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DECEMBER 4, 2007

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December 4, 2007

REGULAR MEETING OF THE BOARD OF COUNTY
COMMISSIONERS

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27th Street, Vero Beach, Florida, on Tuesday, December 4, 2007. Present were Chairman Sandra L. Bowden, Vice Chairman Wesley S. Davis, and Commissioners Joseph E. Flescher, Peter D. O'Bryan, and Gary C. Wheeler. 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 Bowden called the meeting to order at 9:00 a.m.

2. INVOCATION

Vice Chairman Wesley S. Davis delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

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

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

- NONE

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION ON WINTER FEST, JOINT PROGRAM BY INDIAN RIVER COUNTY RECREATION DEPARTMENT AND POINTE WEST, BY CHUCK MECHLING

Chuck Mechling, President of Pointe West, Inc., announced Pointe West's upcoming "4th Annual Winter Fest" hosted by Indian River County Recreation Department and Pointe West, to be held on December 15, 2007 from 2:00 p.m. to 6:00 p.m., in Pointe West, Vero Beach. He outlined the various planned activities and invited everyone to attend the event (invitations were handed out to the Board).

Vice Chairman Davis thanked Chuck Mechling and his people for the great job they have done in the past and encouraged them to keep up the good work.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF NOVEMBER 6, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of November 6, 2007. There were none.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the Minutes of the Regular Meeting of November 6, 2007, as written and distributed.

6.B. REGULAR MEETING OF NOVEMBER 13, 2007

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

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved the Minutes of the Regular Meeting of November 13, 2007, as written and distributed.

7. CONSENT AGENDA

7.A. APPROVAL OF WARRANTS – NOVEMBER 9 TO NOVEMBER 15, 2007

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of November 9, 2007 to November 15, 2007, as recommended in the memorandum of November 15, 2007.

**7.B. TREASURE COAST REGIONAL PLANNING COUNCIL (TCRPC)
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY COMMITTEE**

(CEDSC) APPOINTMENT (COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN)

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the appointment of Raymond Coniglio to the Treasure Coast Regional Planning Council Comprehensive Economic Development Strategy Committee, as recommended in the memorandum of November 28, 2007.

7.C. TREASURE COAST REGIONAL PLANNING COUNCIL (TCRPC) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY COMMITTEE (CEDSC) APPOINTMENT (COMMISSIONER PETER D. O'BRYAN)

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the appointment of Randy J. Riley to the Treasure Coast Regional Planning Council Comprehensive Economic Development Strategy Committee, as recommended in the memorandum of November 14, 2007.

7.D. RESOLUTION CANCELING TAXES ON PROPERTY ACQUIRED BY THE CITY OF SEBASTIAN FOR PUBLIC PURPOSES

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved

Resolution 2007-160, canceling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

7.E. WORK ORDER NO. 12 (ENGINEERING) FULL AND FINAL PAY, MASTELLER, MOLER, REED & TAYLOR, INC., INDIAN RIVER COUNTY PROJECT NO. 0425, 39TH AVENUE CORRIDOR BETWEEN 69TH STREET & 71ST STREET

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved payment of Invoice Number 2345-5467 in the amount of \$5,700.00 for full and final payment of Work Order No. 12, to be funded as specified and recommended in the memorandum of November 19, 2007.

7.F. WORK ORDER NO. 3 WITH BRIDGE DESIGN ASSOCIATES, INC. – RELEASE OF RETAINAGE IRC PROJECT NO. 0611-B-56TH PLACE BRIDGE DESIGN

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved release of retainage for Work Order No. 3 in the amount of \$4,186.40, to be funded as specified and recommended in the memorandum of November 19, 2007.

**7.G. WORK ORDER NO. 3 WITH HYDROMENTIA, INC. FOR ADDITIONAL
ENGINEERING SERVICES RELATED TO EGRET MARSH REGIONAL
STORMWATER PARK**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Hydromentia's Work Order No. 3 and authorized the Chairman to execute it on behalf of the County, to be funded as specified and recommended in the memorandum of November 26, 2007.

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

7.H. AGREEMENT WITH IRC/POINTE WEST/PYROTECNICO FOR FIREWORKS

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the contract as presented and authorized the County Administrator or his designee to execute the contract along with Pointe West as co-sponsor, as recommended in the memorandum of November 20, 2007.

7.I. WORK ORDER NO. 1 (ENGINEERING/SURVEYING), MORGAN & EKLUND, INC., ROCK RIDGE SUBDIVISION – IRC PROJECT NO. 0737, TOPOGRAPHIC/DRAINAGE SURVEY (NORTHERN SECTION)

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 1, in the total amount of \$21,010.00, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of November 21, 2007.

