) where was their requirement for open space in a comprehensive plan going to be; and (5) what was the community going to look like. He was not in favor of suing the City of Fellsmere.

Chairman Wheeler asked Commissioner Davis where he would draw the line if he were not in favor of challenging an 18,000-acre annexation.

Vice Chair Bowden did not want to send a message that "we will see you in court." She believed our goal in this County is to preserve our natural beauty and quality of life for the future. She also believed that progress should not destroy, but enhance our quality of life. She felt the Board should make a sincere effort to negotiate with Fellsmere, and not through fear or heavy-handedness.

Chairman Wheeler asked Commissioner Davis to explain what bargaining chip we had to offer to Fellsmere to have them take this annexation off the table. Commissioner Davis believed we could negotiate in "good faith", and to take Fellsmere to court would only "poison the well and Fellsmere would win."

Fellsmere's City Manager Jason Nunemaker responded to questions from Commissioner Davis.

Chairman Wheeler felt that if we don't have any ability to stop the annexation of the 18,000 acres then the only other option is to have to have a public hearing, move forward on the Charter and let the public vote on whether they want the Charter or not.

Commissioner Davis believed it was the votes on the City Council in Fellsmere that would stop annexation, and that is what we have in place to change policy and direction.

City Manager Nunemaker addressed comments from the Board, in particular, whether Fellsmere had acted in good faith. Mr. Nunemaker presented different ways in which they have dealt with the issues in good faith, and have demonstrated their willingness to work with the County. He stated that the legislative intent would show that it was the County that acted contrary to Chapter 171. He remarked that so many issues have come up about the agreement with Fellsmere Joint Venture (FJV), and he wanted to point out that they have achieved nearly ½ billion dollars in extractions off the bat, if they use County calculus. Fellsmere is proposing that of the 18,000 acres, 50% or 9,000 acres would be open space.

Mr. Nunemaker answered various questions from the Board regarding open space and urban sprawl. He talked about economic development and considers FJV their Piper.

Commissioner Flescher asked what was the justification or reason given by FJV for the delay of the 14,000 annexations. Mr. Nunemaker explained that they wanted to give some more room to the Interlocal Service Boundary Agreement process.

Commissioner O'Bryan did not want to imply that Fellsmere had not done good things and had not acted in good faith, but believed Fellsmere had not followed in good faith with part 2 of the ILA. He had asked for them to table the annexations until the full course of the ILAs have been worked out, and Fellsmere had not done so.

Mr. Nunemaker reminded him that these applications were submitted prior to the initiating resolution.

John Williams addressed control over the urban service line; believed Charter was the only tool we had to protect ourselves; and debated whether Fellsmere would be another Palm Bay.

Joseph Paladin, Developer, asked whether it was the intent of the Commissioners to take out the 18,000 acres. Commissioner O'Bryan said it was his intent to add the 18,000 acres back in.

Mr. Paladin asked each Commissioner if it was his/her intent to throw out the 18,000 acres. He also questioned Attorney Collins regarding the reasons to challenge the annexations, and asked him to define what the challenges would be. Mr. Paladin urged the Board to use its time, energy and money to negotiate a deal with Fellsmere, as he thought the issue was driving a wedge in the community.

Don Studley, Developer, remarked that people don't understand that it is not Fellsmere or the County's property, but it is people who own the land; and, this was a request from individuals who have requested to annex into Fellsmere.

Warren Dill, City Attorney, City of Fellsmere, did not think it was fair to say that Fellsmere has not played by the rules, and presented scenarios to dispel those comments. He understood that Florida Statutes 171.2 allowed other interested entities to make additions or deletions to the list; however, in his opinion, the County went overboard in its review and changes to what Fellsmere had recommended. He gave his understanding of the Statutes and the Legislature's intent. He thought the County was overly broad in its approach to their response to the responding resolution. He stated that the County exempted the 18,000 annexations in its

stand-down resolution because the application for that was submitted prior to May 1, 2007. He believed the County would only delay Fellsmere from annexation if it proceeds with the litigation.

Chairman Wheeler explained the resolutions he voted for and against, and stated that he has never said that Fellsmere was negotiating in bad faith. He also explained his disagreement with Fellsmere's proposals for annexations. Board members discussed their interpretation of the initiating and responding resolutions.

George Beuttell, 5000 16th Street, said he was on Fellsmere's side. He asked the Chairman to focus efforts in creating a better job base, and more livelihoods for the people of the County, instead of struggling with this issue with Fellsmere.

Sara Savage, Mayor of Fellsmere, declared that Fellsmere wants more for its community. They have said before that the Fellsmere Farms area was not up for negotiations; and they did not want to sign stand down resolution because it seemed the County was saying it was okay for other cities to annex, but Fellsmere could not, and she found that to be a slap in the face. She remarked that the County has not helped them; they want a chance to do their own; and believe they could do a better job than what is being done in the County.

