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December 18, 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 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, December 18, 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 Athena Adams.

**1. CALL TO ORDER**

Chairman Bowden called the meeting to order at 9:00 a.m.

**2. INVOCATION**

Detective Teddy Floyd, IRC SO Crime Prevention Unit, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Commissioner Gary C. Wheeler led the Pledge of Allegiance to the Flag.

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

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

1. Addition: Item 7.DD – Strategic Aggregates Review Task Force Meeting
2. Addition: Item 13.E.1 - Clarification for Chairman's Aide transition period.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the above changes to the Agenda.

**5. PROCLAMATIONS AND PRESENTATIONS - NONE**

**6. APPROVAL OF MINUTES - NONE**

**7. CONSENT AGENDA**

Commissioner Wheeler asked to pull for discussion, Items 7.F., 7.W., and 7.AA.

Commissioner O'Bryan asked to pull for discussion, Items 7.K. & 7.DD.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Consent Agenda, as amended.

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

The Board noted the Reports on file in the Office of the Clerk to the Board.

**7.B. APPROVAL OF WARRANTS – NOVEMBER 30 TO DECEMBER 06, 2007**

ON MOTION by Commissioner O’Bryan, 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 30, 2007, to December 06, 2007, as requested in the memorandum of December 6, 2007.

**7.C. RESIGNATION OF TOWN OF INDIAN RIVER SHORES APPOINTEE TO  
THE METROPOLITAN PLANNING ORGANIZATION CITIZENS  
ADVISORY COMMITTEE**

The Board noted the resignation of Mr. Robert Bowman from the MPO Citizens Advisory Committee, as the Town of Indian River Shores Appointee.

**7.D. APPROVAL OF GIFFORD PARK SECURITY HOUSE LEASE AFTER**

**CONCEPTUAL APPROVAL AT NOVEMBER 20, 2007 BOARD MEETING**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously reviewed and approved the signed Gifford Park Security House Lease Agreement as presented, and as recommended in the memorandum of November 30, 2007.

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

**7.E. TRI-PARTY SUBLEASE AGREEMENT FOR STEALTH FLAGPOLE AT SEA OAKS WASTEWATER TREATMENT PLANT WITH VERIZON WIRELESS AND T-MOBILE SOUTH**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Tri-Party Sublease Agreement with Verizon Wireless Personal Communications LP d/b/a Verizon Wireless and T-Mobile South LLC. The Board also authorized the Chairman to execute said agreement, as recommended in the memorandum of December 10, 2007.

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

**7.F. VACATION COMPENSATION CONSIDERATIONS**

Commissioner Wheeler wanted to know how many employees would be affected, and whether every employee has the same opportunity. Administrator Baird explained the process and the reasons for this request.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved payment of up to one week for vacation accrual balances exceeding the maximum cap, as recommended in the memorandum of December 5, 2007.

**7.G. WABASSO CAUSEWAY FISHING PIERS**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved to wait for the Florida Department of Transportation (FDOT) to contract with a Marine contractor in late 2008 and to negotiate a price to remove the damaged fishing piers or repair the piers, as recommended in the memorandum of December 6, 2007.

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

**7.H. NEW TELEPHONE SYSTEM – NORTH COUNTY LIBRARY**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Agreement for the replacement telephone system at the North County Library, and authorized the Chairman to execute same, as recommended in the memorandum of December 10, 2007.

**7.I. WORK ORDER NO. 1, (ENGINEERING/SURVEYING) FULL & FINAL PAYMENT MASTELLER, MOLER, REED AND TAYLOR, INC., CR512 PHASE 3 (BUFFER PRESERVE) WETLAND-MITIGATION AS-BUILT (RECORD) SURVEY**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the payment of Invoice No. 5799 in the amount of \$7,500.00, to Masteller, Moler, Reed & Taylor, Inc., as recommended in the memorandum of December 6, 2007.

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

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the payment of Invoice No. 1-07-809 in the amount of \$2,500.00, to Morgan & Eklund, Inc., as recommended in the memorandum of December 10, 2007.

**7.K. TOUSA HOMES INC.’S REQUEST FOR FINAL PLAT APPROVAL FOR A PLAT-OVER-SITE PLAN SUBDIVISION TO BE KNOWN AS ORCHID**

**RESERVE**

Planning Director Stan Boling gave a brief description and update on the property, in response to Commissioner O'Bryan's queries.