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

7.J. WORK ORDER NO. 2 (ENGINEERING/SURVEYING), MASTELLER, MOLER, REED AND TAYLOR, INC., CR 512 PHASE 4, DESIGN/TOPOGRAPHIC SURVEY, ADDITIONAL SERVICES – TREE LOCATIONS)

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 2, in the total amount of \$3,900.00, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of November 21, 2007.

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

7.K. WORK ORDER NO. 1 (ENGINEERING/SURVEYING), MASTELLER, MOLER, REED AND TAYLOR, INC., CR 512 PHASE 3, (BUFFER PRESERVE), WETLAND-MITIGATION AS-BUILT (RECORD) SURVEY

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 1, in the total amount of \$7,500.00, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of November 21, 2007.

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

7.L. WORK ORDER NO. 1 (ENGINEERING/SURVEYING), CARTER ASSOCIATES, INC., LENNIE'S LOUNGE BOUNDARY SURVEY

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 1, in the total amount of \$5,850.00, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of November 21, 2007.

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

**7.M. CR 512, PHASE III, CR 510 – PROJECT #9611 & 0001, BID NUMBER
2006065, CHANGE ORDER No. 10**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 10, increasing the contract amount by \$103,906.50, for a total contract amount of \$14,157,078.05, as recommended in the memorandum of November 20, 2007.

**7.N. TELEPHONE LINE RELOCATION AT WEST REGIONAL WASTEWATER
TREATMENT FACILITY**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) the relocation of the telephone lines; (2) authorized the Chairman to execute the Construction Agreement as presented; and (3) authorized the expenditure of \$11,905.05 for AT&T line work, as recommended in the memorandum of November 7, 2007.

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

**7.O. GIFFORD PARK SECURITY HOUSE, FOURTH AND FINAL PAYMENT AND
RELEASE OF RETAINAGE FOR PROJECT 0503 BID No. 2007033,
PASSAGE ISLAND HOMES, INC.**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) payment of Contractor's application for Payment No. 4 in the amount of \$6,290.00; (2) payment of the requested release of final retainage in the amount of \$6,421.68; (3) to extend the contracted time of completion by 16-calendar days; (4) the additional sod cost in the amount of \$753.64; and (5) funding as specified and as recommended in the memorandum of November 28, 2007.

**7.P. RIGHT-OF-WAY ACQUISITION, TARMAC AMERICA L.L.C. 2800
INDUSTRIAL BLVD. VERO BEACH**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the \$22,474.45 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of November 27, 2007.

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

7.O. HOLIDAY SCHEDULE FOR INDIAN RIVER COUNTY LIBRARY SYSTEM

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Holiday Schedule for the Indian River County Library System (see below), as recommended in the memorandum of November 28, 2007.

CHRISTMAS - (Tuesday, December 25, 2007)

Main Library, North County Library, Gifford Youth Activity Center Library and Law Library:

Closed on Monday, December 24 and Tuesday, December 25, 2007

NEW YEAR'S DAY – (Tuesday, January 1, 2008)

Main Library, North County Library, Gifford Youth Activity Center Library and Law Library:

Close on Monday at 5:00 p.m.

Closed on New Year's Day, January 1, 2008

7.R. MISCELLANEOUS BUDGET AMENDMENT 002

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-161**, amending the fiscal year 2007-2008 Budget.

7.S. ACCEPTANCE OF CHANGE ORDER No. 16, NEW COUNTY EMERGENCY OPERATIONS CENTER

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 16, and authorized the Chairman to execute same, as recommended in the memorandum of November 28, 2007.

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

7.T. PROVIDING GEOTECHNICAL SERVICES FOR 70TH AVENUE ROADWAY IMPROVEMENTS, IRC PROJECT #0217

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 1 in the total amount of \$6,617.00, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of November 20, 2007.

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

7.U. OSLO ROAD WIDENING BETWEEN 43RD AVENUE AND 27TH AVENUE, ENGINEERING SERVICES AMENDMENT No. 2 – ALTERNATE POND

**ANALYSIS AND COORDINATION FOR NECESSARY LEGAL DESCRIPTIONS
AND SKETCHES FOR RIGHT-OF-WAY ACQUISITION ASSOCIATED WITH
THE 27TH AVENUE CORRIDOR BETWEEN OSLO ROAD AND 7TH STREET
SW**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Amendment No. 2 in the amount not-to-exceed \$30,000.00 with Kimley-Horn and Associates, Inc., with funding as specified and as recommended in the memorandum of November 26, 2007.

