

**INDEX TO MINUTES OF**  
**BOARD OF COUNTY COMMISSIONERS**  
**SPECIAL CALL MEETING**

**JULY 20, 2007**

<b>1.</b>	<b>CALL TO ORDER.....</b>	<b>1</b>
<b>2.</b>	<b>INVOCATION.....</b>	<b>1</b>
<b>3.</b>	<b>PLEDGE OF ALLEGIANCE.....</b>	<b>1</b>
<b>4.</b>	<b>ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS.....</b>	<b>2</b>
<b>5.</b>	<b>TO DISCUSS FELLSMERE ANNEXATIONS AND ACTION TAKEN AT THE CITY OF SEBASTIAN CITY COUNCIL MEETING OF JULY 18, 2007 .....</b>	<b>2</b>
	<i>(NO BACKUP).....</i>	<i>2</i>
<b>6.</b>	<b>DISCUSS PIPER REFERENDUM.....</b>	<b>11</b>
	<i>(NO BACKUP).....</i>	<i>11</i>
<b>7.</b>	<b>ADJOURNMENT.....</b>	<b>12</b>

July 20, 2007

**BOARD OF COUNTY COMMISSIONERS**

**SPECIAL CALL MEETING**

**JULY 20, 2007**

The Board of County Commissioners of Indian River County, Florida, met in a Special Session at the County Commission Chambers, 1840 25<sup>th</sup> Street, Vero Beach, Florida, on Friday, July 20, 2007, at 1:30 p.m. to discuss Fellsmere annexations and action taken at the City of Sebastian City Council meeting of July 18, 2007; and also to discuss the Piper Referendum. 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 Leona Adair Allen.

**1. CALL TO ORDER**

Chairman Wheeler called the meeting to order at 1:31 p.m.

**2. INVOCATION**

Commissioner Davis delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Chairman Wheeler led the Pledge of Allegiance to the Flag.

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

**5. TO DISCUSS FELLSMERE ANNEXATIONS AND  
ACTION TAKEN AT THE CITY OF SEBASTIAN CITY  
COUNCIL MEETING OF JULY 18, 2007**

**(NO BACKUP)**

Chairman Wheeler announced that he called this meeting because of an action that had been taken by the City of Sebastian on Wednesday evening, July 18, 2007. He said questions had come up at Sebastian's Special Call meeting about the Interlocal Agreement and comments were made that may have "changed the picture." He said when this came up a few weeks ago, there were five municipalities that were in favor of moving forward while leaving acreage on the table, and working on the Interlocal Agreement. Chairman Wheeler announced that since that time Sebastian had taken a different position. He requested the same PowerPoint presentation from the Sebastian meeting be made, and asked the Council members in attendance to make the same comments, so the Board could get an idea of what had occurred during their meeting.

After realizing that all the Commissioners, except Commissioner O'Bryan, had seen the DVD from the meeting, Commissioner Davis moved to forego the PowerPoint presentation, since it had aired publicly. Commissioner Davis said he had a copy in his office and thought it should be placed on the website for the public to view. He voiced concern over taking individuals away from their jobs to come to this meeting; however, he was open to input from the City Council and the public.

MOTION was made by Commissioner Davis,  
SECONDED by Commissioner Flescher, to not show the  
PowerPoint presentation at this meeting, and to post it on  
the website.

Discussion ensued as Chairman Wheeler voiced disagreement and wanted the  
PowerPoint presentation to be shown, thinking it would be rude to not show it to the audience.  
Commissioner Davis felt the public had the opportunity to view the meeting on public television  
and suggested it be posted on the County's website.

Vice Chair Bowden had also seen the presentation and wanted to open the floor for  
public discussion.

The Chairman CALLED THE QUESTION. By a 3-2 vote  
(Chairman Wheeler and Commissioner O'Brian opposed)  
the Board chose not to show the PowerPoint presentation at  
this meeting, but to post it on the County's website and to  
open the floor for public input.

**Andrea Coy**, Mayor of Sebastian, asked the Board to support her concerning recent  
actions taken by the City of Sebastian. She said the City of Sebastian was not opposed to  
Fellsmere's growth nor annexing, they just wanted answers to the questions relating to their City's  
health, safety, welfare, transportation and recreation issues. Mayor Coy voiced concern that Vero  
Beach would not be able to view the presentation now that the Motion was made to not show it.  
She asked the Board to "seriously" look at Sebastian's concerns and help them get answers to their  
questions.