Rene Renzi, Waverly Place, was amused by Mr. Nunemaker's comments that FJV is to Fellsmere what Piper is to Vero Beach. It seemed to her that Fellsmere's residents were not interested in the annexation plans because of their lack of interest and attendance at City meetings. She did not believe the annexation was being done for the people of Fellsmere, and wondered if the people were aware of what would happen to their rural paradises.

Commissioner O'Bryan MOVED, Seconded by Chairman Wheeler to instruct the County Attorney to come back next week with a resolution to challenge the Fellsmere annexations.

Vice Chair Bowden did not want to go to court, and thought maybe they could hold a Special Call meeting in 30 days if they so desired. She felt the Board needed to extend a hand in negotiations and omit the heavy-handed approach.

The Chairman CALLED THE QUESTION and by a 2-3 (Commissioners Bowden, Flescher, and Davis opposed) the Board FAILED to challenge the 4,000-acre annexations in the City of Fellsmere.

B. COMMISSIONER SANDRA L. BOWDEN, VICE

CHAIRMAN - NONE

C. COMMISSIONER WESLEY S. DAVIS

1. RECOMMENDATION – DRAFT ROADWAY DESIGN AND CONSTRUCTION CHECKLIST

Commissioner Davis, in keeping the Board updated on the progress of the project, presented an overview, which included prior directives from the Board, and the current status of the checklist.

No Board Action taken or required.

D. COMMISSIONER JOSEPH E. FLESCHER- NONE

E. COMMISSIONER PETER D. O'BRYAN

1. CONSIDERATION FOR INDIAN RIVER COUNTY TO APPLY FOR NACo PRESCRIPTION DISCOUNT CARD PROGRAM

Commissioner O'Bryan informed the Board that as a member of NACo, we are eligible to participate in a prescription discount card program that would cost the County nothing, and would be open to all members of the County. He believed it would be a great benefit to the County, and the County would not be required to administer this program.

MOTION WAS MADE by Commissioner O'Bryan,
Seconded by Commissioner Davis, to instruct the County
Administrator to apply for the Discount Card Program

Attorney Collins said they may have to bring this back for contract approval after the legal staff has reviewed it.

The Chairman CALLED THE QUESTION and the Motion
carried unanimously.

2. AUTHORIZATION TO STAFF TO INITIATE CHANGES TO LDR CHAPTER 910 TO AMEND CONCURRENCY REGULATIONS FOR COMMERCIAL/INDUSTRIAL PROJECTS

Commissioner O'Bryan reminded the Board of prior modifications to Chapter 910 that dealt with road concurrency, and how projects could vest for traffic concurrency. He asked

the Board to authorize staff to initiate wording changes to deal with commercial/industrial projects differently, because some developers were being affected by the change.

Commissioner Davis concurred 100% with Commissioner O’Bryan. He believed staff could come up with something, and make it so they have the opportunity to do some commercial/industrial projects.

Vice Chair Bowden thought staff should look at putting some “spec buildings” out there, and that staff be given the authority to look at some proposals.

Joseph Paladin asked whether impact fees would be paid at the time/reservation of this concurrency. Director Keating confirmed that it would be at the time of reservation. Mr. Paladin then announced his support of the request.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved to instruct staff to revisit Chapter 910 of the Land Development Regulations, as it applies to commercial/industrial projects, and return to the Board with recommendations.

14. SPECIAL DISTRICTS AND BOARDS

A. EMERGENCY SERVICES DISTRICT

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

1. APPROVAL OF MINUTES – REGULAR MEETING OF JUNE 5, 2007

2. APPROVAL OF MINUTES – REGULAR MEETING OF JUNE 19, 2007

3. AUTHORIZATION FOR FINAL PAYMENT AND RELEASE OF RETAINAGE TO BARTH CONSTRUCTION, INC., FOR THE RENOVATION/REPAIR OF FIRE RESCUE STATION #3

4. LAND ACQUISITION FOR EMERGENCY SERVICES DISTRICT FIRE STATION 9 LOCATED IN SEBASTIAN

B. SOLID WASTE DISPOSAL DISTRICT - NONE

C. ENVIRONMENTAL CONTROL BOARD

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

- 1. APPROVAL OF MINUTES – REGULAR MEETING OF OCTOBER 10, 2006**
- 2. APPROVAL OF MINUTES - REGULAR MEETING OF NOVEMBER 7, 2007**
- 3. REPORT OF ACTIVITIES DURING FOURTH QUARTER (OCTOBER THROUGH DECEMBER 2006)**
- 4. REPORT OF ACTIVITIES DURING FIRST QUARTER (JANUARY THROUGH MARCH, 2007)**

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 2:57 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/AA/2007 Minutes

July 10, 2007