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

**7.V. WORK ORDER NO. 2 (ENGINEERING/SURVEYING), MORGAN &
EKLUND, INC., WABASSO BEACH PARK ADDITIONAL TOPOGRAPHIC
SURVEY, PARK AND UTILITY DESIGNS – PERMITTING APPLICATIONS
IRC # 0612**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 2 in the total amount of \$2,500.00, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of November 27, 2007.

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

7.W. WORK ORDER NO. 3 (ENGINEERING/SURVEYING), KIMLEY-HORN AND ASSOCIATES, INC., KROEGEL HOMESTEAD SUBDIVISION / COUNTY PRESERVATION LAND BOUNDARY / SPECIFIC PURPOSE SURVEY AND RIPARIAN RIGHTS STUDY

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 3 in the total amount of \$26,830.00, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of November 20, 2007.

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

7.X. APPROVAL OF BID AWARD FOR IRC BID # 2008018 IRC ICS/NIMS/E-TEAM INTEGRATION & TRAINING, DEPARTMENT OF EMERGENCY SERVICES

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the bid be awarded to NTB Group, LLC as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid, as recommended in the memorandum of November 26, 2007.

**7.Y. FINAL PAYMENT AND RELEASE OF RETAINAGE APPLIED TECHNOLOGY
AND MANAGEMENT, INC. WORK ORDER #10**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for final payment and release of retainage, with funding as specified and as recommended in the memorandum of November 27, 2007.

**7.Z. FINAL PAYMENT AND RELEASE OF RETAINAGE APPLIED TECHNOLOGY
AND MANAGEMENT INC. CONTRACT AMENDMENT #13**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the application for final payment and release of retainage, with funding as specified and as recommended in the memorandum of November 27, 2007.

**7.AA. 79TH STREET (106TH AVENUE TO 101ST AVENUE), 87TH STREET (106TH
AVENUE TO 102ND AVENUE), PROJECT # 0535 & 0536, BID NUMBER
2007070, CHANGE ORDER NO. 2, (12" WATER MAIN INSTALLATION)**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 2 increasing the contract amount by \$124,358.00, for a total contract amount of \$1,345,902.65,

with funding as specified and as recommended in the memorandum of November 26, 2007.

7.BB. PURCHASE OF CALVIT ISLAND FOR PROPERTY EXCHANGE WITH THE STATE OF FLORIDA FOR A STORM WATER POND FOR COUNTY ROAD 512 WIDENING AND IMPROVEMENTS

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized the Chairman to execute the Agreement to purchase Calvit Island for \$38,500.00; and to include the island as part of the property exchange with the State for the right-of-way parcels for the proposed 101st Avenue realignment and County Road 512 widening and improvements; as recommended in the memorandum of November 27, 2007.

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

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS

9.A. PUBLIC HEARINGS

9.A.1. OSLO COMMERCE CENTER, L.P.'S REQUEST TO REZONE ± 12.692

ACRES FROM CH TO CG (QUASI-JUDICIAL)

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

Community Development Director Robert Keating used a PowerPoint presentation to reference subject property located north of Oslo Road and east of 43rd Avenue. He said the request was for rezoning from Heavy Commercial District (CH) to General Commercial District (CG) and that the purpose for the rezoning was to secure the zoning necessary to develop the site with uses permitted under the CG zoning district. Director Keating announced that the property is compatible with the surrounding uses, it is consistent with the Comprehensive Plan, it meets concurrency tests, and that there would be no negative impacts on the environment.

Commissioner O'Bryan asked Director Keating if the 50-foot conservation easement buffer would be adequate for Kenwood Village Subdivision.

Director Keating acknowledged that staff felt that the 50-foot wooded buffer would provide adequate separation and that it would be compatible. He divulged that the applicant and the Homeowner's Association of Kenwood Village had discussed this matter and entered into an agreement that would require the applicant to put soft improvements close to the conservation area.

The Chairman opened the public hearing.

Bob Johnson, Coral Winds Subdivision, informed the Board that no one from his subdivision had objections regarding the rezoning but wanted the Board to know that the people

from his subdivision (which adjoins said property) were not notified of the action. He noted that there was confusion as to when the public hearing would take place and suggested changing the name of the title on the application because “Oslo Commercial Center” and “Oslo Commerce Center”, being situated next to each other and sounding similar, make it confusing. He also suggested that when an applicant requests a zoning change that they be more specific as to “why they want to change the zoning.”

Director Robert Keating explained that Coral Winds Subdivision is more than 300-feet from the edge of this property, which is why notification was not provided to the residents. He said that regarding the name on the application, staff’s policy has always been to use the name of the applicant (owner of the property).

