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OF BOARD OF COUNTY COMMISSIONERS
OF SEPTEMBER 11, 2007

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September 11, 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, 1801 27th Street, Vero Beach, Florida, on Tuesday, September 11, 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. He requested that a moment of silence be observed in respect of the victims of the September 11, 2001 tragedy in New York.

2. INVOCATION

~~Teddy Floyd of the Indian River County Sheriff's Department—Crime Prevention Unit,~~ Planning Director Stan Boling delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Peter D. O'Bryan led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA /EMERGENCY ITEMS

Chairman Wheeler announced that Item 7.D on the Consent Agenda would be moved and placed under Item 14.C “Special Committees”.

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

5. PROCLAMATIONS AND PRESENTATIONS

A. PRESENTATION OF PROCLAMATION HONORING DR. JOHN W. McDONALD FOR OUTSTANDING SERVICE ON THE INDIAN RIVER COUNTY ENVIRONMENTAL CONTROL HEARING BOARD

Chairman Wheeler read the Proclamation into the record.

B. PRESENTATION OF PROCLAMATION HONORING WORLD CHANGER JOEL DRAMIS

Commissioner O’Bryan read and presented the Proclamation to World Changers’ representative Joel Dramis, who briefly described some of the Organization’s achievements, as well as, current projects being undertaken. Commissioner Davis acknowledged World Changers contributions to communities, especially since the hurricanes.

C. PRESENTATION BY JULIANNE R. PRICE, STATEWIDE PACE ENVIRONMENTAL HEALTH COORDINATOR

Julianne Price, Statewide “Protocol for Assessing Community Excellence” (PACE) Coordinator for the State’s Department of Health, through a PowerPoint presentation entitled “Setting the PACE: Working Together to Solve Community Issues”, highlighted one of the projects they undertook in communities like Wabasso, and especially the assistance given to Freeman Wiggs who was living out of his car.

Ms. Price announced that they have started a new PACE Committee in Fellsmere with an “Extreme Challenge” for Two Homes in One Day, which was actually accomplished. She acknowledged those involved in the project, especially Dennis Witherow, the President of Regatta Construction, the company that built the two houses in one day. Dennis encouraged everyone to come out and see what has been done. To find out more about PACE projects you may visit their website at www.everydreamhasaprice.com.

6. APPROVAL OF MINUTES

A. PUBLIC WORKSHOP OF JUNE 21, 2007 – ALTERNATIVE WATER SUPPLY

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Public Workshop of June 21, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Public Workshop on Alternative Water Supply of June 21, 2007, as written and distributed.

6.B. REGULAR MEETING OF JULY 10, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of July 10, 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 July 10, 2007, as written and distributed.

6.C. SPECIAL CALL MEETING OF JULY 11, 2007 - LDR CHAPTER 911

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Special Call Meeting of July 11, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Minutes of the Special Call Meeting of July 11, 2007, as amended.

6.D. REGULAR MEETING OF JULY 17, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of July 17, 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 July 17, 2007, as written and distributed.

6.E. BUDGET WORKSHOP OF JULY 18, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Budget Workshop of July 18, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Budget Workshop of July 18, 2007, as written and distributed.

6.F. SPECIAL CALL MEETING OF JULY 20, 2007 – FELLSMERE ANNEXATIONS & PIPER REFERENDUM

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Special Call Meeting of July 20, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Special Call Meeting of July 20, 2007, as amended.

6.G. REGULAR MEETING OF JULY 24, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of July 24, 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 July 24, 2007, as written and distributed.

7. CONSENT AGENDA

Vice Chair Bowden asked to pull, for discussion, Items 7.A, 7.I, 7.V, & 7.Y.

7.A REPORTS ON FILE IN THE OFFICE OF CLERK TO THE BOARD: 1.
CITY OF VERO BEACH ORDINANCE 2007-03 – ANNEXING 124
ACRES

2. CITY OF FELLSMERE ORDINANCE 07-11 – ANNEXING 41.35
ACRES

Vice Chair Bowden sought clarification on whether this was just a report on file that they were being asked to approve. County Attorney Collins confirmed that it was just an acknowledgement that a copy of the Ordinance was received by the Office of the Clerk to the Board and is on file in said Office.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously acknowledged the Reports on file in the Office of the Clerk to the Board.

7.B. APPROVAL OF WARRANTS – AUGUST 24, 2007 – AUGUST 30, 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 August 24, 2007, to August 30, 2007, as requested.

7.C. CONSENT AGENDA ITEM (CERTIFICATION OF TAX ROLL)

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved and ordered that the Tax Roll be extended prior to the completion of the Value Adjustment Board hearings, as requested in the memorandum from Tax Collector Charles Sembler, dated September 4, 2007.

7.D. RESIGNATION AND APPOINTMENT OF MEDICAL DOCTOR POSITION TO THE ENVIRONMENTAL CONTROL HEARING BOARD

(Clerk's Note: this item was moved and placed under Item 14.C., "Special Committees. See 14.C for details)

7.E. RESIGNATION OF APPOINTEE TO THE TRANSPORTATION DISADVANTAGED LOCAL COORDINATING BOARD

The Board noted the resignation of the Department of Children and Families Appointee Pearlle Clark from the Transportation Disadvantaged Local Coordinating Board.

