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OF BOARD OF COUNTY COMMISSIONERS
OF OCTOBER 23, 2007

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October 23, 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, October 23, 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

Father Tri Tang Pham, St. Helen Catholic Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

County Administrator Joseph A. Baird led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA /EMERGENCY ITEMS

Chairman Wheeler announced the following changes to today's Agenda:

1. **Remove** Item 9.A.7, Item 9.B.1, Item 11.I.1 and Items 14.A.1 & 14.B.2

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

2. **Addition to the Agenda:**
 - A. "November 30th Canvassing Board"
 - B. "St. Johns Governor & Cabinet Appeal Authorization for Commissioners & Staff for travel as necessary."

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

5. PROCLAMATIONS AND PRESENTATIONS

- A. PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 3, 2007, AS "HOMETOWN HERO DAY" IN INDIAN RIVER COUNTY, FLORIDA**

Commissioner Davis read the Proclamation into the record.

**B. CERTIFICATE OF APPRECIATION TO INDIAN RIVER COUNTY
RECREATION DEPARTMENT**

Commissioner O'Bryan read and presented the Proclamation to Recreation Director Cliff Crawford. Also on hand to receive the Certificate were Assistant Director of Recreation Mike Redstone, Aquatics Supervisor Fawna Hattrup, Scott Seeley of Special Events, and North County Pool Manager David Smith.

Director Crawford announced that the Recreation Department would be hosting the Special Olympics event again next year.

**C. PRESENTATION BY VICTORIA PEET WILLIAMS, CONSUMER
OUTREACH COORDINATOR, FLORIDA DEPARTMENT OF FINANCIAL
SERVICES ON THE MY SAFE FLORIDA HOME PROGRAM**

Victoria Peet Williams, Consumer Outreach Coordinator, Florida Department of Financial Services, wanted to increase awareness of a very beneficial program to the community, "My Safe Florida Home Program". She disclosed that said program is the process by which one could obtain a free wind/storm inspection by the State of Florida on a single-family site-built home. She provided statistics showing the number of people in the County this program has served, and the percentages in decreased insurance being enjoyed by those participants. She explained how one could go about getting a free inspection and be eligible for a free grant to effect improvements to his/her home. Additional information is available on their website www.mysafefloridahome.com or you may call toll free at 866-513-6734.

Commissioners who have used the program expressed their satisfaction of utilizing the service.

6. APPROVAL OF MINUTES

A. REGULAR MEETING OF SEPTEMBER 18, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of September 18, 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 September 18, 2007, as written.

6.B. REGULAR MEETING OF OCTOBER 2, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of October 2, 2007.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Minutes of the Regular Meeting of October 2, 2007, as written.

7. CONSENT AGENDA

7.A. APPROVAL OF WARRANTS – JULY 13, 2007 – JULY 19, 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 July 13, 2007, to July 19, 2007, as requested.

7.B. APPROVAL OF WARRANTS - OCTOBER 4 TO 11, 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 October 4, 2007 to October 11, 2007, as requested.

7.C. OUT OF COUNTY TRAVEL TO ATTEND THE FLORIDA GOVERNOR'S HURRICANE CONFERENCE

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved out of County travel for Commissioners and staff to attend the Florida Governor's Hurricane Conference at the Greater Fort Lauderdale/Brevard County Convention Center from Monday, May 12, 2008, until Friday, May 16, 2008, as requested in the memorandum of September 13, 2007.

7.D. RESIGNATION OF DAVID CLAYTON FROM THE UTILITY ADVISORY COMMITTEE

The Board noted the resignation of Mr. David Clayton from the Utility Advisory Committee.

7.E. APPOINTMENT TO THE UTILITY ADVISORY COMMITTEE

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the appointment of Mr. Robert W. Pickett, as the District 4 Appointee to the Utility Advisory Committee, replacing Mr. David Clayton who resigned, as recommended in the memorandum of October 16, 2007. Mr. Pickett will be up for reappointment in January 2008.