Commissioner Davis announced that he would not vote on this item because of a conflict of interest. (*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.*)

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

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board by a 4-0 vote (Commissioner Davis recused himself) adopted **Ordinance 2007-039**, Amending the Zoning Ordinance and the Accompanying Zoning Map for ± 12.692 Acres North of 9th Street, Southwest and Approximately 1,250 Feet East of 43rd Avenue, from CH, Heavy Commercial District, to CG, General Commercial District; and Providing Codification, Severability, and Effective Date.

9.A.2. FOURDEV'S REQUEST TO REZONE ± 6.78 ACRES FROM IL TO CG

(QUASI-JUDICIAL)

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

Through a PowerPoint presentation, Community Development Director Robert Keating expressed how the request was to rezone the property located at the southwest corner of US 1 and 53rd Street from Light Industrial (IL) to General Commercial District (CG). He explained that the purpose for the rezoning is to secure the necessary zoning in order to develop the property with uses permitted in the CG zoning district. Director Keating announced that the property is compatible with the surrounding uses, is consistent with the Comprehensive Plan, and meets concurrency tests, and he also stated that there would be no negative impacts on the environment.

Commissioner O'Bryan requested more details pertaining to the traffic study's (a.m. and p.m.) peak hour trips on US1, Indian River Boulevard, and Old Dixie Highway (pages 216 and 220-221 in the backup.)

Assistant Public Works Director Chris Mora said he would research the requested information and get back to the Board at a later date.

Vice Chairman Davis wanted to know if the property to the north of the Shell Station (now a mini storage), was allowable under CG zoning, and Director Keating related that it is a special exception. Commissioner Davis wanted to ensure that this would fall under the Corridor Plan.

The Chairman opened the public hearing. There were no speakers, and the Chairman closed the public hearing.

There was a brief question and answer period between the Board and staff regarding the increase in trips and capacity numbers.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously adopted **Ordinance 2007-040**, Amending the Zoning Ordinance and the Accompanying Zoning Map for ± 6.78 Acres South of 53rd Street and West of U.S. Highway #1 from IL, Light Industrial District, to CG, General Commercial District; and Providing Codification, Severability, and Effective Date.

9.A.3. REQUEST BY BILLY L. HITCHCOX FOR A VARIANCE FROM THE REQUIREMENTS OF THE SUBDIVISION ORDINANCE (CHAPTER 913) FOR A MOBILE HOME DEVELOPMENT AT 48TH AVENUE AND 43RD STREET (QUASI-JUDICIAL)

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

Community Planning Director Stan Boling recapped his memo and through a PowerPoint presentation provided background information. He told the Board that this request was to waive all subdivision ordinance requirements, including infrastructure improvements and platting. He said the applicant, Mr. Hitchcox, requested to have up to five mobile homes on a one-acre lot without platting and without making formal site improvements. The Code

Enforcement Board (CEB) found Mr. Hitchcox in violation of County code and determined that the applicant had two alternatives: (1) go through the platting process to allow five mobile homes on the one-acre parcel, or (2) go back to two mobile homes on the parcel, each on its own individual lot. He divulged that the subdivision variance criteria had not been met and therefore staff recommended the Board deny the requested subdivision variance.

The Chairman opened the public hearing.

Billy Hitchcox, 4282 48th Avenue, said he had provided a letter to Administrator Baird asking for information but has now been advised by his attorney to withdraw his item and pursue legal action.

Chairman Bowden clarified that he wanted to “officially withdraw” his item from the Agenda.

County Attorney Collins interjected, saying that Mr. Hitchcox could withdraw his item at any time.

Billy Hitchcox informed the Board that he had requested certain individuals to be present at today’s meeting because of disputed facts, but they did not show. He asked the Board for direction.

Attorney Collins suggested he consult with his attorney to discuss the direction he should take, and informed him that the County does not have “subpoena power” to make people come to County Commission meetings.

Mr. Hitchcox asked if he could reschedule this item to be heard at a later date.

Commissioner Wheeler wanted to know the current status of this item.

Director Boling clarified that there was an “Order of Finding Violation” from June, and Mr. Hitchcox was given until January to come into compliance through the formal development process (preliminary plat approval) or remove the older mobile homes and leave the two newer ones.

Chairman Bowden asked Mr. Hitchcox to specify if he wanted to postpone or withdraw this item. He requested it be postponed until the Board of County Commission meeting of February 5, 2008, to allow him sufficient time to speak with his attorney.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Commissioner Wheeler, to postpone this item until the Board of County Commission meeting of February 5, 2008.

Commissioner O’Bryan informed Mr. Hitchcox that even though this item was being postponed, the Code Enforcement Board would still be required to follow their procedures.

The Chairman CALLED THE QUESTION and the motion carried unanimously. The Board approved to postpone this Item until the Board of County Commission Meeting of February 5, 2008.

