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January 8, 2008

**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 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, January 8, 2008. 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**

Public Works Director Jim Davis 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**

*Clerk's Note: Chairman Bowden pulled Item 9.C.1. during the meeting, it was not addressed under Item No. 4.*

**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 and Karen Mechling gave a PowerPoint presentation and recognized the Recreation Department and the Parks Department for helping with the Winter Fest event that took place at Pointe West on Saturday, December 15, 2007.

**6. APPROVAL OF MINUTES**

**6.A. REGULAR MEETING OF DECEMBER 4, 2007**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of December 4, 2007. There were none.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the Minutes of the Regular Meeting of December 4, 2007, as written and distributed.

**6.B. REGULAR MEETING OF DECEMBER 11, 2007**

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

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

Minutes of the Regular Meeting of December 11, 2007, as written and distributed.

## **7. CONSENT AGENDA**

Commissioner O'Bryan requested Items 7.E. and 7.P. be pulled for discussion.  
County Attorney William Collins requested Item 7.K. be pulled for discussion.

### **7.A. APPROVAL OF WARRANTS – DECEMBER 7, 2007 TO DECEMBER 13, 2007**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of December 7, 2007 to December 13, 2007, as recommended in the memorandum of December 13, 2007.

### **7.B. APPROVAL OF WARRANTS – DECEMBER 14, 2007 TO DECEMBER 20, 2007**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of December 14, 2007 to December 20, 2007, as recommended in the memorandum of December 20, 2007.

### **7.C. APPROVAL OF WARRANTS – DECEMBER 21, 2007 TO DECEMBER 27, 2007**



ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of December 21, 2007 to December 27, 2007, as recommended in the memorandum of December 27, 2007.

**7.D. 2008 BCC COMMITTEE RE-ASSIGNMENTS**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board approved the Committee assignments for 2008, as recommended in the memorandum of January 3, 2008.

The only changes from the November 28, 2006 assignments occurred with those committees that mandate the BCC Chairman as liaison.

**7.E. 2008 COMMITTEE APPOINTMENTS AND RE-APPOINTMENTS**

Commissioner O'Bryan wanted to know if there was a policy regarding committee members serving more than two consecutive terms, and how poor attendance had been handled in the past.

Commissioner Davis assured Commissioner O'Bryan that if there were non-productive individuals on the committees they would be excused immediately. Neither he nor Chairman Bowden were aware of a policy pertaining to term limits.

There was a brief discussion regarding excused absences.

Chairman Bowden encouraged citizens to participate in an advisory capacity on the various committees.

Commissioner O'Bryan felt that individuals with poor attendance should be questioned as to their willingness to continue serving.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously granted permission to seek replacements for those positions posted on the Vacancy Listing; and approved the continuation of service for those representatives and members posted on the Reappointment Listing, as requested in the memorandum of January 3, 2008.

#### **7.F. RESIGNATION OF DISTRICT 3 APPOINTEE TO BOARD OF ZONING**

##### **ADJUSTMENTS**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously accepted the resignation of Fred Plair, District 3 appointee to the Board of Zoning Adjustments, whose term expires in

2008, as recommended in the memorandum of December 19, 2007.

**7.G. APPOINTMENT OF TOWN OF INDIAN RIVER SHORES REPRESENTATIVE  
APPOINTEE TO THE METROPOLITAN PLANNING ORGANIZATION  
CITIZENS ADVISORY COMMITTEE**

The Board noted for the record the appointment of Mr. John Warner, replacing Mr. Jack Robert Bowman, as the Representative Appointee to the Metropolitan Planning Organization Citizens Advisory Committee.

**7.H. BLANKET AUTHORIZATION FOR COMMISSIONERS TO ATTEND ASSIGNED  
COMMITTEE MEETINGS OUT OF COUNTY**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved out of county travel for all current and any future assigned committee meetings Board members are required to attend, as recommended in the memorandum of December 19, 2007.

**7.I. 2007 ELECTION OF SCHOOL PLANNING CITIZENS OVERSIGHT  
COMMITTEE CHAIRMAN AND VICE CHAIRMAN**

The Board noted the election of Mr. Joel Tyson as Chairman, and Mr. Peter Robinson as Vice Chairman of the School Planning Citizens Advisory Committee for the year 2007.

**7.J. 2008 COMMITTEE APPOINTMENTS FOR THE INDIAN RIVER COUNTY  
SCHOOL DISTRICT**

The Board acknowledged the representatives appointed by the Indian River County School Board to serve on various County Committees and Boards for 2008.