**Matthew Conene**, representing Tulsa Homes, responded to questions from Commissioner O'Bryan and other Commissioners regarding conditions on the property and what could happen to the property after final plat is granted.

Among the issues addressed by the Board were fee simple transaction, bonding, and whether they wanted this to be a rental community.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, by a 4-1 vote (Commissioner O'Bryan opposed), the Board granted final plat approval for Orchid Reserve Subdivision, as recommended in the memorandum of December 12, 2007.

**7.L. CONSIDERATION OF COMMUNITY DEVELOPMENT BLOCK GRANT  
NEIGHBORHOOD REVITALIZATION CATEGORY CONSULTANT  
SELECTION COMMITTEE RECOMMENDATION**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the consultant selection prioritization list and authorized staff to begin contract negotiations starting with the number one ranked firm, Guardian Community Resource Management, Inc., as recommended in the memorandum of

December 11, 2007.

**7.M. CONSIDERATION OF COMMUNITY DEVELOPMENT BLOCK GRANT  
DISASTER RECOVERY INITIATIVE MODIFICATION #4**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the proposed Modification #4 to the Disaster Recovery Initiative Community Development Block Grant and authorized the Chairman to sign the appropriate documents for transmittal to the Department of Community Affairs (DCA), as recommended in the memorandum of December 10, 2007.

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

**7.N. WORK ORDER NO. 4 (ENGINEERING/SURVEYING) KIMLEY-HORN  
AND ASSOCIATES, INC., DISNEY PARCEL – CR510 BOUNDARY  
SURVEY**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 4, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of December 10, 2007.

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

**7.O. WORK ORDER NO. 1 (ENGINEERING/SURVEYING) FULL AND FINAL**

**PAYMENT, CARTER ASSOCIATES, INC., LENNIE'S LOUNGE  
BOUNDARY SURVEY, IRC PROJECT NO. 0512**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the payment of Invoice No. 07483-1 in the amount of \$5,850.00 to Carter Associates, Inc., as recommended in the memorandum of December 6, 2007.

**7.P. F.D.O.T. TRANSPORTATION REGIONAL INCENTIVE PROGRAM  
AGREEMENT (TRIP) AND RESOLUTION AUTHORIZING THE  
CHAIRMAN'S SIGNATURE, IRC PROJECT NO. 0749, INTERSECTION  
IMPROVEMENTS ON SR-60 AT 58<sup>TH</sup> AVENUE, STATE FM#:  
422688-1-58-01**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Resolution 2007-167 authorizing execution of a Transportation Regional Incentive Program (TRIP) for the intersection improvements on SR-60 at 58<sup>th</sup> Avenue.

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

**7.Q. WORK ORDER NO. 4 (ENGINEERING/SURVEYING), CARTER  
ASSOCIATES, INC., FENDER PARCEL BOUNDARY SURVEY, CR510  
AND US HIGHWAY NO. 1**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved

Work Order No. 4, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of December 10, 2007.

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

**7.R. 6-INCH FORCE MAIN ON 65<sup>TH</sup> STREET FROM OLD DIXIE HIGHWAY TO LATERAL G CANAL, APPROVAL OF FINAL PAYMENT TO SCHULKE, BITTLE & STODDARD, L.L.C., FOR ENGINEERING SERVICES, W.I.P. NO. 472-169000-06545, UCP No. 2709**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Invoice No. 06-128-6 as final payment to Schulke, Bittle & Stoddard, L.L.C., in the amount of \$1,451.67, as recommended in the memorandum of December 4, 2007.

**7.S. RELEASE OF RETAINAGE FOR WORK ORDER NO. 2 (UTILITY) WITH CARTER ASSOCIATES, INC., FOR SURVEY SERVICES FOR THE WEST REGIONAL WATER TREATMENT FACILITY EXPANSION – UCP-2621**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 2, release of retainage with Carter Associates, Inc., in the amount of \$274.00, as recommended in the memorandum of December 6, 2007.

**7.T. UNDERGROUND ELECTRICAL SERVICE INSTALLATION BY FLORIDA POWER AND LIGHT AT WEST REGIONAL WASTEWATER TREATMENT FACILITY – UCP-2621**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the underground feeder installation for \$5,103.31 by FP&L, and authorized the Chairman to execute the Agreement as presented and as recommended in the memorandum of November 28, 2007.