Rhonda Anderson, 4275 48th Avenue posed questions to staff regarding zoning in her neighborhood.

There were no additional speakers, and the Chairman closed the public hearing.

9.B. PUBLIC DISCUSSION ITEMS

**9.B.1. REQUEST TO SPEAK FROM PROGRESSIVE CIVIC LEAGUE OF GIFFORD,
FL. INC. REGARDING RENAMING THE SOFTBALL FIELD AT GIFFORD
NEIGHBORHOOD PARK AFTER MR. J. RALPH LUNDY**

Freddie Woolfork, 4590 57th Avenue, on behalf of the Progressive Civic League of Gifford, FL, Inc. requested renaming the softball field at the Gifford Neighborhood Park after Mr. J.Ralph Lundy. He felt that renaming the ball field would serve as a monumental statement to those who did not know all the sacrifices Mr. Lundy had made, and the true servant that he was.

Vice Chairman Davis asked Attorney Collins if the County had a policy for renaming facilities.

Attorney Collins was not aware of a policy but acknowledged that in the past a facility was usually named after someone who was deceased.

Joe Idlette, III, 4570 57th Avenue, President of the Progressive Civic League, told how Mr. Lundy has always given so much of himself and how he and the community believed it would be the right thing to do.

Each Commissioner voiced his/her support.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved renaming the softball field at the Gifford Neighborhood

Park after Mr. J. Ralph Lundy, as recommended in the letter from the Progressive Civic League of Gifford, FL, Inc.

Vice Chairman Davis suggested presenting Mr. Lundy with a plaque listing the reasons why the ball field was named after him.

J. Russell Lundy, Jr. 8676 Clearlake Lane, Ft. Pierce, thanked the Board for its support and consideration. He told the Board that when his father was informed of this honor, he became very emotional.

Commissioner Flescher suggested adding Mr. Lundy's quote, "A quitter never wins, and a winner never quits" to the plaque.

**9.B.2. REQUEST TO SPEAK FROM CHARLES WILSON REGARDING OPENNESS
IN GOVERNMENT, PUBLIC REPORTING OF EX PARTE CONVERSATIONS**

Charles Wilson, 1919 19th Avenue, provided the Board with a copy of the Lobbyist's Registration form (copy on file) and gave an overview, saying that about twenty years ago, a proposal was made to the County Commission to have people who came before the Board declare their interests and register as a lobbyist. He thought that at that time, there might not have been a need to register as lobbyists, but recently a great deal has changed. He felt it was the County's responsibility to preserve confidence in government by maintaining accessibility and transparency. To ensure transparency in all County decisions, he wanted a procedure to be put into place that would protect public confidence, protect the office holders, and maximize the citizen's ability to talk with an appointed elected official. He used Quasi-Judicial as an example, and suggested that the Legal Department develop an ordinance or direction that would require two

procedures: (1) where people could register and declare whom they represent, and (2) to permit ex-parte conversations.

Vice Chairman Davis supported Mr. Wilson's request.

Chairman Bowden disclosed that when she became a Commissioner she had concerns because there was no set procedure; however, speakers are sworn-in now.

After reviewing the Lobbyist's Registration Form, Attorney Collins advised the Board that the form would meet the requirements that the County had already adopted. He also explained why the former Boards had not adopted the procedures that Mr. Wilson spoke about. Attorney Collins acknowledged that Mr. Wilson's suggestions were something that the Board could implement if they wanted to, to have a procedure for the registration of lobbyists and whom they represent, or they could adopt procedures that would allow the Commissioners to speak one-on-one. He clarified how a disclosure form could be set-up and filed; then acknowledged that this is not a requirement of the State. Attorney Collins told the Board that they could continue to conduct business as they had in the past, or they could make the changes as suggested.

The Board posed questions to Attorney Collins regarding Quasi Judicial items, and Statute requirements.

There was a lengthy discussion between the Board and Mr. Wilson regarding St. Lucie County's procedures for declarations, the confusion over "what is considered Quasi Judicial," and "transparency issues."

Attorney Collins did not believe that State law required counties to have registration policies for lobbyists, he thought they would have to register to lobby the State or its agencies.

Chairman Bowden acknowledged that this was the first time this subject had been brought forward and suggested the Commissioners ponder the suggested policy of ex parte communications, do their homework, and bring it back to the Board for discussion under their *Commissioner Items*.

NO BOARD ACTION REQUIRED OR TAKEN

The Chairman called a recess at 10:42 a.m. and reconvened the meeting at 10:54 a.m. with all members present.