**7.K. ACQUISITION OF RIGHT-OF-WAY ALONG 66<sup>TH</sup> AVENUE**

County Attorney Collins specified that this item was a proposal for an expedited process to acquire three parcels of right-of-way for the County. He informed the Board that instead of negotiating a purchase price with each individual property owner, that Attorney Maguire, who represents 40 to 50 landowners along 66<sup>th</sup> Avenue, would accelerate the process of acquisition by having a mutually agreed upon appraiser come in with an appraised value, and upon receipt of the appraisal, a contract would be written. Attorney Collins explained the fees that the County would be responsible for, and acknowledged that staff had reservations regarding the best approach.

Deputy County Attorney William DeBral clarified the qualifications of the appraiser who had appraised the Dowling, Van Antwerp, and Kahn parcels, and also explained the attorney fees as set by Statute. He said that in the future, with Board approval, and after they

receive enough appraisals back to get a good representative value of the property, staff would be able to negotiate the purchase price (for bare land) more quickly.

There was a lengthy discussion regarding appraisal and attorney fees.

Assistant County Administrator Michael Zito wanted to let the public know that the property owners could negotiate with the County on the appraised value up to 10% without an attorney or attorney fees.

Attorneys DeBraul and Collins responded to the Board's questions pertaining to appraisals and how the various fees were determined.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the three contracts for purchase of the Dowling parcel, 4660 67<sup>th</sup> Avenue; the Van Antwerp parcel, 4805 66<sup>th</sup> Avenue; and the Kahn parcel, 8325 66<sup>th</sup> Street; and after purchase of the three properties, staff would make a report to the Board with a recommendation as to whether additional parcels should be acquired using the same method; and to negotiate reducing the attorney fees to 3½% - 5% commission.

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

Chairman Bowden wanted this process reviewed to see if it is in the best interest of the public.

Attorney Collins felt that if this process proves to be efficient, they could go back to the remaining parcels and negotiate a reduced fee.

**7.L. 37<sup>TH</sup> STREET PROJECT – KOVALESKI**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously authorized the Chairman to execute the County Deed and Release of Easement for recording in the Public Records in the proper sequence, as recommended in the memorandum of December 31, 2007.

COUNTY DEED AND RELEASE OF EASEMENT ON FILE IN THE  
OFFICE OF THE CLERK TO THE BOARD

**7.M. AGGREGATE MINING RESOLUTION**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution 2008-001**, in opposition of State preemption over mining for construction aggregate materials.

**7.N. REQUEST PERMISSION TO ADVERTISE TO HOLD PUBLIC HEARING TO  
ADOPT AN ORDINANCE TO DESIGNATE AN OFFICIAL COUNTY SEAL**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved a public hearing date of January 22, 2008 to adopt an ordinance designating an official County Seal containing grapefruit, as recommended in the memorandum of December 26, 2007.

**7.O. RIGHT-OF-WAY ACQUISITION, CATHY SUE WOOLSEY, POWERLINE  
ROAD (70<sup>TH</sup> AVENUE)**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the \$11,215.00 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of December 20, 2007.

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

**7.P. WABASSO BEACH PARK RESTORATION; CONTRACT BIDDING  
DOCUMENTS; TIMES OF COMPLETION, LIQUIDATED DAMAGES, &  
BONUS PAYMENTS**

Commissioner O'Bryan did not feel that it was necessary to offer a bonus provision in the bid for finishing the park project early. He reasoned that since the project would not be

completed until late summer or early fall (after the season), that it would not be feasible to spend the extra money.

Public Works Director Jim Davis agreed with Commissioner O'Bryan's concerns, adding that it would be a cost savings to the County because the inspectors would not be required to stay on the job as long. He divulged that bonus provisions are being considered for all future contracts, and that he proposed it for this contract because there was such a public outcry to get this park open.

Administrator Baird acknowledged that the bonus provision was an incentive to expedite getting the park in order quickly, due to public interest.

Commissioner Wheeler was concerned that offering a bonus might open up a situation that would encourage Contractors to bid over a longer period of time, so they could get a bonus. He preferred shorting the completion time by 30-days when negotiating, and adding a penalty to those who do not finish the project on time.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously **denied** a bonus payment of \$500.00 per calendar day should the Substantial Completion be met sooner than 180 days; and unanimously **approved** the bonus payment of \$200.00 per calendar day should the final completion date be met sooner than 30 days for the completion of the punch list.



**7.Q. APPROVAL OF BID AWARD FOR IRC BID # 2008016 DEMOLITION OF STRUCTURES, BUILDING DIVISION**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved that the bid be awarded to the second lowest bidder, Aqua Waste Repairs, Inc. 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 December 18, 2007. Investigation by the Building Division determined that the low bidder, Staski Enterprises, Inc., does not have the required Business Tax Receipt (formerly known as Occupational License), and has 21 open permits that need to be addressed before any new permits are issued.