7.F. FINAL PAYMENT PROJECT 05075 GIS NEEDS ASSESSMENT STUDY

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved payment to Geographic Technologies Group, Inc. (GTG), Invoice No. G20-5653, in the amount of \$4,162.58, as recommended in the memorandum of October 12, 2007.

7.G. FLORIDA DIVISION OF FORESTRY – ANNUAL FIRE CONTROL REPORT

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Annual Fire Report, as presented and as recommended in the memorandum of October 4, 2007.

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

7.H. NORTH & SOUTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANTS FINAL PAY FOR WORK ORDER NO. 7 – ALTERNATIVE WATER SUPPLY MASTER PLAN BY CAMP DRESSER & MCKEE, INC.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved final payment to Camp Dresser & McKee, Inc. (CDM) in the amount of \$2,064.42, as recommended in the memorandum of October 9, 2007.

7.I. WORK ORDER NO. 4, NICK MILLER, INC. – ADDITIONAL SERVICES FOR SURVEYING AND MAPPING/GIS SERVICES – INDIAN RIVER COUNTY VERTICAL CONTROL NETWORK (IRCVCN) PROJECT

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Work Order No. 4 under the umbrella of Master Contract No. 0504 in the lump sum of \$2,000.00, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of October 8, 2007.

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

7.J. WORK ORDER NO. 14 (ENGINEERING/SURVEY) FULL AND FINAL PAY, MASTELLER, MOLER, REED & TAYLOR, INC., INDIAN RIVER DRIVE PHASE ONE, RIGHT-OF-WAY MAPPING PROJECT

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved payment of Invoice No. 2026-5399 in the amount of

\$4,850.00 for full and final payment of Work Order No. 14,
as recommended in the memorandum of October 15, 2007.

**7.K. GIFFORD PARK SECURITY HOUSE, CHANGE ORDER NO. 1; FENCING,
PASSAGE ISLAND HOMES, INC.**

ON MOTION by Commissioner Davis, SECONDED by
Vice Chair Bowden, the Board unanimously approved: (1)
Change Order No. 1 in the amount of \$6,290.00; (2) the
additional fifteen (15) calendar days required to complete
the work; and (3) authorized the Chairman to execute said
Change Order, as recommended in the memorandum of
October 15, 2007.

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

**7.L. CONTRACT AMENDMENT #2 – GREAT LAKES DREDGE AND DOCK
COMPANY**

ON MOTION by Commissioner Davis, SECONDED by
Vice Chair Bowden, the Board unanimously approved and
authorized the Chairman to execute Contract Amendment
#2 and Change Order #3, as recommended in the
memorandum of October 12, 2007.

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

7.M. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT FOR IRC BID # 2007068 STATIONARY GENERATORS FOR (5) HIGH FLOW LIFT STATIONS AT VARIOUS LOCATIONS, UTILITIES DEPARTMENT

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved that the Bid be awarded to Seabreeze Electric, LLC., as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid. The Board also approved the sample Agreement, and authorized the Chairman to execute said Agreement when required performance and payment bonds have been submitted along with appropriate certificate of insurance, and the County Attorney has approved the agreement as to form and legal sufficiency, all as recommended in the memorandum of October 16, 2007.

7.N. APPROVAL OF STATE AND FEDERALLY FUNDED SUBGRANT AGREEMENT – CONTRACT NUMBER 08-BG-24-10-40-01-085

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the FY 07/08 Emergency Management Preparedness and Assistance (EMPA) portion of the State Funded Subgrant Agreement, with funds to be allocated as follows:

- Continued funding of the salaries and benefits existing Emergency Management Planner Position and allow improvements to the newly completed Indian River County Emergency

Operations Center as identified in the 07/08 001-238 General Fund budget account in the amount of \$96,657.00. The remaining \$5,677.00 expenditures will be combined with the 07/08 EMPG funding allocation and brought back to the Board at a later date.

The Board also authorized the Director of Emergency Services, John King, as the contract manager for this agreement, all as recommended in the memorandum of September 27, 2007.