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

**7.U. REHABILITATION OF LIFT STATIONS #164, 167, 168 AND THE SOUTH REGIONAL WASTE WATER TREATMENT FACILITY LIFT STATION #1, RELEASE OF RETAINAGE AND FINAL PAY UCP-2898**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the final pay of \$14,767.80 and release of retainage to J&H Waterstop, Inc., for the rehabilitation of Lift Stations 164, 167 and 168, and the South Regional Wastewater Treatment Facility’s lift station, as recommended in the memorandum of December 5, 2007.

**7.V. HOBART INDUSTRIAL PARK 16-INCH WATER MAIN CONSTRUCTION, UCP No. 2387, APPROVAL OF FINAL PAYMENT TO CONTRACTOR AND RELEASE OF RETAINAGE**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Application for Payment No. 5 – Final as final payment to Contractor, Derrico Construction Corp., in the amount of \$21,644.10, as recommended in the memorandum of December 5, 2007.

**7.W. INTEREST RATE CHANGE ON ALL COUNTY FINANCING (PETITION PAVING, UTILITY ASSESSMENT PROJECTS, UTILITY IMPACT FEES, ETC.)**

Commissioner Wheeler inquired if this was an annual floating rate, with adjusters on an annual basis, and whether this applies to current applications. Administrator Baird said this would apply to everyone who asked for a loan in the calendar year 2008.

Commissioner O'Bryan favored a minimum 5 ¾% interest rate to give individuals a break. Administrator Baird did not have a problem as long as they did not go below 5.4%. Vice Chairman Davis was in favor of that proposal.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the fixed interest rate of 5.75%, which rate shall remain in effect for calendar year 2008 for all County financing with the exception of projects directly affiliated with a Bond issue for which the Bond covenants dictate a different interest rate, all as recommended in the memorandum of December 12, 2007.

**7.X. FINAL PAYMENT FOR ENGINEERING SERVICES FOR WATER AND SEWER UTILITY EXTENSIONS FOR CR 512 PHASE IV PER WORK ORDER NO. 10 WITH MASTELLER & MOLER, INC., UCP No. 2940**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Invoice No. 0713LA-2 – Final payment, in the amount of \$350.00 for engineering services, which will complete the County’s obligation to the Consultant, as recommended in the memorandum of December 11, 2007.

**7.Y. APPROVAL OF FIRST AMENDMENT TO PRIVACY AGREEMENT FOR SPATIAL REFINEMENT OF UTILITIES GIS DATA TO FLORIDA STATE PLANE COORDINATE SYSTEM PHASE 2**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Spatial Refinement of Utilities GIS Data to Florida State Plane Coordinate System Phase 2, in the amount of \$29,173.00, and authorized the Chairman to sign the First Amendment to Privacy Agreement as presented, and as recommended in the memorandum of December 10, 2007.

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

**7.Z. WABASSO BEACH RESTORATION (DRAFT) FDEP GRANT AGREEMENT No. 07IR2**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the (Draft) Florida Department of Environmental Protection (FDEP) Agreement No. 07IR2 for funding assistance associated with the Sector 3 (Wabasso Beach) Restoration and Emergency Dune Restoration Projects. The Board also authorized the Chairman to execute the final agreement upon submittal to the County and following approval from the County Attorney and Public Works staff, as recommended in the memorandum of December 10, 2007.

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

**7.AA. CONTRACT FOR PURCHASE OF VOGEL PROPERTY**

Commissioner Wheeler wondered if the appraisal and other fees were correct, as they seemed exorbitant. Attorneys Collins and DeBral addressed Commissioner Wheeler's concerns.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved and authorized the Chairman to execute the Contract for Sale and Purchase of the Vogel right-of-way property, and authorized payment of the costs outlined therein, as recommended in the memorandum of December 12, 2007.

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

**7.BB. INDIAN RIVER HABITAT FOR HUMANITY'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS GRACE WOODS**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved and granted final plat approval for Grace Woods Subdivision, as recommended in the memorandum of December 12, 2007.

**7.CC. GRANTS OF EASEMENTS TO INDIAN RIVER FARMS WATER CONTROL DISTRICT: 16<sup>TH</sup> STREET AND 74<sup>TH</sup> AVENUE**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Grants of Easements to Indian River Farms Water Control District, and authorized the Chairman to execute same, as recommended in the memorandum of December 12, 2007.