**7.R. APPOINTMENT OF INDIAN RIVER COUNTY REPRESENTATIVES TO THE ALLIANCE OF OKEECHOBEE & THE TREASURE COAST**

The Board acknowledged the appointment of representatives of Indian River County to the Alliance of Okeechobee and the Treasure Coast as follows: Andy Bradley, IRC Sheriff's Office, replacing Bill Brunner, Undersheriff, IRC Sheriff's Office; Michael Kint, Indian River County United Way; Beverly O'Neill, Indian River County Citizen; Brad Bernauer, Human Services Director, and Staff for the Children's Services Advisory Committee; and Leslie Spurlock, Executive Director of the Indian River County Healthy Start Coalition.

**7.S. DECLARE EXCESS EQUIPMENT SURPLUS FOR SALE OR DISPOSAL**

**GENERAL SERVICES/PURCHASING DIVISION**

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

(1) declared excess items surplus and authorized its sale and/or proper disposal; (2) granted the authority to have the surplus equipment delivered to the Indian River County Fairgrounds to be sold at public auction on January 26, 2008; and (3) authorized the Clerk to remove the assets not found during inventory from the Board's capital asset inventory list, as recommended in the memorandum of December 31, 2007.

**7.T. FDEP BEACH RESTORATION PROJECT AGREEMENT 07IR3**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the project and authorized execution of FDEP Contract 07IR3, to be funded as specified, and as recommended in the memorandum of December 21, 2007.

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

**7.U. WORK ORDER NO. 4, (ENGINEERING/SURVEYING) – FULL & FINAL  
PAYMENT, CARTER ASSOCIATES, INC., FENDER PARCEL BOUNDARY  
SURVEY, CR510 AND US HIGHWAY NO. 1**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved full and final payment for Work Order No. 4 with Carter Associates, Inc., Invoice No. 07496-1 in the amount of \$2,500.00, as recommended in the memorandum of December 27, 2007.

**7.V. MISCELLANEOUS BUDGET AMENDMENT 003**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution 2008-002**, amending the fiscal year 2007-2008 Budget.

**7.W. RIGHT-OF-WAY ACQUISITION, HARRY AND PAULINE JONES,  
POWERLINE ROAD (70<sup>TH</sup> AVENUE)**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the \$12,170.00 to complete the purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of December 27, 2007.

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

**7.X. RIGHT-OF-WAY ACQUISITION 66<sup>TH</sup> AVENUE SOUTH OF 8<sup>TH</sup> STREET,  
WILLIAM C. AND EVA Z. GRAVES**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved Alternative No. 1, the \$249,150.00 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of December 19, 2007.

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

**7.Y. WORK ORDER NO. 5 (ENGINEERING/SURVEYING), CARTER ASSOCIATES,  
INC., OLD DIXIE HIGHWAY STUDY FROM CR512 TO US HIGHWAY NO.**

**1**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved Work Order No. 5, 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 26, 2007.

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

**7.Z. 1<sup>ST</sup> ROAD FROM 35<sup>TH</sup> AVENUE TO 32<sup>ND</sup> AVENUE WATER SYSTEM  
CONFLICT RESOLUTIONS, UCP No. 2984 WIP No.  
47123536-044699-07526, APPROVAL OF FINAL PAYMENT TO  
CONTRACTOR, UNDERGROUND UTILITIES, INC., AND RELEASE OF  
RETAINAGE**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the Application for Payment No. 2 – Final as final payment to Underground Utilities, Inc., in the amount of \$980.12, the final payment of \$980.12 will release the retainage and complete the County’s obligation to Underground Utilities, Inc., as recommended in the memorandum of December 14, 2007.

**7.AA. BENT PINE LIFT STATIONS No. 68 AND 69 UPGRADE AND GENERATOR  
ADDITIONS, APPROVAL OF FINAL PAYMENT TO SCHULKE, BITTLE &  
STODDARD, L.L.C. FOR ENGINEERING SERVICES, W.I.P. NOS.  
472-169000-07513 AND 471-23536-044699-07513, UCP No. 2806**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved Invoice No. 06-036-10 as final payment to the Consulting Engineer, Schulke, Bittle & Stoddard, L.L.C., in the amount of \$702.00, as recommended in the memorandum of December 31, 2007.

**7.BB. 6-INCH FORCE MAIN ON 65<sup>TH</sup> STREET FROM OLD DIXIE HIGHWAY TO  
LATERAL G CANAL, APPROVAL OF FINAL PAYMENT TO SPS  
CONTRACTING, INC. FOR CONSTRUCTION SERVICES, W.I.P. No.  
472-169000-06545, UCP No. 2709**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the project final cost amount of \$173,814.00, and approved Application for Payment No. 3 as final payment to the Contractor, SPS Contracting, Inc., in the amount of \$17,520.95, as recommended in the memorandum of December 18, 2007.