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

**7.O. REPORT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD:
CONVICTION OF FELONIES REPORT FOR THE MONTH OF
SEPTEMBER 2007**

The Board noted the report 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. COUNTY INITIATED REQUEST TO AMEND THE
TEXT OF THE COMPREHENSIVE PLAN'S FUTURE LAND**

**USE ELEMENT BY CREATING A NEW MHRP, MOBILE
HOME RENTAL PARK (UP TO 8 UNITS/ACRE), LAND USE
DESIGNATION FOR MOBILE HOME RENTAL PARKS
(LEGISLATIVE)**

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

Community Development Director Bob Keating requested that he be allowed to address the first two Comprehensive Plan amendments together, and that the Board vote separately on the items. He briefly described the Comprehensive Plan Amendment process, and explained the intent of this amendment, which is to create a new MHRP, Mobile Home Rental Park (up to 8 units/acre). Director Keating disclosed that the Planning & Zoning Commission voted 5-1 to recommend approval, and that if approved, the 15 MHRP would be known as the “MHRP District”. He then presented staff’s recommendations for Items 9.A.1 and 9.A.2.

Chairman Wheeler required legal opinion on how to handle both items as far as having two public hearings. Attorney Collins informed him that he could have one public hearing but two separate Motions.

The Chairman opened the public hearing.

Robert Bower, Village Green, 7300 20th Street #524, representing the Coalition of Mobile Manufactured Homeowners, supported the request and urged the Board’s favorable consideration of the amendments.

Darlene Bradley representing ELS and MHC Holiday Village Community presented a letter to Board members that she had been asked to submit for consideration. The letter from Lutz, Bobo, Telfair, Eastman & Lee, Attorneys-at-Law, in essence, asked that the Board not adopt the proposals and the related ordinance.

Priscilla Marsh, Midway Estates, opposed the proposed amendments.

Marge McKee of Midway Estates opposed the restrictions, and believed the designation should be different than that of a straight mobile home park.

Bob Nece, 7000 20th Street, Village Green, thanked staff for the efforts put into this process, and supported the proposed amendments.

Commissioner Davis asked if there was a way we could differentiate, in this policy, between a resident owned versus rental manufactured home community. Attorney Collins explained that they would come through the legislative process of a planned amendment and one could either agree that it is a good idea or not.

Linda Stephens, Treasurer of the Board of Midway Estates, explained the disadvantages for mobile homeowners who rent to people who leave without paying rent and have shown no respect for their homes.

Commissioner Davis explained that the County's intent is to protect renters from eviction in the event owners want to convert their property to commercial or non-residential uses.

Ms. McKee countered that they were not against renters but were trying to save themselves as property owners.

Board members and staff briefly discussed the pros and cons of rezoning versus a comprehensive plan amendment.

Ed Nelson, 8775 20th Street, Countryside, defended mobile home residents against the stereotype of being “trailer trash.” He supported the proposed amendments, and thanked Chairman Wheeler and staff for coming up with this idea.

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

Commissioner Davis reiterated what the proposed change in the Codes represents, and stressed that it would not affect residents.

ON MOTION by Commissioner Davis, SECONDED by Chairman Wheeler, the Board unanimously adopted Ordinance **2007-031** amending the Comprehensive Plan by revising Future Land Use Element Policies 1.2 and 1.14; and by creating new Future Land Use Element Policies 1.14.1 and 1.14.2 for establishing the MHRP, Mobile Home Rental Park (up to 8 units/acre), land use designation; and providing codification, severability, and effective date.

9.A.2. COUNTY INITIATED REQUEST TO AMEND THE COUNTY’S COMPREHENSIVE PLAN TO REDESIGNATE ±779.86 ACRES IN 12 MOBILE HOME PARKS FROM M-1 AND L-2 TO MHRP (ADMINISTRATIVE)

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

See Item 9.A.1 above for discussions and details.

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

At the request of Commissioner Davis, Attorney Collins explained the contents of the letter submitted by the Attorneys representing Holiday Village, Lutz, Bobo, Telfair, Eastman & Lee, which purports that the proposed amendments would establish new policy that is in conflict with certain elements of the County's Comprehensive Plan and the requirements of Chapter 163, Florida Statutes.

Commissioner Flescher asked if it would be possible to move to a modular home community instead of a mobile home community. Director Keating explained the differences in modular versus mobile home communities, as well as their required certification.