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

**7.DD. ADDITION: STRATEGIC AGGREGATES REVIEW TASK FORCE MEETING**

Commissioner O'Bryan sought approval to attend the Strategic Aggregates Review Task Force Meeting in Tampa, Florida on December 18, 2007 through December 20, 2007. He believed mining operations would be a topic of discussion.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, to Instruct the County Attorney to draft a resolution to be sent to State Representatives Poppell and Mayfield, Senators Pruitt and Haridopolous, and the Governor, strongly stating that we want to maintain local control over mining issues.

Chairman Bowden encouraged municipalities to send a letter or resolution to the State in this regard. She also encouraged individuals in the community to take the time to write personal letters to their Congressman, Senators and the Governor on the issues.

MOTION WAS AMENDED by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, to add the request for approval to attend the Strategic Aggregates Review Task Force Meeting in Tampa, Florida on December 18, 2007 through December 20, 2007.

THE CHAIRMAN CALLED THE QUESTION and the Motion carried unanimously. The Board approved: (1) to Instruct the County Attorney to draft a resolution to be sent to State Representatives Poppell and Mayfield, Senators Pruitt and Haridopolous, and the Governor, strongly stating that we want to maintain local control over mining issues; and (2) out-of-County travel for Commissioner O'Bryan to attend the Strategic Aggregates Review Task Force Meeting in Tampa, Florida on December 18, 2007 through December 20, 2007.

Chairman Bowden announced that staff was welcomed to attend the meeting in Tampa.

**8.A. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

**A. JEFFREY K. BARTON, INDIAN RIVER COUNTY CLERK OF COURT: BOARD OF COUNTY COMMISSION MEETING MINUTES**

Clerk of Court Jeffrey K. Barton updated the Board on its previous request to streamline the Board's Minutes. He pointed out that by law we are only required to document the Motion, who made and seconded it, and what the vote was. He discussed how the Minutes could be handled in a more efficient and effective manner to be ready for distribution a day after each meeting.

Vice Chairman Davis voiced his opinion on what he wanted the format of the Minutes to reflect. Commissioner Wheeler wanted to add that there was some degree of discussion on the issues and to say briefly what it was. Vice Chairman Davis wanted to see a counter on the Minutes with beginning and end time of each item. Mr. Barton asked the Board to approve in concept for staff to move forward with the proposal.

Motion was made by Vice Chairman Davis, SECONDED by Commissioner Wheeler to move forward with an electronic form of Minutes that reflect the time of each item, and who made and seconded a Motion.

Mr. Barton informed the Board that he was only asking for the concept to be approved and he would bring the matter back for approval. Administrator Baird provided further insight on the technology being proposed by Mr. Barton, and had no indication of how much this would cost.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved the concept of an electronic form of Minutes that reflect the time of each item, and who made and seconded a Motion, and that the matter be brought back to the Board for final approval.

**9. PUBLIC ITEMS -**

**A. PUBLIC HEARINGS**

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

Chief of Environmental Planning Roland DeBlois recapped the backup memorandum dated December 12, 2007 and provided background on the request of Harry Tanner that the County formally designate a 1.3 mile segment of Old Dixie Highway, south of CR 512, as a historic road. Mr. DeBlois thereafter responded to questions from the Board.

*Chairman Bowden opened the Public hearing.*

**Ruth Stanbridge**, County Historian, has determined that there is proof that this section of roadway is the original section of Old Dixie Highway. In response to Commissioner Flescher's request, Ms. Stanbridge outlined the benefits to the County to have this historic

designation.

*The Chairman called a break at 10:29 a.m., and reconvened the Meeting at 10:42 a.m., with all members present.*

**Mr. Charlie Wilson**, 1935 19<sup>th</sup> Avenue, representing Ocean Concrete, thought this designation could affect hundreds of people and not just Ocean Concrete. It was their belief that this roadway “is the incorrect road.” He urged the Board to take a timely look at this issue.

**Jeffrey Smith, Esquire**, Smith & Associates, Tallahassee, representing George Maib and Ocean Concrete, presented researched evidence/facts that sought to contradict the County Historian’s conclusion that the subject roadway is indeed historic. He urged the Board to gather more facts before making a decision that would affect people’s property rights because their properties abut a historic roadway.