7.F. APPOINTMENT OF REALTOR APPOINTEE TO THE PROFESSIONAL SERVICES ADVISORY COMMITTEE

The Board noted the appointment of Linda Schlitt Gonzalez as the Realtor Appointee to the Professional Services Advisory Committee (PSAC), replacing Mr. Rodney Paradise (deceased).

**7.G. PROCLAMATION HONORING JOYCE DAUGHERTY ON HER
RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY
COMMISSIONERS DEPARTMENT OF UTILITY SERVICES**

The Board read the Proclamation into the record.

**7.H. REQUEST TO ENTER INTO A SUPPLEMENTAL PUBLIC
TRANSPORTATION JOINT PARTICIPATION AGREEMENT WITH THE
FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)**

ON MOTION by Vice Chair Bowden, SECONDED by
Commissioner Davis, the Board unanimously approved
Resolution 2007-088 authorizing the execution of a Public
Transportation Supplemental Joint Participation
Agreement with the Florida Department of Transportation.

7.I. LIGHTNING PREDICTION SYSTEMS

Vice Chair Bowden sought to clarify her understanding that this was a sole source provider of lightning prediction and was the only one in the United States. Commissioner Davis also had concerns when he saw the “sole source provider”, and that there were no competitive bids. He heard that Vero Beach High School has used the same provider and they were satisfied with the system, which has placed him in a more comfortable position. Vice Chair Bowden’s concerns were that no one else in the Country has the system, and whether staff had gone to look at it.

Administrator Baird provided background on the system, and after discussions regarding the use of the system, he offered to pull this item and bring it back with a presentation. Commissioners agreed and expressed the desire to hear from others who may have used this particular system for a period of time.

There was CONSENSUS for this item to be researched and brought back to the Board with a presentation on the advantages or disadvantages of using the system.

7.J. APPROVAL OF FINAL INVOICE AND FINAL RELEASE OF RETAINAGE FOR ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC., WORK ORDER NO. 1 FOR EGRET MARSH REGIONAL STORMWATER PARK

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved and authorized payment of Environmental Consulting & Technology, Inc.'s final Invoice No. 073014 (including release of retainage) in the amount of \$13,671.72, as recommended in the memorandum of August 27, 2007.

7.K. APPROVAL OF PROFESSIONAL SERVICE AGREEMENTS FOR ANNUAL GEOTECHNICAL SERVICES CONTRACT, 2007-2008 – IRC PROJECT NO. 0534

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Fee Schedules and Agreements with CTI-Construction Testing & Inspection, Inc., of Vero Beach, AM Engineering and Testing, Inc., of Ft Pierce, Dunkelberger Engineering & Testing Inc., of Port St. Lucie, and Ardaman & Associates, Inc., of Port St. Lucie, all as recommended in the memorandum of August 17, 2007.

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

7.L. INTERFUND BORROWING

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved for interfund borrowing as necessary to cover any cash deficits of individual funds that may occur, as recommended in the memorandum of September 5, 2007.

7.M. MISCELLANEOUS BUDGET AMENDMENT 024

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2007-089** amending the Fiscal Year 2006-2007 budget.

7.N. APPROVAL TO PURCHASE 911 RECORDING EQUIPMENT FROM REPLAY SYSTEMS

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the sole source purchase of the 24 channel RACAL recorders from Replay Systems to include installation in the amount of \$52,330.00, as recommended in the memorandum of August 31, 2007.

7.O. APPROVAL OF RENEWAL FOR A CLASS "E" CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SENIOR RESOURCE ASSOCIATION TO PROVIDE WHEELCHAIR SERVICES

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved renewal of the Class “E” Certificate of Public Convenience and Necessity for the Senior Resource Association, to be effective for a period of two (2) years from October 2, 2007 to October 2, 2009, as recommended in the memorandum of August 31, 2007.

7.P. RENEWAL OF SERVICE AGREEMENT FOR INDIAN RIVER COUNTY SHERIFF OFFICE E911 PUBLIC SAFETY ANSWERING POINT (PSAP) MGE UPS ON A SOLE SOURCE BASIS FROM MGE UPS SYSTEMS, INC.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the renewal of the Service Agreement for the Indian River County Sheriff ‘s Office E911 Public Safety Answering Point system, at a cost of \$5,082.30, as recommended in the memorandum of August 30, 2007.

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

7.Q. REPLACEMENT OF DC CAPACITOR AND BATTERIES FOR MGE UPS SYSTEM AT THE IRC SO 911 CENTER

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the replacement of the 36 NPX-150R batteries and DC Capacitor at a total cost of \$9,000.00, as recommended in the memorandum of September 4, 2007.