Vice Chair Bowden thanked the Chairman for bringing this forward.

Mr. Nelson gave his views on the difference between a modular versus a manufactured home. He asked the Board to keep it simple, and to not encumber the situation.

The Chairman CALLED THE QUESTION and the MOTION carried unanimously. The Board adopted **Ordinance 2007-032** amending the Future Land Use Element of the Comprehensive Plan by changing the land use designation for ±779.86 acres from L-2, low density residential-2 (up to 6 units/acre), and M-1, medium density residential-1 (up to 8 units/acre), to MHRP, Mobile Home Rental Park (up to 8 units/acre); and providing codification, severability, and effective date.

Chairman Wheeler called a break at 10:12 a.m. and reconvened at 10:24 a.m., with all members present.

**9.A.3. COUNTY INITIATED REQUEST TO AMEND THE TEXT OF
THE COMPREHENSIVE PLAN'S TRANSPORTATION
ELEMENT (LEGISLATIVE)**

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

Phil Matson, Metropolitan Planning Organization (MPO) Staff Director, through a PowerPoint presentation, recapped his memorandum dated September 24, 2007, and gave detailed data on the proposed amendment to the Transportation Element of the County's Comprehensive Plan. He asked the Board to approve staff's recommendations to adopt the Ordinance thus approving the proposed Comprehensive Plan text amendment.

Directors Mora and Matson responded to the Board's questions regarding arterial roadway analysis process, link capacity, SIS roadways, and traffic signals and synchronization.

The Chairman opened the public hearing.

Andrew Kennedy, 3001 Ocean Drive, informed Commissioners and staff that there was a good presentation on NBC Nightly News regarding synchronization, and offered to provide a copy.

Joseph Paladin, Developer, discussed the positive aspects of "buying more time" to get the roads built. He questioned whether our LDR permits us to do proportionate share or have impact fees assigned. Director Keating informed him that our impact fee ordinance still requires that the fees be spent in the district they are collected in.

Attorney Collins provided legal opinion on impact fee tenets. He explained that an impact fee is a Trust Fund that is supposed to be utilized in the area to be impacted by the new development, and said fees could not be spent in another area without undercutting the legitimacy of the impact fee. Board members and staff briefly discussed where they would like to see synchronization.

Chuck Mechling, 1999 Pointe West Drive, supported staff's recommendation.

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

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously adopted **Ordinance 2007-033** amending the text of the Transportation Element of the Indian River County Comprehensive Plan; and providing severability and effective date.

9.A.4. COUNTY INITIATED REQUEST TO ADOPT A NEW PUBLIC SCHOOL FACILITIES ELEMENT AND TO AMEND THE CAPITAL IMPROVEMENTS ELEMENT AND THE INTERGOVERNMENTAL COORDINATION ELEMENT OF THE COMPREHENSIVE PLAN AS RELATED TO THE PUBLIC SCHOOL FACILITIES ELEMENT (LEGISLATIVE)

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 and a recap of his memorandum dated October 15, 2007, explained the different elements of the Comprehensive Plan for proposed amendment. He asked the Board to approve staff's recommendation to adopt the ordinance approving the new Public School Facilities Element, the text amendment to the Capital Improvements Element, and to the Intergovernmental Coordination Element of the Comprehensive Plan. Director Keating announced that Indian River County was the first community in the State to submit its School Concurrency document. He thereafter responded to questions from the Board regarding whether the School Board was in approval of everything presented today, and whether staff knew they would be responsible for monitoring this process.

The Chairman opened the public hearing.

Joseph Paladin, Developer, complimented staff on being No. 1 in meeting this achievement. He spoke about the imposition of sanctions from the State against counties or municipalities that had not adopted Senate Bill #360 (SB360) and asked whether this amendment would be on a different level as far as adopting SB360 with School concurrency. Director Keating said we would find out in 2008 whether the Legislature would enforce some of the rules like school concurrency.

Joe Wiggins, 895 SW 11th Street, spoke about land use and the proposal to get a high school built in his area and asked what would happen to all that land that would not be used to build schools. He was concerned that students would have to travel farther away when lands were available for building schools in their area.