**Todd Smith**, 121 Hinchman Avenue, Sebastian, and Engineer representing Ocean Concrete, wondered whether the Board could legally at this time consider this request because there is no right-of-way at certain locations along this 1.3 mile stretch of Old Dixie Highway. He addressed the issue of notice to property owners and felt if the Board approves without allowing widening of the road it would deny property owners the right to develop their properties.

Petitioner **Harry Tanner**, 517 Belfast Terrace, Sebastian, defended his credibility, which had been questioned since he petitioned the Board to have the subject roadway designated “historic”. He strongly believed the road has not been changed from its original structure and presented various researched data in evidence to the history of the subject roadway. He hoped the Board would vote to designate this segment of road “historic”.

**Councilwoman Dale Simchick**, Sebastian City Council, reported that the City of Sebastian has no law on the books for City historical roads and was awaiting the County’s

decision. She hoped the Board would not add option 6 and kick it back to Sebastian.

**Chris Crawford**, Chairman of the Historical Resources Advisory Committee (HRAC), clarified a portion of Minutes that were taken out of context regarding private property rights.

**Theresa Bryant**, 1759 Highland Avenue, Melbourne, property owner on Old Dixie, asked the Board to see if there is truly enough historic significance for this designation, and to consider the property values and rights of residents along that road.

**Warren Dill**, Esquire, 1565 US Highway 1, Sebastian, representing Janet Carretto, property owner on the subject roadway, addressed the issue of Notice Requirements which he felt was not fulfilled in this instance and thought that was sufficient to have the Board table this matter for a future date. He talked about the process used to bring the matter to the Board and whether the Petitioner was qualified under County laws to bring this matter forward. He felt the Historical Resources Advisory Committee (HRAC) did not go far enough in its research and consideration of this matter.

At the invitation of Attorney Dill, **Williams Zentz**, Surveyor of 684 Old Dixie Highway, explained how he platted/surveyed the subject portion of roadway.

**Attorney Dill** said his client was not necessarily opposed to the designation but wanted to be absolutely certain that it is indeed Dixie highway. He asked the Board to not take action on the matter but to send it back to staff and the HRAC for further review and study.

County Attorney William Collins addressed the concerns of Mr. Dill regarding filing of a petition, and notice requirements.

The Board briefly discussed whether the matter was quasi-judicial, if the law was followed regarding proper notice, and whether to table and have the issue brought back to the Board.

**Judy Tanner**, 517 Belfast Terrace, Sebastian, remarked that property owners do not have to be notified in this particular situation, and are only being notified as a courtesy. However, they do have to be notified if there was going to be excavation on their property and not for an historical declaration.

**Ralph Brown, Jacksonville Beach**, whose family own property along south Old Dixie Highway, was bothered by questions of whether Old Dixie is in fact Old Dixie.

**George Maib**, 11085 Old Dixie Highway and Ocean Concrete, said he did not receive timely notice. After addressing the rights of property owners, he asked that the Board send the matter back to the HRAC for further review.

**Amanda Avery**, 5235 N. Piper Circle, Port St. Lucie, read an e-mail from Tim Friedman of 11465 Old Dixie Highway, Sebastian, which questioned the petition to designate the subject roadway as historic. He also had not received notice from the County about these hearings.

**Ms. Stanbridge** invited questions from any interested party.

**Mr. Wilson** again urged the Board to deny the Petition or send it back to the HRAC until all questions have been decided.

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

Vice Chairman Davis felt it was not appropriate to move forward based on comments from Attorney Dill. Commissioner Flescher agreed with Vice Chairman Davis and felt that there has been a lot of compelling arguments that could suggest ambiguity.

MOTION WAS MADE by Commissioner Flescher to table this item to a time certain in January.

Attorney Collins did not think that would be effective because of Notice requirements.

Commissioner Wheeler was not sure they needed a Motion because the survey was not yet completed, and there were the issues of notification and quasi-judicial matters to be addressed.

Vice Chairman Davis MOVED, SECONDED by Commissioner Wheeler, to approve Option 2 recommended by staff: “Delay action on the petition until HRAC reviews research information to be provided by Mr. Maib and studied by the County Surveyor to determine if the road segment is in fact part of the original Old Dixie Highway.”

The Board continued to discuss the history of Old Dixie Highway and whether the subject road is indeed “the Dixie Highway.”