**Dale Simchick**, Sebastian City Council Member, announced that Sebastian went into litigation yesterday. She expressed disappointment that the people of the County were unable to see the five-minute presentation, which would have explained why Sebastian wanted to defend the concerns that would affect their health, safety and welfare. She felt the door had been closed to Sebastian when she went to Fellsmere on May 7, 2007, and was presented with a packet, which showed annexations that were already underway, as well as plans for future annexations. She emphasized that there had been no negotiations. Through a PowerPoint slide, she referred to the areas that Fellsmere had already annexed and the areas that were on their “futuristic wish list”. Ms. Simchick pointed out how density has been changing due to annexing, and voiced concerns over schools, Fire Station #8, evacuation, additional water and sewer, and additional trips on the roads. She concluded by acknowledging that Sebastian wants to see Fellsmere grow and prosper, but she wanted it to be done through a joint process.

Chairman Wheeler announced that he called this meeting to provide the City of Sebastian with an opportunity to explain what happened at Wednesday’s meeting, and to request the Board’s support. He further clarified that previously five municipalities had no problem with the annexation; now Sebastian, with a vote of 5-0, does. He informed the Board that today was the last day to challenge the annexation and he thought it was prudent to call a meeting.

**Al Minner**, Sebastian City Manager, acknowledged that Sebastian was in a difficult position with her sister city and he hoped they would be able to work things out. He felt that Fellsmere had been professional, candid, and honest when they came to the table. He revealed that Sebastian had felt that Charter Government was not needed, and that the existing rules in the Statutes allowed them to decide the best plan for the County. He emphasized their frustrations regarding negotiation without everything on the table. He said if they want to talk about these areas the only way to do so would be through a challenge, with a window of 30-days, or through the Interlocal Service Boundary Agreement (ISBA) negotiations, with a window of six (6) months. He thought the ISBA process had worked, and he believed that when the Stand-Down Resolution

was made, they exempted challenges so the ISBA process could go forward while they challenged things that were not put on the table.

**Eugene Wolf**, Sebastian Councilman, thought the City of Sebastian was asking for support from the Board because the County had been remiss in allowing growth, and remarked that what should have been a planning issue had become a political issue. He felt Sebastian would welcome the ISBA process because it was the first and only middle-ground that had been offered throughout the process. He said the frustration had recently arisen because “the cards were not on the table.” Councilman Wolf said the City of Sebastian does not have a problem with Fellsmere’s plans, they just want to be involved in the development process. He said Sebastian wants a nod from the Board to say, “We support you and your efforts to sit down and have good faith negotiations with Fellsmere, bringing all the cards to the table.”

**Sal Neglia**, Sebastian City Council, said Sebastian wants to be a good neighbor with Fellsmere, and the City wants to make sure things get done properly to protect the City and its citizens in regards to safety, health, and all the other things that come with annexation.

**Al Paternoster**, Sebastian City Council, echoed the previous speakers’ sentiments, stating that Fellsmere was not going to dictate to them how or where they should put their buildings. He noted that they just want to “level the playing field” with everyone sitting down and working together. He said the City Council had voted unanimously to move forward with the process because they felt they had no other recourse. He asked the Board for their support.

**Jason Nunemaker**, Fellsmere City Manager, felt there was a failure to communicate. He explained that the City Council had authorized him to proceed in good faith with the areas that had been taken off the table, and how they had conceded after hearing concerns from their sister cities. He responded to the previous speakers’ comments, providing them with details and explanations regarding past and future annexations. He also informed the Board that

Fellsmere was addressing Sebastian's concerns of health, safety, welfare, and recreation. He said that Fellsmere would be happy to engage in any process with their sister city or the County. Mr. Nunemaker noted that the "wish list" was a misrepresentation and that it was intended to be "maximum possibility" not "inevitability." He concluded by saying that Fellsmere was doing a good job, was committed to the ISBA process, and they would work with their sister City in an orderly fashion.

There was a brief question and answer period between Commissioners Flescher and O'Bryan and Mr. Nunemaker regarding the status of the acreage that was filed for annexation by Fellsmere, and the boat ramp impacts.

Chairman Wheeler opened the floor for public input.

**Jerry Swanson** felt that this was not about annexation but about power, Charter Government, and people controlling other people. He thought it was ludicrous to bring people out on a Friday afternoon to talk about this, and felt the Board should be working on the Interlocal Agreement .