7.R. JLW MANAGEMENT CORP REQUEST FOR FINAL PLAT APPROVAL FOR A PLAT-OVER-SITE-PLAN SUBDIVISION TO BE KNOWN AS BELLA ROSA

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for Bella Rosa Subdivision, as recommended in the memorandum of August 30, 2007.

7.S. CR 512, I-95 TO ROSELAND ROAD – IRC PROJECT NO. 9611 ADDENDUM #8, TASK B, REQUEST FOR FINAL RELEASE OF RETAINAGE

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the release of retainage for Addendum No. 8 – Task B, in the amount of \$1,800.00, as recommended in the memorandum of August 30, 2007.

7.T. APPROVAL OF BID AWARD FOR IRC BID #2007086 TRAILER MOUNTED 4” SELF-PRIMING DOUBLE DIAPHRAGM, PUBLIC WORKS DEPARTMENT / ROAD AND BRIDGE DIVISION

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Bid award to Neff Rental, Inc., as the lowest most responsive and responsible bidder meeting the

specifications as set forth in the Invitation to Bid, and as recommended in the memorandum of September 4, 2007.

7.U. INDIAN RIVER COUNTY BID # 2007085 COMPACT HYDRAULIC EXCAVATOR WITH POWER TILT & BUCKET ATTACHMENT, ROAD AND BRIDGE DEPARTMENT

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously rejected all bids, and directed the Road & Bridge Department to revise the specifications and re-bid this item, as recommended in the memorandum dated August 31, 2007. Staff determined, after completing the review process, that only one bidder successfully met the specifications set forth in the Invitation to Bid.

7.V. APPROVAL OF BID AWARD FOR IRC BID # 2007088 RESURFACE ACTIVITY POOL AT NORTH COUNTY ACQUATIC CENTER, RECREATION DEPARTMENT

Vice Chair Bowden questioned the age and the frequency of recoating the pool. She also questioned the “huge difference” in the \$18,000.00 versus \$57,000.00 bids. Administrator Baird informed her that the pool was probably over five (5) years old and in immediate need of resurfacing. He also explained discrepancies in Bid amounts and the warranty period.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Bid award to Family Pools Incorporated, as the lowest most responsive and responsible bidder meeting the

specifications as set forth in the Invitation to Bid, and as recommended in the memorandum of August 28, 2007.

7.W. REQUEST TO RENEW A PUBLIC TRANSPORTATION SUPPLEMENTAL JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2007-090** authorizing the execution of a Public Transportation Supplemental Joint Participation Agreement with the Florida Department of Transportation.

7.X. SELECTION OF PROFESSIONAL LAND SURVEYING AND MAPPING/GIS FIRMS, 2007 ANNUAL SERVICES CONTRACT No. 0725, REQUEST FOR QUALIFICATIONS (R.F.O.) No. 2007064

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the six (6) firms selected and authorized staff to continue contract negotiations with said firms for the Professional Land Survey/GIS continuing services contract, as recommended in the memorandum of September 4, 2007.

7.Y. KIMLEY-HORN & ASSOCIATES, INC., REQUEST FOR EXTENSION OF PD PLAN/PLAT APPROVAL FOR THE SAM'S CLUB EXPANSION (QUASI JUDICIAL)

Vice Chair Bowden wanted, for the record, to be updated on the process. Deputy County Attorney Bill DeBraul provided an update on the expansion project.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Kimley-Horn & Associates, Inc.'s request for a one-year extension of the revised, approved PD plan for Sam's Club with all original approval conditions to remain in effect, as recommended in the memorandum of September 4, 2007. The new site plan approval expiration date will be July 18, 2008.

8.A. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS -

A. PUBLIC HEARINGS - NONE

9.B. PUBLIC DISCUSSION ITEMS

1. REQUEST TO SPEAK FROM RAYMOND W. BATT ON BEHALF OF VISTA GARDENS

Raymond Batt, 36 Vista Gardens Trail, speaking on behalf of the residents of Vista Gardens & Vista Royale, complained about weeds and the lack of maintenance to the Vista Meadows Golf Course. Among the list of concerns were: ponds shrinkage, ponds filled with scum, which impedes water run-off, drainage problems, the likelihood of severe flooding in the event of a storm, and snakes, which have become a public nuisance. He cited the Public Nuisance Code, which is supposed to protect them, and thought a simple solution would be an amendment to Chapter 973 LDR that would cover non-platted properties that are within or surrounded by condos or homeowners association communities.

Community Development Director Bob Keating reported that Community Development has been dealing with this for a while, and staff has sent out a Notice of Code Violation on the ponds. He acknowledged that Chapter 973 LDR does not give the County authority to take Code Enforcement or Nuisance Abatement action on a golf course. He explained that our regulations only prohibit weeds and grass over 18 inches in height. He then suggested the Board hear from Chuck Sullivan who was representing the Golf Course.

Director Keating and Director DeBlois responded to questions from the Board, which involved the time frame for the stormwater system clean up; if there were any responses to the Code Notices sent out, and whether there was a remedy. Chairman Wheeler thought they should hear from Mr. Sullivan before giving direction to staff.