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

*The Chairman called a recess at 12:53 p.m., and reconvened the meeting at 1:07 p.m., with all members present.*

**9.A.2. MINING MORATORIUM ORDINANCE (LEGISLATIVE)**

County Attorney William Collins updated the Board on its recent request for a mining moratorium ordinance. By recapping the backup memorandum dated December 12, 2007, he outlined the basic requirements of a moratorium and its purposes. He thereafter recommended that the Board open the public hearing and receive input on the proposed mining moratorium, direct any desired changes to the ordinance prior to the second public hearing, and select a date and time for the second (final) public hearing.

*The Chairman opened the public hearing.*

**Robert Adair**, Vice Chairman of Indian River Soil and Water Conservation District, and Chairman of the Agricultural Advisory Board, through a slide presentation provided recently published hydro-ecology information on the adverse impacts associated with mining excavations. He urged the Board to fully investigate: (1) where mines should and should not be located; and (2) what limits should be placed on the size, number, and depth of all mining operations in the County. Mr. Adair thereafter responded to questions from the Board.

**Michael O’Haire**, representing a number of property owners along 82<sup>nd</sup> Avenue, talked about the effect of below surface water and thought the Board had no alternative but to take the time to study what is coming into our County for the first time. He urged the Board to adopt the moratorium for the purposes of getting the studies done. He thereafter responded to questions from the Board.

**Deborah Ecker**, 550 Riomar Drive, on behalf of Indian River Neighborhood Association (IRNA), urged the Board to: (1) adopt a moratorium on mining operations; and (2) direct the Planning Department to review and rewrite all regulations regarding allowable uses on agriculturally zoned lands.

The following speakers supported and urged the Board to enact the moratorium:

**Victor Knight**, 3295 Ranch Road

**Jens Tripson**, 2525 14<sup>th</sup> Street, Pelican Audubon Society

**Amy Banov** 6700 Carson Trail Drive, in vicinity of two existing mines

**Warren Winchester**, past Mayor of Vero Beach

**Fran Denhardt**, 2055 82<sup>nd</sup> Avenue, Ranchland Mobile Home Park

An unidentified speaker urged the board to vote yes for the moratorium.

**Nancy Wood**, Indian River Green Team

**Sharon Cowan**, 2125 82<sup>nd</sup> Avenue SW

**Donald Simon**, 8080 24<sup>th</sup> Street

**Jim Gallagher**, 766 Holden Avenue, Sebastian

**Martha Redner**, 9 Riverwood Drive, Sebastian

**Joseph Paladin**, President of Black Swan Consulting, and representing Wild Turkey Sand Mines, commented on water conservation issues and the Hydrologist report. He read the conclusion of the Hydrologist report, and concluded that the project as described in the report would have no adverse impact on the water resources of the area, but would significantly enhance them. He suggested the Board attach the proposals to future mining applications and the permitting process.

**Helen Shafer**, 6850 Carson Trail Drive, expressed faith in this Commission and the County to protect and take care of its residents.

**Bea Gardner** saw the need for changes in our Land Development Regulations; thought the Board should add time to the moratorium (a minimum of one year); and suggested the creation of a sand-mining awareness committee.

**Scott Sanders**, 13680 N. Indian River Drive, Sebastian, addressed the water issue and believed it is more cost effective to use surface water for potable uses. He discussed the

distinction between sand mining and rock coring, and defended comments about dust and traffic nuisance in mining areas. He urged the Board to get the facts from the experts and consider them.

Commissioner Wheeler explained that taking the time, getting the facts and studying them was what the moratorium sought to accomplish.

**Jonathan Ferguson**, Esquire, Ruden, McClosky, 145 Central Park Plaza, Port St. Lucie, representing Wild Turkey mines, thought the moratorium was not to take a studied look at regulations because that has already been done, but it was an effort to come up with rules in the future to prohibit the Wild Turkey Mines. He suggested that the moratorium was not necessary, and that the County could work out the issues with the applicant. He asked the Board to not adopt the moratorium but to send the matter to a second public hearing.

*The Chairman called a break at 2:52 p.m. and reconvened the meeting at 3:06 p.m., with Vice Chairman Davis absent.*

**Warren Dill**, Esquire, 1565 US 1, Sebastian, and representing North Cypress Reserve Inc., spoke only on the mine at 17<sup>th</sup> St. SW and 86<sup>th</sup> Avenue SW. He briefly reviewed the ordinance regarding issuance of mining permit and site plan release.