Director Keating acknowledged the good points raised by Mr. Wiggins, and explained the School District's intent to add more capacity in certain areas. He disclosed that concurrency would be met in the 5-year period without building a new high school.

Rene Renzi, Vero Beach, sought clarity on impact fees disbursement, and was glad concurrency is coming into effect.

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

Commissioner Davis congratulated staff and was glad the County had gotten ahead in the process.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously adopted **Ordinance 2007-034** amending the text of the Capital Improvements Element, text of the Intergovernmental Coordination Element and adopting a new Public School Facilities Element of the Indian River County Comprehensive Plan; and providing severability and effective date.

9.A.5. CONSIDERATION OF PROPOSED AMENDMENTS TO THE EXCAVATION AND MINING REGULATIONS OF LDR CHAPTER 934 FOR MINES IN AGRICULTURAL AREAS (LEGISLATIVE)

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

Commissioner Davis alluded to a possible conflict of interest on his part because his brother operates a sand mine.

(Clerk's Note: Form 8B, memorandum of voting conflict for county, municipal, and other local public officers, is on file in the office of the clerk to the board.)

Attorney Collins explained to Commissioner Davis that there is prohibition in State Law regarding voting on any matter if something would inure to the benefit or gain or loss of a relative.

Commissioner Davis thereby **announced that he would not vote** on this item because of conflict of interest, **but would engage in discussions**.

Planning Director Stan Boling presented this request to the Board by recapping his memorandum of October 15, 2007, and by way of a PowerPoint presentation. He provided background, presented the Planning & Zoning Commission's requirements, and recommended that the Board adopt the LDR amendments affecting mining operations in agricultural areas. Director Boling thereafter responded to questions of Board members regarding limitation on the number of loads per day, traffic impact, and standard operating procedures.

(Clerk's Note: Commissioner Davis exited the meeting at 11:32 a.m., and returned within the minute.)

The Chairman opened the public hearing.

Victor Knight, 3295 Ranch Road, felt these mining operations are offensive, but as long as the daily operations do not infringe on his rights for quiet enjoyment of his property he does not object. He asked the Board to allow for public input in the application process, and to consider tabling this matter and bringing it back for public input, so that it becomes a public hearing process, rather than an administrative permit. He saw a need for substantial tightening of these regulations because they are on agricultural property.

Mary McGuire-Smith, 6625 W. 82nd Avenue, agreed with Mr. Knight that regulations needed to be tightened regarding the traffic impact from the number of trucks in and out of the property daily.

Directors Boling and Mora responded to Commissioner O'Bryan's question of how trips are monitored for stipulated amounts of trips per day. Chairman Wheeler agreed with Mr. Knight's suggestion to table this matter and to go back to the drawing board and address the concerns of mining operations, in ordinance form.

Mr. Sexton also agreed with the suggestion and hoped the County would look at the different kinds of mining that could occur in the County.

Jorge Latour 2332 Vero Beach Avenue, attested to impacts from mining operations on surrounding area residents, and thanked Chairman Wheeler for acknowledging the suggestion to look further into the matter and to get more input from residents.

Susan Fransky thanked the Board and staff for its continued support of this matter and for moving it forward. She thought permit holders were breaking the law, and shared her safety concerns and disgust with the existing situation. She remarked that a law could not be enforced if there was no penalty.

Administrator Baird responded to Ms. Fransky's comments about minimizing dust and paving of the road. He agreed that there was not enough strength in the ordinance in the form of a penalty, and that staff needed to work at stricter penalty and a bigger road maintenance bond.

Chairman Wheeler reiterated his views that the mining operations as a whole, needed to be reviewed.

Bob Johnson, Coral Wind Subdivision, commented that mining operations are legitimate businesses that employ people, therefore staff has to be careful how they look at this issue.

Gary Smith, 6625 W. 82nd Avenue, argued that the residents were not trying to tell individuals how to use their land, but to exercise safety in daily operations.