9.C. PUBLIC NOTICE ITEMS

9.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR DECEMBER 11, 2007:

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF
INDIAN RIVER COUNTY, FLORIDA, AMENDING SECTION 104.06, CODE
OF ETHICS AND CONDUCT, OF THE INDIAN RIVER COUNTY CODE;
PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND
PROVIDING FOR AN EFFECTIVE DATE (LEGISLATIVE)**

9.C.2. NOTICE OF SCHEDULED PUBLIC HEARING FOR DECEMBER 18, 2007:

**BOARD CONSIDERATION TO FORMALLY DESIGNATE A 1.3 MILE
SEGMENT OF OLD DIXIE HIGHWAY SOUTH OF CR 512 AS A HISTORIC
ROAD (ADMINISTRATIVE)**

The Chairman read the notices into the record.

10. COUNTY ADMINISTRATOR'S MATTERS

**10.A. MEETINGS OF THE BOARD OF COUNTY COMMISSION, PROPOSED –
2008 MEETING DATES**

County Administrator Joseph Baird provided a proposed schedule of Commission meeting dates for 2008.

Commissioner Wheeler requested the meeting of August 26, 2007 (Election Day), be removed from the meeting schedule. Administrator Baird and Commissioner O'Bryan requested adding August 12, 2007 to the schedule.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the 2008 meeting dates as recommended in the memorandum of October 23, 2007, with the exception of REMOVING August 26, 2007 and ADDING August 12, 2007.

There was a brief discussion between Mr. Wilson and the Board pertaining to scheduled meetings and individuals not being permitted to speak with Commissioners before scheduled meetings.

**10.B. TREASURE COAST REGIONAL PLANNING COUNCIL (TCRPC),
MUNICIPAL APPOINTMENTS**

County Administrator Joseph Baird emphasized that the appointments would be on a rotational basis, and that Sebastian had felt that they were not informed.

Andrea Coy, Mayor of Sebastian , felt that since Sebastian, being the largest municipality in Indian River County, should retain its seat on the Treasure Coast Regional Planning Council. She asked the Board to assure her that the position would be rotated in the future.

Discussion ensued regarding the intent of large municipality representation in small municipalities within the County. Vice Chairman Davis said the rationale was to not have two large municipalities, such as Vero Beach and Sebastian, serve at the same time.

Andrea Coy suggested that Fellsmere be rotated with Vero Beach and Sebastian.

Susan Adams, 10 North Cypress Street, Fellsmere, commented that this should be based on population and equal representation so everyone would get a chance to participate equally.

The Board unanimously accepted the appointments to the Treasure Coast Regional Planning Council Board for 2008 as listed:

COUNTY MEMBERS:

Commissioner Gary C. Wheeler – Member

Commissioner Wesley S. Davis – Alternate

Commissioner Peter D. O’Bryan – Member

Commissioner Joseph D. Flescher – Alternate

MINICIPAL MEMBERS:

Vero Beach Vice-Mayor Sabin Abell – Member

Indian River Shores Councilman William H. Ahrens – Alternate

Fellsmere Councilman, Susan Adams – Member

Sebastian Vice-Mayor, Sal Neglia – Alternate

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously confirmed the appointments to the Treasure Coast Regional Planning Council Board for 2008 (as listed above), and directed staff to develop a policy to annually, in November, evaluate the rotation of appointments, as recommended in the memorandum of November 28, 2007.

10.C. AUTHORIZATION TO NEGOTIATE

Administrator Baird reviewed his memorandum and the letter he received from Senior Vice President Fernandez. He said that staff had felt it was in the County's best interest to negotiate an option agreement for the future lease of Dodgertown with a major league baseball team. He felt it best to start the negotiation process now (for 2009) to bring a team to Dodgertown once the Dodgers leave. He requested the Board approve the Resolution authorizing him to start the negotiation process and enter into an Option Agreement on behalf of the Board.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-162**, confirming that the County

Administrator's Office is the County Economic Development Agency and the County Administrator is the County Economic Development Officer with respect to Major League baseball; establishing County Policy with respect to an Option Agreement for a Lease of Dodgertown; directing the County Administrator in the exercise of his administrative function to enter into an Option Agreement with a Major League baseball team to lease Dodgertown if and when the Dodgers cease their use of the facility; providing guidelines and standards; providing definition of terms; confirming the retention of Special Legal Counsel with respect to matters relating to Major League baseball; making findings of fact; providing certain other matters in connection therewith; and providing an effective date.

Guy Barber, Highlands Drive, asked Administrator Baird to stop asking taxpayers to pay for the financial perks which were being offered to induce teams to relocate to Dodgertown. He said that Vero Beach has beautiful weather, people, and a ball field, therefore he felt they should not need a "million dollar deal."