*(Clerk's Note: Vice Chairman Davis rejoined the Meeting at 3:09 p.m.)*

**Attorney Dill** asked the Board to exempt his client from the process just in case something happens between now and the next meeting should the Board decide to go ahead with the moratorium.

Administrator Baird would not necessarily use the term "exempt" because the applicant had gone through the application process, had paid all impact fees, and had gotten their concurrency certificates. Attorney Collins did not have a problem calling it an exemption to the

Ordinance because they were already approved.

**Russell Herman**, 586 Ridgewood Court, Sebastian, representing the Friends of St. Sebastian River, urged the Board to impose the moratorium on sand and rock mining for six months.

**Sharon Cowan** objected to the exemption and called it unconscionable. She implored the Board not to make such exemptions.

**Suzon Franzke**, 8190 37<sup>th</sup> Street, saw the moratorium as directly related to sand and rock mines, and voiced her objection to such mines.

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

Chairman Bowden reminded the Board of the decisions to be made: (1) whether they needed to make changes to any part of the ordinance prior to the second public hearing, and (2) if they desired to have a second public hearing to set a date and time for said hearing.

Board members contemplated the appropriate date and time to schedule the second public hearing, and whether to effect changes to the Ordinance. The following decision was subsequently made:

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved to schedule the second Public Hearing pertaining to the mining moratorium for Monday, January 7, 2008 at 7:00 pm., in the Commission Chambers.

**9.B. PUBLIC DISCUSSION ITEMS**

**1. REQUEST TO SPEAK FROM FRANK ZORC, ST. FRANCIS MANOR, REGARDING FUNDING ASSISTANCE FOR BOARDWALK AT ST. FRANCIS MANOR**

Frank Zorc gave a brief description of the St. Francis Manor community and asked for the Board's assistance with funds to complete a boardwalk around their pond to provide safe and healthy walking conditions for residents. Mr. Zorc responded to questions from the Board regarding approaching the City for assistance.

Commissioner O'Bryan thought this was a worthwhile cause for this non-profit corporation.

On Motion by Commissioner O'Bryan, SECONDED by Commissioner Vice Chairman Davis, the Board unanimously approved for the County to contribute funds not to exceed \$20,000.00 towards completion of the boardwalk, contingent upon the City matching said funds.

**9.C. PUBLIC NOTICE ITEMS - NONE**

**10. COUNTY ADMINISTRATOR MATTERS - NONE**

**11. DEPARTMENTAL MATTERS**

**A. COMMUNITY DEVELOPMENT**

**1. STAFF REQUEST FOR AUTHORIZATION TO PROCEED WITH HABITAT RESTORATION ON THE LOST TREE ISLANDS AS (PARTIAL) MITIGATION FOR THE SPOONBILL MARSH UTILITIES PROJECT AND**

**REQUEST FOR AUTHORIZATION TO PROCEED WITH OTHER  
RESTORATION AND PLANNING ACTIVITIES ASSOCIATED WITH A U.S.  
FISH AND WILDLIFE SERVICE COST-SHARE GRANT CONSISTENT  
WITH THE LOST TREE ISLANDS MANAGEMENT PLAN**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board unanimously approved and authorized staff to amend the continuing services agreement with Ecotech to implement the Spoonbill Marsh mitigation project on the Lost Tree Islands, and to provide services relating to implementation of the FWS grants described in the report, as recommended in the memorandum of December 11, 2007. Staff will bring the amended agreement (with cost) back to the Board for final approval.

**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 - NONE**

**11.I. PUBLIC WORKS - NONE**

**11.J. UTILITIES SERVICES**

**1. AMENDMENT NO. 2 TO WORK ORDER NO. 2 TO PBS&J – ADDITION OF THREE WELLS AT NORTH COUNTY R.O. PLANT TO HELP REDUCE IMPACTS TO LOCAL WELLFIELDS**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Amendment No. 2 to Work Order No. 2 with Post Buckley, Schuh & Jernigan, Inc., for an amount not to exceed \$157,850.00, and authorized the Chairman to execute said amendment, as recommended in the memorandum of December 5, 2007.

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

**11.J.2. APPROVAL OF CHANGE ORDER NO. 1 TO BID NO. 2007025 FOR RELOCATION OF AN EXISTING 20-INCH VALVE ON THE FORCE MAIN AT THE MASTER IN-LINE PUMP STATION AT THE SOUTH COUNTY R.O. PLANT, INSTALL A TELEMETRY TOWER AND UPSIZE INSTRUMENTATION SAMPLE VALVES – UCP 2628**

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

(1) the addition of \$12,226.27 to the project, as well as, ninety (90) additional days for completion; (2) approved Change Order No. 1; and (3) authorized the Chairman to execute said Change Order, as recommended in the memorandum of December 4, 2007.