Charles Sullivan, Jr., Vista Golf Corporation, argued that the golf course is a private business and private property which has gone out of business because it does not generate any money as a golf course, but they were trying to remedy that with a plan to open the driving range and a restaurant by 1st October, in the hope to generate some money to help with maintenance. They have scheduled a meeting to have the issue of stormwater resolved, and have mowed a substantial portion of the grass below 18 inches. He assured the Board that they want to solve the problems, but to maintain the grounds under golf course conditions is phenomenally expensive and they cannot afford to do that if the businesses are not open.

After in-depth discussions and debate about the issues to be first addressed, the Chairman opened the floor to public comments.

Charles Dvoran, of Grand Royale and Vista Royale Property Owners Association reported that Mr. Sullivan told them that he could run an 18-hole golf course, but he has to build on the other nine, which was not what he was hearing presently. Mr. Dvoran felt it should be out in the open that Vista intends to build.

Ron Schrader, owner of two units in Vista Gardens (Bldg. 4, #201 and Bldg. 1, #104), felt that conditions at the golf course have lowered their property values.

Anna Aymonin, 5 Vista Gardens Trail, Apt. 101, was one of the residents who saw a snake on the golf course, and wants to see the course maintained.

Chuck Riotto, Vista Gardens, Building 14 #102, bought into that property because of the scenic beauty, which is all gone now.

Katherine Sherry, owner of seven units at Vista Royale, and a member of the Golf Course Taskforce, was told by Mr. Sullivan, Jr., and his Father that they would mow the land or bush-hog it a couple times a year, and that has not been done.

Stella Wetzel, Vista Royale, argued that when the Sullivans took possession of the property it was in top shape, and they should have tried to maintain it.

Mr. Sullivan defended comments that purports they bit off more than they could chew. He further discussed the lease, and the difficulty of maintaining the golf course.

Vice Chair Bowden understood the frustration of living in a situation that is not pleasing. She urged Mr. Sullivan to get with the County Attorney's Office and staff to try to resolve the matter as quickly as possible, and asked to be informed of the meeting date. Other Commissioners agreed that a cautious approach be taken when looking at the Ordinance

Chairman Wheeler desired to see staff review Chapter 973 and come back with some options. Commissioner Davis did not want to give false hope that an ordinance change would make the problems go away. The Commissioners saw the need to look to the future so this problem does not reoccur, and at the same time resolve the current issues with the golf course immediately.

There was CONSENSUS among Board members for staff to prioritize and deal with this matter as soon as possible.

No Board action required or taken.

The Chairman called a recess at 10:23 a.m., and reconvened the meeting at 10:38 a.m., with all members present.

2. REQUEST TO SPEAK FROM STEVE MYERS REGARDING REGIONAL RESIDUALS DEWATERING FACILITY OPERATIONS

Steve Myers requested that this item be deferred and placed under “Departmental Matters”, Item 11.J.1. Board members unanimously agreed.

3. REQUEST TO SPEAK FROM WILLIAM WELLS REGARDING RESOLUTIONS TO MATTERS BROUGHT TO THE COMMISSION

William Wells, 8800 44th Avenue, referred to a handout to Commissioners, which outlined a number of issues he was seeking to resolve. He disputed a survey from the County, which he claimed was made up after the fact, as well as the walls on the “8810 property”, which does not meet Code standards. He wanted closure and resolution of the issues, and wanted it in writing.

Administrator Baird addressed some of Mr. Wells’ concerns, and observed that the majority were St. Johns Water Management District problems, such as a dock permit, and a dock extension and relocation of a boatlift.

(Clerk’s Note: Vice Chair Bowden exited the meeting at 10:44 a.m.)

Further discussion ensued regarding an incorrect survey, and Chairman Wheeler suggested that Mr. Wells meet with the County's Environmental Protection Chief, Roland DeBlois and go over the punch list, and if there were any objections he should return to the Board.

(Clerk's Note: Vice Chair Bowden rejoined the meeting at 10:46 a.m.)

After considerable discussions and debate among Commissioners, Mr. Wells, and County staff, the Board agreed that Mr. Wells should get with County staff to address these problems specifically.

9.C. PUBLIC NOTICE ITEMS

1. NOTICE OF SCHEDULED PUBLIC HEARING – SEPTEMBER 18, 2007: BOARD CONSIDERATION TO APPROVE PURCHASE OF CONSERVATION EASEMENTS ON THE “PADGETT BRANCH” SITE UNDER THE COUNTY ENVIRONMENTAL LAND ACQUISITION PROGRAM

The Chairman read the Notice into the record.

10. COUNTY ADMINISTRATOR MATTERS - NONE

11. DEPARTMENTAL MATTERS

A. COMMUNITY DEVELOPMENT **1. CONDEMNATION, DEMOLITION AND REMOVAL OF UNSAFE STRUCTURES (QUASI JUDICIAL)**

Building Official Buddy Akins explained that staff had proposed condemnation of structures on two properties: the property of George & Estelle Fields, 4246 28th Avenue, and the

property of Joseph S. Filburn, 8960 44th Avenue. Staff has deemed the structures to be unsafe and uninhabitable, according to the Property & Maintenance Code of Indian River County, and recommended condemnation of said structures on the subject properties.