Mr. Knight agreed with Mr. Jackson that the need for aggregates is imperative in the construction industry and road building. He alluded to the recent cessation of mining activities in Miami-Dade County brought on by an order of the Federal Court because of the encroachment of residential activities in certain areas. He noted that the Florida Legislature is trying to come up with some legalistic approach to where they remove the permitting process from county governments entirely and grant those permits out of Tallahassee. He was concerned that Wild Turkey (the 820 acres zoned Ranch road) has already been through technical review, and the changes initiated today would not affect them. He thought the County needed to be very vigilant that the laws are respected.

Director Boling stated that the Board could consider adopting today, the more stringent standards, and direct staff to revisit other aspects of the ordinance.

Vice Chair Bowden agreed it was a good thought process. She expressed the need to monitor this process and to look at safety on an ongoing basis. She hoped the Board would adopt the ordinance and give staff direction to include greater enforcement provisions.

Commissioner O'Bryan asked whether we needed to have a moratorium on new permits for 90 days until we can come back and address this. Attorney Collins explained the use of a moratorium and said staff could look into that if the Board desired.

Wesley Davis, 7000 184th Avenue, and area resident, affirmed all complaints from residents along 84th Avenue because he has seen it first hand. He was frustrated with the division

of responsibility, and believed there has to be a way for County staff to know if the water trucks were working, as they should.

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

MOTION WAS MADE by Vice Chair Bowden,
SECONDED by Chairman Wheeler, for the Board to direct staff to set the process for a moratorium to address safety issues inherent in mining operations, and for staff to come back with safety issues resolved.

There was a brief discussion among Board members and staff regarding the duration for the moratorium and they agreed that six months was appropriate.

The Chairman CALLED THE QUESTION and the Motion carried 4-0 (Commissioner Davis **recused** himself). The Board approved for staff to set the process for a moratorium to address safety issues inherent in mining operations, and for staff to come back with safety issues resolved.

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board by a 4-0 vote (Commissioner Davis **recused** himself) adopted **Ordinance 2007-035** concerning amendments to Land Development Regulations (LDRs); providing findings; providing for amendments to Chapter 934, excavation and mining, by revising Section 934.07 to establish buffer and hours of operation requirements for mines abutting agriculturally-zoned parcels 10 acres or less in area and by revising Section

934.09 to increase the amount of road maintenance bonds;
providing for repeal of conflicting provisions; codification;
severability; and effective date

The Chairman called a break at 12:13 p.m., and reconvened the meeting at 12: 26 p.m., with all members present.

9.A.6. CONSIDERATION OF PROPOSED AMENDMENTS TO TWO PROVISIONS OF TITLE IX – LAND DEVELOPMENT REGULATIONS – REGARDING THE PROHIBITION OF CITRUS GREENING AND CARIBBEAN FRUIT FLY HOST PLANTS (LEGISLATIVE)

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

Assistant County Attorney George Glenn recapped his memorandum dated October 12, 2007, and explained that the proposed amendment to the Land Development Regulations (LDR) seeks to prohibit citrus greening and Caribbean fruit fly host plants from being planted in new subdivisions.

Attorney Glenn reminded the Board of its prior decision on July 17, 2007, directing staff to amend the LDRs to eliminate two varieties of plants (Orange Jasmine and Chinese Box Orange) from new subdivisions, and to exclude these two plants from allowable plantings in landscaped and buffer areas. At the request of the Board, the County Attorney's Office had also researched the legality of prohibiting the sale of these plants from nurseries in the County, and has issued an Opinion that the County is pre-empted by the State from prohibiting the sale of these plants pursuant to Florida Statutes Chapter 581, and the Department of Agriculture Rules.

Attorney Glenn then presented staff's recommendation to open the public hearing, take public input, and adopt the ordinance with any revisions based on that public hearing.

Commissioner Davis acknowledged that this was no different from the Surinam Cherry or Guava, which are some of the many threats facing the citrus industry. He thought one day they might want to look at an evaluation of this, should someone want a Guava in the future.

Commissioner O'Bryan, in regard to the requirements of State Statute that sales could not be prohibited, asked whether the Board needed to send a letter to Tallahassee asking them to modify that to approve this amendment. Attorney Glenn said the State was implementing rules at the end of year that would go towards offsetting this problem.