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

**11.J.3. VERO LAKE ESTATES 12" WATER MAIN – UCP 2958, CHANGE ORDER NO. 1 TO IRC CONTRACT 2008015 WITH SHELTRA AND SONS CONSTRUCTION COMPANY**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 1 to Sheltra and Son Construction Co., Inc., in the total amount of \$103,248.00, and authorized the Chairman to execute said Change Order, as recommended in the memorandum of December 7, 2007.

**11.J.4. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT FOR IRC BID #2008019, FURNISH AND INSTALL TWO (2) BULK SODIUM HYPOCHLORITE STORAGE TANKS, UTILITIES DEPARTMENT**

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

the Bid Award to the second low bidder, Odyssey Manufacturing Co., 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 same, 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, as recommended in the memorandum of December 11, 2007.

**12. COUNTY ATTORNEY MATTERS - NONE**

**13. COMMISSIONERS' ITEMS**

**A. COMMISSIONER SANDRA L. BOWDEN, CHAIRMAN - NONE**

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

**I. VERO LAKE ESTATES GREEN PARK**

Vice Chairman Davis was approached by residents of Vero Lake Estates and by County staff with the idea of creating a "green park" on a 10-acre parcel of land at 98<sup>th</sup> Avenue between 78<sup>th</sup> and 79<sup>th</sup> Streets. He sought the Board's approval to direct the County Attorney's Office to review the issues involved in this request and to return to the Board with its findings.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously directed staff to review the feasibility of a “green park” on a 10-acre parcel of land situated at 98<sup>th</sup> Avenue between 78<sup>th</sup> and 79<sup>th</sup> Streets, as requested in the memorandum of December 12, 2007.

**C. COMMISSIONER JOSEPH E. FLESCHER**

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

**E. COMMISSIONER GARY C. WHEELER - NONE**

**I. ADDITION: CHAIRMAN'S ASSISTANT**

Commissioner Wheeler reminded the Board of past actions pertaining to Commissioners' Personal Aides and the added responsibility of the Chairman's Assistant acting as Office Coordinator with the offer of a 5% increase in salary to take on the additional responsibilities. Commissioner Wheeler desired to include in those guidelines a 30-45 day transition period when the current Chairman's Assistant would assume those duties.

Human Resources Director Jim Sexton confirmed that there was a 5% stipend given to the Chairman's Assistant for additional responsibilities. With the onset of a new Chairman's assistant, the 5% stipend was removed from the former Chairman's Assistant and given to the new Chairman's Assistant.

Commissioner Wheeler MOTIONED for a 45-days transition period and Chairman Bowden objected, as she

believed 45 days were too much.

Discussion ensued among Board members regarding how much transition time was needed for the Chairman's Assistant and whether to handle this on a year-by-year basis.

MOTION WAS AMENDED by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, for the transition pay period to end today. The Chairman CALLED THE QUESTION and the Motion carried unanimously.

#### **14. SPECIAL DISTRICTS AND BOARDS**

The Chairman announced that immediately upon adjournment of the regular meeting of the Board of County Commissioners, 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.

##### **A. EMERGENCY SERVICES DISTRICT**

###### **1. EMERGENCY SERVICES STATION 2, DEDUCTIVE CHANGE ORDERS NOS. 2 AND 3**

###### **14.A.2. APPROVAL TO PURCHASE TWO (2) REPLACEMENT FIRE ENGINES FROM TEN-8 FIRE EQUIPMENT, INC.**

##### **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.

**I. AMENDMENT NO. 1 TO WORK ORDER NO. 11 TO GEOSYNTEC  
CONSULTANTS FOR THIRD PARTY VERIFICATION SERVICES  
RELATED TO LANDFILL METHANE GREENHOUSE GAS REDUCTION  
CREDITS**

**C. ENVIRONMENTAL CONTROL BOARD – NONE**

**15. ADJOURNMENT**

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 4:06 p.m.

ATTEST:

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

\_\_\_\_\_  
Sandra L. Bowden, Chairman

Minutes Approved: \_\_\_\_\_

BCC/AA/2007 Minutes