Commissioner O'Bryan questioned whether the owners were notified of the pending action today. Mr. Akins affirmed that the property owners were aware, and had proof by way of a signed returned receipt that certified mail was delivered to the addressees. To date, Mr. Akins had not heard from any of the property owners.

Commissioner Davis sought confirmation that legally everything was in order for staff to proceed on this issue. County Attorney William Collins assured him that all legal steps have been followed as required by law.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously declared the subject structures unsafe and a nuisance, and ordered the buildings demolished with related debris removed from the property by a private vendor approved through standard bid procedures, as recommended in the memorandum of September 11, 2007. The Board also approved **Resolution 2007-091** providing for the demolition of unsafe structures and the recovery of cost.

11.A.2 ROBERT AND NANCY MARSHBANKS' APPEAL OF THE PLANNING AND ZONING COMMISSION'S APPROVAL OF THE TREASURE COAST MONTESSORI SCHOOL'S ADMINISTRATIVE PERMIT USE AND MAJOR SITE PLAN APPLICATION FOR A PRE SCHOOL / CHILD CARE FACILITY AT 6320 8TH STREET

Robert Marshbank, 6296 8th Street, who has two lots immediately east of the property in question, believed there are not enough parking spaces to accommodate the number of people he calculated to staff eighty-one (81) students. He complained that the traffic study made available to him did not address 58th Avenue on 8th Street west to 66th Avenue, and believed it would be an impact the County could not handle.

Commissioner Davis asked whether there was a Murphy Deed on this property for the future widening of 58th Avenue.

Planning Director Stan Boling outlined the nature of the appeal. He displayed an aerial view of the subject streets showing surrounding properties and current zoning. Through his memorandum dated August 24, 2007, he provided background, and addressed the respective concerns of Mr. Marshbank, especially parking impact. Director Boling also addressed questions from the Board.

Daryl Peterson, 6300 8th Street, owner of property directly east of the proposed Montessori School, voiced opposition to the request, citing traffic impact as a major concern. He hoped to see a traffic study that addressed 58th and 63rd Avenues.

Director Boling explained how the Board could add conditions to limit staffing and the number of children. County Traffic Engineer Chris Mora addressed traffic issues and responded to questions from the Board regarding peak hour trips, number of school days per week, the total number of students, and whether there were restrictions on the number of days per week.

Chairman Wheeler commented that Mr. Peterson kept referring to this property as commercial, and believed churches, schools and Child Care Centers need to be in neighborhoods and not commercial districts.

Motion WAS MADE by Commissioner O'Bryan,
Seconded by Chairman Wheeler, to accept staff's

recommendation, finding that the Planning and Zoning Commission did not fail in its review, and that the Board uphold the Planning & Zoning's decision to approve the Administrative Permit and major site plan application.

Sandy Hamerick, Principal of the Montessori School, responded to questions from the Board which involved limiting the number of students, conforming to a typical five (5) days a week preschool or childcare facility, and whether she would find it overbearing if the facility was limited to five (5) days a week.

The Board debated the necessity for restrictions on the daily operations of the facility.

Motion WAS AMENDED by Commissioner O'Bryan, SECONDED by Chairman Wheeler, to add conditions to limit the total number of students to 81, and for the operation of regular programs day or evening.

Board members and staff discussed further the restrictions on student count and whether there was need for more parking.

Melodie, a parent from Hammock Lakes, off 1st Street SW, implored the Board to not delay the process.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board found that the Planning and Zoning Commission (P&Z) did not fail in regard to any of the four appeal review areas, and upheld P&Z's decision to approve the administrative permit and major site plan applications, on condition that the facility be limited to 81

students, and operate under a 5-day work week, as recommended in the memorandum of August 24, 2007.

11.B. EMERGENCY SERVICES - NONE

11.C. GENERAL SERVICES

1. APPROVAL OF DEMOLITION PRIVACY AGREEMENT – CROSS ENVIRONMENTAL SERVICES

General Services Director Tom Frame updated the Board on the proposal to demolish the old County Administration Building and to possibly use the demolition debris for construction of artificial reef. Director Frame thereafter responded to questions from the Board regarding the disposal of debris, and additional costs.

Jonathan Gorham, Coastal Resource Manager, debated whether they could use the material for artificial reef development, and the possibility of State funding for this project. Mr. Gorham also responded to questions from the Board regarding cost for storage, and the use of other available materials, like culverts, for artificial reef.

Vice Chair Bowden thought it was a good process, but questioned the \$37,000.00 additional cost to haul the debris to the storage facility in Fort Pierce. Commissioner Davis suggested making other organizations aware of the availability of the debris for use as an artificial reef, thus taking the burden off the County. Director Frame expressed staff's desire to move rapidly with the demolition process, preferably about October 25, 2007. Vice Chair Bowden and Commissioner Davis opted to go with the original plan, as long as the original plan does as much recycling as possible.