Administrator Baird told Mr. Barber that he had been misinformed and explained how the Dodger facility was purchased, how the County paid for it, and how the County could exercise "liquidated damages" when they leave. He emphasized that a team was not being paid to come here.

11. DEPARTMENTAL MATTERS

11.A. COMMUNITY DEVELOPMENT

11.A.1. CONSIDERATION OF ROADWAY CONNECTIVITY REQUIREMENTS

Director Boling recapped his memo and through a PowerPoint presentation provided background information and details pertaining to roadway connectivity requirements regarding transportation and roads, at a neighborhood level. He spoke about the connectivity links, the benefits they would provide, and through aerials, he disclosed the particulars of the affected properties.

Commissioner Wheeler agreed with staff's suggestions to the connectivity requirements and felt that inter-connectivity is most important for the County as it urbanizes, and is necessary for a good flow of traffic.

Chairman Bowden thought a long-term commitment needed to be made and that the grid system needed to be worked out.

Commissioners Davis, O'Bryan, and Flescher were in favor of staff's recommendations and felt that connectivity was of utmost importance.

Director Boling clarified that staff would draft regulations and move forward through the process.

NO BOARD ACTION REQUIRED OR TAKEN

11.B. EMERGENCY SERVICE

11.B.1. APPROVAL OF FREQUENCY RECONFIGURATION AGREEMENT

BETWEEN INDIAN RIVER COUNTY AND NEXTEL SOUTH CORPORATION

Assistant Fire Chief Brian Burkeen provided a brief background regarding interference issues between Indian River County's 800 MHz radio system and Nextel's cellular service. He requested the Board approve the contract between the County and Nextel South Corporation, where Nextel would provide for reallocation of frequencies to the County and pay all expenses.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved the Agreement between Indian River County and Nextel South Corporation, as recommended in the memorandum of November 19, 2007.

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

11.C. GENERAL SERVICES-NONE

11.D. HUMAN RESOURCES - NONE

11.E. HUMAN SERVICES - NONE

11.F. LEISURE SERVICES - NONE

11.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

11.H. RECREATION - NONE

11.I. PUBLIC WORKS - NONE

11.J. UTILITIES SERVICES

**11.J.1. GRAND HARBOR SPOONBILL MARSH SITE AGREEMENT FOR UTILITY
EASEMENT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved the Agreement for Utility Easement, and authorized the Chairman to execute said Agreement, as recommended in the memorandum of November 14, 2007.

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

**11.J.2. CHANGE ORDER No. 1 TO SPS CONTRACTING, INC. FOR THE FORCE
MAIN REPLACEMENT ON CR-510 TO A1A FROM THE WABASSO
BRIDGE UCP-2871**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 1 in the amount of \$49,069.00 to SBS Contracting, Inc. for additional work and material associated with required field changes to the original plans, and authorized the Chairman to execute same, as recommended in the memorandum of November 14, 2007.

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

12. COUNTY ATTORNEY MATTERS

12.A. AGENDA

County Attorney William Collins informed the Board that the Commission Agenda is set up by Ordinance and referenced pages 362 and 363 in the backup. He said that due to a previous situation, Chairman Bowden had suggested amending the Agenda to include informational items such as appointments not requiring consent; and he requested direction from the Board.

Chairman Bowden had asked Attorney Collins to review what other Counties do and she solicited ideas from the Board regarding an updated Agenda format.

Commissioner Flescher wanted to ensure that it would not prohibit the delivery of information or element of discussion. He felt that if it was purely for those items that did not require a discussion or vote, then he would support it.

Commissioner Wheeler disagreed with Attorney Collins' assessment of the Ordinance and thought it was clear that "removal" meant that they would serve at the pleasure of the Commission. He felt that the Ordinance should be changed and brought back indicating same. After a brief discussion, he agreed with Chairman Bowden's idea to include informational items in the agenda format.

Vice Chairman Davis thought there should be an informational portion in the Agenda as long as the two positions on Planning and Zoning still required three votes for the at-large position.

Bob Johnson, Coral Winds Subdivision, suggested that while amending the Agenda, the Board also consider making a change so that an action could be brought up during one meeting, then voted on the next. He felt that it would allow each Commissioner time to review and research an item before voting on it (excluding emergency actions).

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously authorized the County Attorney's office to investigate how other Counties handle informational items on their Agendas; and authorized advertisement for public hearing on an amendment to Indian River County Code Section 102.04, Order of Business, to include Informational Items in the Agenda format, as recommended in the memorandum of November 28, 2007.