The Chairman opened the public hearing. Seeing no one, the Chairman closed the public hearing.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously adopted **Ordinance 2007-036** amending the Indian River Code of Ordinances, Section 913.07, procedures and requirements for submitting and processing subdivision applications, and Section 926.05, general requirements to landscape and buffering regulations; to prohibit the planting of citrus greening and Caribbean fruit fly host plants in new subdivisions; and to prohibit the planting of citrus greening and Caribbean fruit fly host plants in any required buffer and landscaped areas, by providing for repeal of conflicting provisions; codification; severability; and effective date.

9.A.7. CONSIDERATION OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND

**NECESSITY FOR A CLASS “E” CERTIFICATE FROM
MEDICAL TRANSPORTATION SPECIALISTS (MTS)
(ADMINISTRATIVE)**

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

This item was deleted from the Agenda.

9.B. PUBLIC DISCUSSION ITEMS

**1. REQUEST TO SPEAK FROM REZA TORKAMAN REGARDING UTILITY
SERVICE AND GARBAGE STATIONS**

This item was deleted from the Agenda

9.C. PUBLIC NOTICE ITEMS - NONE

10. COUNTY ADMINISTRATOR MATTERS - NONE

11. DEPARTMENTAL MATTERS

11.A. COMMUNITY DEVELOPMENT - NONE

11.B. EMERGENCY SERVICES - NONE

11.C. GENERAL SERVICES - NONE

11.D. HUMAN RESOURCES - NONE

11.E. HUMAN SERVICES - NONE

11.F. LEISURE SERVICES – NONE

11.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

11.H. RECREATION

1. POLICY DIRECTION

Recreation Director Cliff Crawford introduced Scott Chisholm, Chairman of the Parks and Recreation Committee, whom he said would make a presentation and seek guidance from the Board.

Scott Chisholm informed the Board that his Committee was seeking to set some parameters and policies that the Board had given them in years past, on what they wanted staff to look at and how they should proceed with recreation in the future. In particular, he sought direction from the Board on the request to have infrastructure in place on agricultural lands for a Boys and Girls Club. Although they saw the need for the Boys and Girls Club to have a home, they needed policy direction from the Board as to whether the Recreation Commission should look seriously into private entities.

Administrator Baird disagreed with some of the history presented by Mr. Chisholm regarding control and use of the fairgrounds by the Soccer Association.

Commissioners, County staff, and Mr. Chisholm deliberated at length on the proper use of the land, the type of infrastructure that was required, problems of drainage, parking, and restroom facilities, the number of acreage to be utilized for building, and whether they were discussing a regional park concept.

Ronnie Hewett, Boys and Girls Club, responding to Commissioner Davis' request for a recommendation, said the facility would be owned and operated by the Club; they would not ask for any County funding for the project; and would be willing to incur those expenses and invest up to \$2 million to build that facility. He noted that within a 3-mile radius of a central location, between the Club and south County Park, there are close to 7,000 kids between the ages of 6 and 18.

Mr. Hewett disclosed that they have done some research with other Florida Clubs that have clubhouses on county property, and there were at least 10-12 clubs that have clubhouses on county property and parks. They would need about half an acre or less to build facilities, and he assured the Board that the Club would be more than willing to work with the County to allow use of the club during non-club hours.

The Board and staff continued to discuss other facilities on county-owned properties, and learned from Attorney Collins that all facilities built on county property would eventually be owned by the County.

Ron Hewitt, in response to Commissioner O'Bryan's question of whether the Club just needed land or land at a county park, revealed that county-land would work best for them, as they did not have the money to prepare the land and to put in the necessary plumbing and electrical fixtures.

Chairman Wheeler thought it would be good idea to have the Boys and Girls Club at the park where there are other recreation facilities, and if the Club was willing to build the structure, operate and fund it, and address all the needs of the kids, it would be a great idea, and a great partnership.

Mr. Chisholm did not agree it was the right partnership for the regional park concept because they would become private users, and they are talking about total community, not an isolated age group.