Bob Johnson, Coral Wind Subdivision, was concerned about the historic plaques that are still in the building, and offered to take responsibility for them. Administrator Baird informed him that the plaques have been removed and he was already contemplating a relocation site.

Facilities Manager Lynn Williams responded to questions from the Board regarding the \$500.00 per truckload cost. Administrator Baird clarified that there was going to be separation handling and trucking, and the material would be crushed on site.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the Privity Agreement and authorized the Chairman to execute said document. The Board also authorized the County Administrator to approve any additional cost as identified in the unit cost proposal not to exceed his approval authority, if additional work is necessary associated with asbestos abatement, all as recommended in the memorandum of September 5, 2007.

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

The Chairman called a recess at 12:12 p.m., and reconvened the meeting at 12:26 p.m., with all members present.

11.D. HUMAN RESOURCES - NONE

11.E. HUMAN SERVICES - NONE

11.F. LEISURE SERVICES – NONE

11.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

11.H. RECREATION - NONE

11.I.1 PUBLIC WORKS – S.R. 60 AND 58TH AVENUE, ALTERNATIVE CORRIDOR STUDY – FINAL REPORT

Assistant Public Works Director Chris Mora, through his memorandum of September 5, 2007, presented the Alternative Corridor Study Final Report conducted for the intersection of SR 60 and 58th Avenue widening. He showed an aerial view of the intersection in its current state with the proposed expansion, and a view of the anticipated completed intersection.

Mr. Mora responded to pertinent questions from Board members, and announced that the anticipated construction would be 2008-2009. A brief discussion ensued on whether the proposed time frame for construction was realistic. Mr. Mora explained that 2008-2009 was actually the construction date, which will take completion into 2009-2010.

Commissioner Davis proposed a consideration of some type of incentive for the contractor to try to get the work done ahead of schedule, which could entail overtime and additional cost. He desired to see that as an option in the bid package. Vice Chair Bowden contemplated whether nighttime construction would also be an incentive. Mr. Mora explained why nighttime construction is done on I-95 and the Turnpike, pointing out that there are costs attached to nighttime construction.

Brian Good, Kimley Horn & Associates, in response to questions about “community college lands”, assumed that certain roads under the 5-year plan, like the 66th Avenue project, would be in place, and would connect with College Lane down to Oslo Road. Mr. Good

responded to questions from the Board including peak hour trips in the vicinity of the College and other areas.

Bob Johnson, Coral Wind Subdivision, wondered how the public would get around while construction on 58th and SR 60 was underway.

Board members debated and considered alternative routes and which was best.

Motion WAS MADE by Commissioner Davis,
SECONDED by Vice Chair Bowden, to go forward with
Alternative 1, widening of the intersection, and to try to
keep some type of viability between Routes 1 –5.

Vice Chair Bowden reiterated the need to look into nighttime construction, and wanted to educate the community well ahead of time on what the County is doing. Public Works Director Jim Davis thought this would be an excellent candidate for night work, but felt construction at nights in residential neighborhoods would be noisy.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved Alternative 1, accepting the study results, and authorized staff to continue with planned intersection improvements at the intersection of SR 60 and 58th Avenue, as recommended in the memorandum of September 4, 2007.

11.I.2 RESOLUTIONS TO PROVIDE FOR THE PAVING AND DRAINAGE IMPROVEMENTS TO AND SET PUBLIC

**HEARING DATE FOR: 1ST ROAD FROM 35TH AVENUE TO
32ND AVENUE IN VERO BEACH HOMESITES SUBDIVISION
– IRC PROJECT NO. 0522**

Public Works Director Jim Davis presented this item to the Board by recapping his memorandum of September 4, 2007. He asked the Board to approve staff's recommendation to adopt the resolution providing for the project; to allocate \$219,253.79 from the Petition Paving Account; and to adopt the resolution setting the time and place of the Public Hearing – October 2, 2007, at 9:05 a.m.

On Motion by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-092** providing for certain paving and drainage improvements to 1st Road from 35th Avenue to 32nd Avenue, in Vero Beach Homesites Subdivision, providing the total estimated cost, method of payment of assessments, number of annual installments, and legal description of the area specifically benefited.

The Board also approved **Resolution 2007-093** setting a time and place at which the owners of property on 1st Road from 35th Avenue to 32nd Avenue in Vero Beach Homesites Subdivision, County Project #0522 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 therefore, and as to the amount thereof to be

specifically assessed against each property benefited thereby.

11.I.3 RIGHT-OF-WAY ACQUISITION 66TH AVENUE SOUTH OF 8TH STREET, ROBERT W. AND JO AN SCHLITT HUSBAND AND WIFE (DEFERRED FROM SEPTEMBER 4, 2007 MEETING)

Public Works Director Jim Davis presented this item by recapping his memorandum of August 23, 2007. He pointed out that this right-of-way acquisition was tabled at last week's meeting to facilitate more information being brought to the Board. He asked the Board to approve staff's recommendation to approve the \$100,000.00 purchase price.