13. COMMISSIONER ITEMS

13.A. COMMISSIONER SANDRA L. BOWDEN, CHAIRMAN

13.A.1. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT – WATER ISSUES

Chairman Bowden reported that she saw an article in the Press Journal where St. Johns Water Management District requested a permit for ground water from the Florida Aquifer, (see page 364 in the Backup.) She voiced concern and felt that the project should be fully accessed with the need to demonstrate the requirement, and to ensure that there would be no adverse effects on agriculture lands or the community. She said there needed to be a complete understanding as to what is going on, and since it is a time sensitive issue, she asked staff to review it.

Administrator Baird acknowledged that water is one of the biggest issues facing Florida. He said that a letter of concern was sent to St. Johns River Water Management District,

that would force them to demonstrate no adverse impacts on the local groundwater supply. He said the County Utility Department had been working closely with the Soil Water Conservation Board and Agriculture Committee regarding water supply issues and how they could affect both agriculture and the local residents. The issue relates to the effects of water drawdown with wells and mining activities.

Commissioner Wheeler agreed with Administrator Baird and said, “we are right on target.”

Vice Chairman Davis agreed that St. John’s knows what they are doing to us when they request permits.

Commissioner O’Bryan concurred with sending the letters, feeling that we need to be on board with the official notification of concerns.

Commissioner Flescher acknowledged his appreciation to Chairman Bowden for bringing this before the Board.

Margarita Engles, St. Johns Water Management District, said she appreciated the Board’s letter of concern and reported that the article was incorrect. She confirmed that the newspaper article would be republished and that she would provide the Board with a correct version of the article after it is published.

There was a brief discussion regarding the Board’s concerns over water issues and consumptive use permitting.

Commissioner Flescher wanted to move forward and take a proactive stance.

Aaron Bowles acknowledged that he appreciated the Board's concerns over the sand mines. He explained how sand mines are excavated and how water is used for the process. He also specified that there is no off-site discharge and no withdraw from the Floridian Aquifer, only the Surficial Aquifer.

Discussion ensued as to the concerns of run-off water, recharging through clay, and loss of water through evaporation.

Jens Tripson, Vero Beach, suggested the County be put on the mailing list so that when an application for consumptive use is received, the Board would be notified and could review it.

Chairman Bowden noted that the Commissioner's and Attorney's offices were already on the mailing list.

Joseph Paladin, President of Black Swan Consulting, identified the procedures after the paperwork is submitted to the County, spoke of the hydrology report, which is part of the Board's review, then warned that any negativity that would affect the wetlands or surrounding properties need to be addressed before the permits are granted.

Chairman Bowden announced that the letter of concern stands.

NO BOARD ACTION TAKEN OR REQUIRED

13.B. COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN

13.B.1. REQUEST FOR A RESOLUTION OF SUPPORT TO BE DRAFTED FOR

CONTINUATION OF THE INDIAN RIVER LAGOON BLUE WAY PROJECT

Vice Chairman Davis requested this Resolution be drafted and sent to Tallahassee.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved **Resolution 2007-163**, Support of the Group “A” Indian River Lagoon Blueway Florida Forever Project.

13.B.2. REQUEST FOR COUNTY ADMINISTRATOR TO DIRECT STAFF TO RESEARCH AND PROVIDE A REPORT ON ROCK AND SANDMINING REGULATIONS INVOLVING AGRICULTURAL LANDS IN OTHER COUNTIES

Vice Chairman Davis said this item came from a member of the Agricultural Advisory Committee (AAC) and he did not feel comfortable giving staff direction without support of the Board. He wanted to find out what other communities are doing before moving forward with the Moratorium issue; and serving as the liaison to the Agricultural Advisory Committee, he felt it appropriate to get consensus as to what other communities were doing so staff could provide a presentation.

Administrator Baird wanted staff to review this and come back with a time frame.

Vice Chairman Davis informed the Board that the next Agricultural Advisory Committee would be in January and suggested the presentation be given at that meeting.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously approved

to direct staff to research what other Counties are doing with regards to the regulations and provide a report on same, as recommended in the memorandum of November 28, 2007.

13.C. COMMISSIONER JOSEPH E. FLESCHER - NONE

13.D. COMMISSIONER PETER D. O'BRYAN - NONE

13.E. COMMISSIONER GARY C. WHEELER - NONE

14. SPECIAL DISTRICTS AND BOARDS

14.A. EMERGENCY SERVICES DISTRICT - NONE

14.B. SOLID WASTE DISPOSAL DISTRICT - NONE

14.C. ENVIRONMENTAL CONTROL BOARD – NONE

15. ADJOURNMENT

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

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 12:31 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Sandra L. Bowden, Chairman

Minutes Approved: _____

BCC/LAA/2007Minutes