Discussion continued among Board members regarding the intended or best use of the facility. Administrator Baird thought they could perhaps look at having a joint facility and where everyone saves in site costs, and maybe staff could come back with a plan. The Commissioners and Mr. Chisholm agreed.

Administrator Baird agreed to bring back a recommendation. Commissioner O'Bryan wanted to see a rough sketch of where everything would be situated in the park.

CONSENSUS – Administrator Baird will have several meetings with staff, the Boys and Girls Club, Recreation Director Cliff Crawford, and Mr. Chisholm, as well as the School Board, and come back with a joint plan that everyone could live with for the future.

Joe Wiggins, 895 11th Street SW, was concerned about discriminatory age grouping, and the possible inability of other groups to use the park, if it is mostly occupied by members of the Club.

Commissioner Davis reiterated the consensus of the Board to direct Administrator Baird to come back with a partnership between the two entities.

11.I. PUBLIC WORKS

1. JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION TO ADVANCE THE WIDENING OF STATE ROAD 60 BETWEEN 66TH AVENUE AND 82ND AVENUE

This item was deleted from the Agenda at staff's request.

11.J. UTILITIES SERVICES – NONE

12. COUNTY ATTORNEY MATTERS - NONE

13. COMMISSIONERS' ITEMS

A. COMMISSIONER GARY C. WHEELER, CHAIRMAN

1. ADDITION: NOVEMBER 30TH CANVASSING BOARD

Chairman Wheeler recommended that Commissioner Peter O'Bryan attend the Canvassing Board Training Program in Orlando, November 30, 2007, and to work on the Canvassing Board for the upcoming election in January.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board voted unanimously for Commissioner O'Bryan to attend the Canvassing Board Training in Orlando, on November 30, 2007, and to work on the Canvassing Board for the upcoming election in January 2008.

**2. ADDITION: ST. JOHNS GOVERNOR AND CABINET APPEAL
AUTHORIZATION FOR COMMISSIONERS & STAFF FOR TRAVEL AS
NECESSARY**

ON MOTION by Commissioner Davis, SECONDED by
Chairman Wheeler, the Board unanimously approved
“travel as necessary” for Commissioners and staff in
conjunction with the St. Johns Governor and Cabinet
Appeal.

B. COMMISSIONER SANDRA L. BOWDEN, VICE CHAIRMAN -

NONE

C. COMMISSIONER WESLEY S. DAVIS - NONE

D. COMMISSIONER JOSEPH E. FLESCHER- NONE

E. COMMISSIONER PETER D. O'BRYAN

**1. REQUEST FOR APPROVAL BY THE BOARD OF COUNTY
COMMISSIONERS TO SEND A LETTER TO THE FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION TO EXPEDITE THE
PERMIT PROCESS FOR WABASSO BEACH PARK**

On Motion by Vice Chair Bowden, SECONDED by
Commissioner Davis, the Board unanimously approved for
a letter to be sent to the Florida Department of
Environmental Protection to expedite the permit process for
the Wabasso Beach Park.

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 – MEETING OF OCTOBER 2, 2007*
- 2. APPROVAL OF MINUTES – MEETING OF OCTOBER 9, 2007*
- 3. EMERGENCY SERVICES PROGRESS REPORT*

B. SOLID WASTE DISPOSAL DISTRICT

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 Solid Waste Disposal District. Those Minutes are being prepared separately and are appended to this document.

- 1. APPROVAL OF MINUTES – MEETING OF SEPTEMBER 18, 2007*
- 2. APPROVAL OF MINUTES – MEETING OF OCTOBER 2, 2007*
- 3. APPROVAL OF MINUTES – MEETING OF OCTOBER 9, 2007*

**4. *PROPOSAL FOR REMEDIAL ACTION PLAN MODIFICATION
IMPLEMENTATION AND OFF-SITE MONITORING WELL
INSTALLATION FOR THE SOUTH GIFFORD ROAD LANDFILL***

C. ENVIRONMENTAL CONTROL BOARD - NONE

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

15. ADJOURNMENT

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 1:28 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/AA/2007 Minutes