Commissioner O'Bryan reconsidered the appraisal and thought the negotiated price was within a reasonable range of the appraisals. He asked Director Davis if this would resolve the issue with the Schlitts. Director Davis affirmed that it would.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative 1, the \$100,000.00 purchase and authorized the Chairman to execute the Agreement, as recommended in the memorandum of August 23, 2007.

11.J. UTILITIES SERVICES –

1. REGIONAL RESIDUALS DEWATERING FACILITY OPERATIONS

Utilities Director Erik Olson explained that this item was brought back for clarification. He provided background by recapping his memorandum of August 23, 2007. He recommended that the employee who currently oversees this facility not lose his job, but be transferred to another facility as a wastewater operator. He noted that there would be a financial impact to said employee.

Director Olson responded to questions from the Board regarding the transfer and salary cut of the subject employee. Administrator Baird announced that a slot has been found for the individual, but said individual would now earn \$5,000.00 less.

Steve Myers, Teamster Local Union 769, appealed to the board to reject the Change Order to Synagro, because the County would be circumventing the bidding process by allowing Synagro to include this in their current Purchase Order. He suggested that instead of moving the current Chief Operator into the vacant position that now exists, they eliminate the vacant position and allow the current employee to run the new facility, which would give the County a net savings of about \$48,000.00.

Administrator Baird addressed the issues of operating costs, cost savings, and a freeze on vacant positions.

After considerable discussions and debate regarding privatization, operating costs, and the fate of the subject employee, Commissioners moved to disapprove staff's recommendations.

Motion WAS MADE by Commissioner Flescher,
SECONDED by Commissioner O'Bryan, to disapprove
staff's recommendation.

More discussions ensued regarding ramifications, if any; the cost difference of using the employee versus the contractor; and the anticipated cost if the matter is delayed for about seven (7) months.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board REJECTED staff's recommendation to approve the Change Order to the Synagro existing Purchase order to include the additional \$68,800.00 for employee staffing the facility, as recommended in the memorandum of August 23, 2007.

Board members expressed the desire to revisit this issue in about seven (7) months.

11.J.2. VERO CADILLAC DEVELOPER'S AGREEMENT FOR REPLACEMENT OF 6-INCH TRANSITE WATER MAIN

Utilities Director Erik Olson presented this item to the Board and provided background by recapping his memorandum of August 30, 2007.

On Motion by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved the Developer's Agreement, and authorized the Chairman to execute same, as presented, and authorized that the Developer be reimbursed for an amount up to \$37,922.00, as recommended in the memorandum of August 30, 2007.

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

The Chairman called a recess at 2:01 p.m., and reconvened the meeting at 2:09 p.m., with all members present.

12. COUNTY ATTORNEY MATTERS - NONE

13. COMMISSIONERS ITEMS

A. COMMISSIONER GARY C. WHEELER, CHAIRMAN -

NONE

B. COMMISSIONER SANDRA L. BOWDEN, VICE

CHAIRMAN - NONE

C. COMMISSIONER WESLEY S. DAVIS

**I. PERMISSION TO ADVERTISE FOR PUBLIC HEARING: AN
ORDINANCE AMENDING INDIAN RIVER CODE CHAPTER 973
NUISANCE ABATEMENT**

Commissioner Davis explained that it was Code Violation, which included construction debris and high grass that brought about this request. He consulted with the County Attorney's office to review the process, which was deemed "nuisance abatement".

Community Development Bob Keating explained the two alternative ways provided by our LDR Chapter 973 to deal with public nuisances. Staff felt that if there was no legal reason we cannot do it, we should eliminate the handcuffing we have in the ordinance and allow ourselves the flexibility to use either process.

Chairman Wheeler agreed with Commissioner Davis that some of these things need be taken care of in a quicker manner, faster than at the pace of government.

MOTION WAS MADE by Commissioner Davis,
SECONDED by Commissioner O'Bryan, to "not handcuff
ourselves in the ordinance so we could have alternatives."

After detailed explanation and provision of options of how the County may proceed in its review of Chapter 973, and interpretation of the Code Enforcement Statute by Attorney Collins, Commissioner Davis expressed a desire to proceed with advertising for a public hearing to consider amending the County's Code.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously granted permission to advertise for a Public Hearing for An Ordinance Amending the Indian River Code Chapter 973 Nuisance Abatement.

D. COMMISSIONER JOSEPH E. FLESCHER

1. APPOINTMENT OF COMMISSION LIAISON TO THE INTERLOCAL SERVICE BOUNDARY AGREEMENT WORKING GROUP

Commissioner Flescher explained why he placed this item on the Agenda. He has been attending Interlocal Agreement discussions/meetings between municipalities and believed the County should have a dedicated liaison in the form of an elected official.