Chairman Wheeler commented about the toll gate; confirmed that the County has a "temporary" Interlocal Agreement; then briefly commented on Mr. Swanson's comments. He explained that the Board follow a process, play by the rules, listen to both sides, then move forward.

**Frank Wegel** thought Fellsmere needed to go to the citizens to see if they want annexations because he did not think the people want it. He read a portion of Florida Statute 171.0413, and said that the Statute sums it up. He wanted the people to make the decision, "not a five person Council or a couple of huge landowners."

**Joseph Paladin** did not think there was an annexation challenge, but rather a communication problem. He explained that the “wish list” consisted of voluntary annexations, and thought the landowners would have to volunteer in order to be annexed. He urged all parties to sit down and work together.

**Cheryl Hampton**, Vice Mayor for Fellsmere, pointed out that all five members of the City Council had agreed to this decision, and that all their meetings had public hearings for each annexation. She knew that the citizens of Fellsmere wanted this annexing because if they did not, they would have made it known to her.

**Spencer Simmons** felt that politics was the determining factor regarding the annexing and growth of the County, and that the County needed to implement a plan to allow for future growth.

**Richard Carnell**, Fellsmere Farms, did not feel that neighbors should sue neighbors when there was an opportunity for an alternative. He believed that Fellsmere was acting in good faith, and thought the Board should take the opportunity to be an effective voice in the planning, and to talk with the Council, and not file a lawsuit. He asked the Board to be prudent, side with the Legislature in recognizing the Growth Management Act, exhibit professionalism, and to be a good neighbor.

**Thomas Cadden**, Mayor of Indian River Shores, asked the Board not to spend his “taxpayer money” in a lawsuit.

**Ital Veron**, Indian River Shores, applauded Sebastian for taking the action they did on Wednesday regarding the Fellsmere annexations. He asked the Board to reconsider their actions and follow suit. He urged the Board to reconsider their earlier vote and allow the challenge to go forward.



**Dale Simchick** said Sebastian had never conceded that it was okay to “walk into the Interlocal Agreement.” She felt like the City of Sebastian is in a crossfire because of the political atmosphere: they were not for or against Charter; they were not for or against the annexations; and they were minding their own business on “middle ground.” She voiced concern over increased services; and urged the Board to speak with its staff to confirm annexation impacts.

**Susan Adams**, Fellsmere City Council, pointed out that all the municipalities in the County were collectively involved in the Stand-Down Agreement. She explained that the Agreement for 18,000 acres was not part of the Interlocal Service Boundary Agreement and by signing it, the County and all the municipalities basically agreed. Ms. Adams asked the Board for the same consideration that Sebastian and Vero Beach were given when they went through their land use changes.

Commissioner O’Bryan clarified that the Stand-Down Agreement did not preclude anyone from a legal challenge.

**Susan Adams** agreed with Commissioner O’Bryan and added, “Sebastian has the right to sue.” She felt that by signing the agreement they accepted that this property was not on the table, and that nothing more could be annexed.

**Al Scott**, felt that the meeting was called because of a lawsuit, not a challenge. He did not think the 18,000 acres were ever on the table, and as a land owner, no one except Mr. Paladin had ever approached him regarding his feelings on annexation.

Commissioner Flescher wanted to know how many acres he owned and its location. Mr. Scott said he had over 1,000 acres west of the proposed interchange at Oslo and I-95.

**Joel Tyson** said that when he was the Mayor of Fellsmere, they annexed the Anson property and to date, not a shovel had been turned on the property. He thought it was a lot of “to do about nothing” and felt that the reason they were seeing the request for annexation was not for themselves, but for their children and grandchildren. He said that as long as there was a market, the cattlemen and citrus people would continue in the agricultural business. He said changes would not happen overnight, and voiced that it would require a long-term effort which would allow time for the planning process.

**Bob Pickett**, Indian River Shores, voiced concern over the Board voting against Charter, which he felt was really a vote against public hearings, especially now that the Board voted against showing Sebastian’s presentation. He applauded Sebastian for protecting itself and emphasized that the County needed to protect itself too.

**Chuck Lever** thanked the City Council of Sebastian for voting the way they did and urged the Board to join them.

Commissioners O’Bryan and Flescher directed questions to County Attorney Collins who explained the law regarding the County’s options, concerns, and possible outcomes.

Vice Chair Bowden said she had watched the DVD and she recapped Sebastian’s attorney’s thoughts regarding “bad feelings” and the “difficulty of doing business after relationships are broken.” She felt that that going to Court would not be good for the community nor would it be productive. She wanted Fellsmere and Sebastian to work together, communicate, and not go to Court.