Commissioner Davis thought it would be good for one of them to be there. Chairman Wheeler was opposed to the request, as he believed the presence of any elected official from the County would present a "subliminal pressure" on the negotiations, and he wanted to keep the influence of politics out of those meetings.

Commissioner Flescher pointed out that the Statutes encourage elected government officials to participate actively and directly in the negotiation process for developing an Interlocal Service Boundary Agreement. He believed his presence was very supportive of the process, and

he had not heard any objection to his being there. He thought it would be in the best interest of the citizens for us to have a liaison.

Chairman Wheeler wanted all Commissioners to be informed at the same time, and thought it would be an error to attend when none of the City Council members attend those meetings. Commissioner O'Bryan thought that if a decision is made for a Commissioner to attend the meetings, then they should rotate among all five Commissioners, so each would be exposed to the process.

Chairman Wheeler reiterated his desire to keep politics and politicians out, and to let City and County staff debate, argue, and negotiate the best possible solution.

Motion WAS MADE by Commissioner Davis,
SECONDED by Vice Chair Bowden, to allow
Commissioner Flescher to be the County's designee for the
Interlocal Service Boundary Agreement negotiations.

Vice Chair Bowden did not have a problem with Commissioner Flescher being the liaison, but felt that if another Commissioner wanted to attend a meeting, he/she should be given the opportunity to alternate.

The Chairman CALLED THE QUESTION, and by a 3-2
vote (Commissioners Wheeler and O'Bryan opposed), the
Motion CARRIED.

E. COMMISSIONER PETER D. O'BRYAN

**1. REQUEST FOR THE BOARD OF COUNTY COMMISSIONERS TO
ADOPT THE GREEN RESOLUTION**

Commissioner O'Bryan reminded the Board of past actions on this matter, and requested that the Board approve the Green County Resolution, authorizing the application to the Florida Green Building Coalition, Inc., for certification of Indian River County as a certified Florida Green Local Government, and to demonstrate a significant commitment on the part of Indian River County Government to establish policies, guidelines, goals, and strategic actions to promote sustainability.

Motion WAS MADE by Commissioner O'Bryan,
SECONDED by Chairman Wheeler, under discussion, to
accept the resolution and to move forward with the
application to be a local green government.

Although Vice Chair Bowden wanted the County to be on the cutting edge and the forefront, she was not ready to proceed with this request, because she had various questions that had not been answered.

Commissioner O'Bryan attempted to provide answers to some of Vice Chair Bowden's concerns regarding certification and cost. He foresees tremendous cost savings to the County.

Amy Thoma, 1769 Pointe West Way, and a member of the Florida Green Building Coalition Board of Directors, explained the criteria for the Florida Green Building Coalition application. She also explained that the Florida Green Building Coalition is a non-profit, mostly volunteer run organization, which started in 2000 and is mainly made up of all different industry components.

Vice Chair Bowden was still not satisfied and wanted more information. Commissioner Davis felt it was important for us to move forward unanimously with this, and asked Commissioner O’Bryan if he could delay his request to provide some answers to Vice Chair Bowden. Commissioner O’Bryan wanted to move forward because everyday was a lost opportunity.

Jimmy Granse, 2364 57th Circle, connects the term “green” with power, as far as gasoline refineries and nuclear energy are concerned. He thought the cheapest power was nuclear energy, and found that the “green” project has stymied that.

Commissioner Flescher was very supportive of the initiative, but shared some of the same concerns as Vice Chair Bowden. He appealed to Commissioner O’Bryan to delay his request, because he wanted to see unanimous support for this.

Bob Johnson, Coral Wind Subdivision, agreed with Vice Chair Bowden that we need to know more about what we are getting into.

Ms. Thoma said the State was putting aside monies to reimburse funds put in by cities. She urged support of this initiative. She explained to Chairman Wheeler the different levels and cost of certification, as well as the “opt-out” process.

It was obvious to Commissioner O’Bryan that there was not enough support for his request, and he thought it was important that the community see full support from this Commission. He subsequently WITHDREW his Motion.

MOTION WITHDRAWN by Commission O’Bryan

There was CONSENSUS to bring this item back to the Board at a later meeting with more information.

Commissioner O'Bryan, with the Board's permission, directed anyone with specific concerns to visit the Green Building Coalition's website, or to present their concerns to him in writing.

14. SPECIAL DISTRICTS AND BOARDS

A. EMERGENCY SERVICES DISTRICT NONE

B. SOLID WASTE DISPOSAL DISTRICT - NONE

C. ENVIRONMENTAL CONTROL BOARD

(Clerk's Note: Item 7.D., on the Consent Agenda was moved and heard here.)

**RESIGNATION AND APPOINTMENT OF MEDICAL DOCTOR POSITION
TO THE ENVIRONMENTAL CONTROL HEARING BOARD**

On Motion by Commissioner O'Bryan, SECONDED by Vice Chair Bowden, the Board approved the appointment of Dr. Matthew Zoffer to the Environmental Control Hearing Board, replacing Dr. John W. McDonald who has resigned.

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 3:04 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/AA/2007 Minutes