Chairman Wheeler said the bad feelings were not a “one-way street”, and that by disagreeing, made it appear as such. He clarified that it was not about politics, power, right nor wrong; it was about different philosophies within the community. He emphasized that the Board

was using the process that had been handed down by our forefathers to try to figure out and move forward with the differences of opinions. Chairman Wheeler affirmed that this would eventually come to a conclusion, but said that until it does, the debate would continue.

Commissioner Davis acknowledged that he had seen Sebastian's PowerPoint presentation and said that he ensured each Commissioner had received a copy. Even though his district included both Fellsmere and Sebastian, his position on whether or not he wanted Sebastian to sue Fellsmere, was not indicative of the concern he had about the annexation of Fellsmere. He said the City Council had excellent comments, thought the speakers had legitimate points; and he did not want to appear to be reprimanding anyone for the decision they made. Commissioner Davis remarked that if he was solely representing the City of Sebastian that he would have agreed, but sitting where he is, makes it a different story. He divulged that he did not look at it for the sheer numbers of people in Sebastian versus the number of people in Fellsmere; he looked at it as an "equals game." He said he understood the intent of what Fellsmere was trying to accomplish, but questioned what would be the "right size for Fellsmere." Commissioner Davis communicated that Indian River Shores and Sebastian have waterfront, Vero Beach has a power plant and waterfront, yet Fellsmere still has dirt streets downtown. He affirmed that there has not been a meeting yet, where Chairman Wheeler does not talk about "how good the system is" and "how this is the process that we have to work with"; and because of that, he agreed and would humbly take his hat off to not get in the lawyer arena with the residents of Indian River County. He concluded by explaining that it was not because he supported Fellsmere nor that he was opposed to Sebastian's decision, but he believed there were better ways of handling the situation.

Vice Chair Bowden complimented Commissioner Davis regarding his remarks and complimented Chairman Wheeler for his "open meetings." She thought this meeting had worked well and was glad they had the meeting.

Chairman Wheeler said he appreciated everyone's courtesy, and declared that it was a pleasure to see that everyone could come together and agreeably disagree.

Commissioner O'Bryan thought he was on the wrong side of the vote earlier when the Board voted 3-2, to suppress evidence from the Sebastian City Manager. He was appalled that the Board did that, and he did not want it to appear that in the future when someone wanted to present something, the Board would vote it down and have it put on the website. He apologized to the citizens for denying them the right to see the information that they might otherwise have seen. He questioned the urgency, since entering into the Interlocal Service Boundary Agreement arena. Commissioner O'Bryan informed the Board that after attending multiple public hearings in Fellsmere he had asked the City of Fellsmere to table the annexation process so the Interlocal Agreement process could run its full course, but Fellsmere had refused. He did not feel that much progress had been made yet, but acknowledged that it would take more than 30-days. He supported the actions that the City of Sebastian had taken.

ON MOTION by Commissioner O'Brian, SECONDED by  
Chairman Wheeler, the Board by a 2-3 vote  
(Commissioners Davis, Bowden and Flescher opposed)  
failed to instruct the County Attorney to join the lawsuit  
that the City of Sebastian has filed against the City of  
Fellsmere and to add any additional discrepancies to  
challenge the annexation. MOTION FAILED.

## **6. DISCUSS PIPER REFERENDUM**

**(NO BACKUP)**

Vice Chair Bowden specified that since everyone had read the newspaper article, she felt it to be an appropriate time to ask Attorney Collins how to proceed without having a Referendum.

Attorney Collins said the County adopted Resolution 2007-072, which dealt with the economic incentives for Piper of \$40 million issue of General Obligation Bonds. Piper indicated that they would decline to accept bond proceeds and did not wish for the election to go forward. Section IV of that Referendum asked the Supervisor of Elections to hold the bond Referendum election, therefore requesting Attorney Collins to draft a Resolution asking the Supervisor of Elections not to move forward, and cancel the Referendum.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Brian, the Board unanimously approved to direct County Attorney Collins to draft a Resolution asking the Supervisor of Election not to go forward but to cancel the Referendum.

This balance of this page intentionally left blank.

## **7. ADJOURNMENT**

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 3:23 p.m.

ATTEST:

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

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

Minutes Approved: \_\_\_\_\_  
BCC Special Call/LAA/2007 Minutes