**7.CC. FINAL PAYMENT TO BROWN AND CALDWELL FOR THE DEVELOPMENT  
OF A RECLAIMED WATER IMPLEMENTATION PLAN WO#3-UCP-2747**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved payment for Work Order #3 to Brown and Caldwell for a final payment of \$6,000.00, as recommended in the memorandum of December 21, 2007.

**7.DD. PROPERTY ACQUISITION, 8525 U.S. HIGHWAY 1 (NORTHWEST CORNER OF THE INTERSECTION OF CR510 AND US1)**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the Agreement to Purchase the parcel for \$500,000.00, and authorized the Chairman to execute the agreement, as recommended in the memorandum of December 28, 2007.

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

**7.EE. RELEASE OF RETAINAGE, APPLIED TECHNOLOGY AND MANAGEMENT, INC., WORK ORDER #4**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the application for release of retainage, with funding as specified and as recommended in the memorandum of December 31, 2007.

This work is subject to 50% cost sharing with the Florida Department of Environmental Protection under Grant Agreement 98IR1.

**7.FF. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT FOR IRC BID  
#2008025, SOUTH OSLO RIVERFRONT CONSERVATION AREA  
REFORESTATION PROJECT, COMMUNITY DEVELOPMENT  
DEPARTMENT**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously: (1) approved the bid be awarded to Sod Services, LLC as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; (2) approved the sample agreement; and (3) 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, as recommended in the memorandum of December 21, 2007.

**7.GG. IRC JAIL EXPANSION – REDUCTION OF RETAINAGE**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the release of the current retainage (5%), and that the payment amount of \$789,829.30, be issued to Peter R. Brown Construction, as recommended in the memorandum of January 3, 2008.



**8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE**

**9. PUBLIC ITEMS**

**9.A. PUBLIC HEARINGS**

**9.A.1. CONSIDERATION OF PROPOSED AMENDMENTS TO CHAPTER 973**

**PUBLIC NUISANCE FOR WEED MAINTENANCE REGULATIONS AND THE NUISANCE ABATEMENT PROCESS (LEGISLATIVE)**

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

Planning Director Stan Boling used a PowerPoint presentation to recap the memorandum dated December 14, 2007. He addressed issues pertaining to weed maintenance, current criteria for weed nuisance, exemptions, recent problems with Vista Gardens and Vista Royale, proposed changes, and the code enforcement process.

Assistant County Attorney George Glenn used a PowerPoint presentation to detail the existing Chapter 973 Ordinance, and the proposed options that would streamline the process. He explained the enforcement procedures and discussed County concerns. Attorney Glenn sought approval from the Board to: (1) adopt the proposed Ordinance which presents all code violations to the Code Enforcement Board; (2) require a finding from the Code Enforcement Board; and (3) empower the Board with the option that the County abate the nuisance. Attorney Glenn responded to the Board's questions pertaining to the process of nuisance abatement.

The Chairman opened the public hearing.

**Ray Batt**, 36 Vista Gardens Trail, and **Tom Long**, President of the Board of Directors at Vista Gardens, supported and urged the Board to adopt the Ordinance.

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

ON MOTION by Commissioner Flescher, SECONDED by Chairma Bowden, the Board unanimously adopted **Ordinance 2008-003** concerning an amendment to Land Development Regulations (LDRs); providing for an amendment to Chapter 973, Public Nuisance, by amending restrictions on weeds Section 973.03, by amending Assessment for Abatement of Nuisance Sections 973.05 and 973.06 by providing for repeal of conflicting provisions; codification; severability; and effective date.

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

**9.A.2. POINTE WEST OF VERO BEACH, LTD.'S REQUEST TO MODIFY THE APPROVED PLANNED DEVELOPMENT (PD) CONCEPTUAL PLAN FOR POINTE WEST (LEGISLATIVE)**

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

Director Boling recapped the backup memorandum of December 28, 2008 and provided background on the proposed modifications to the conceptual plan for Pointe West. He

informed the Board that this would be the final hearing for this request, and he addressed questions from Commissioner O'Bryan concerning traffic alignment and impacts.

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

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously approved the conceptual PD plan modifications with the following conditions: (1) that commercial and office uses within the SR60 commercial/office area shall be limited to general and medical offices and a maximum 10,500 square feet of retail uses. The total office and retail building floor area within the SR60 commercial/office area shall not exceed 112,650 square feet; and (2) that prior to the issuance of a C.O. (Certificate of Occupancy) for more than 50,000 square feet of commercial floor area within the SR60 commercial/office area, the applicant shall construct a minimum of 25,000 square feet of commercial floor area in Town Center, as recommended in the memorandum of December 28, 2007.

**9.A.3. CONSIDERATION OF PROPOSED LDR AMENDMENTS TO CHAPTER 910, CONCURRENCY REGULATIONS, AND ALLOWANCES FOR "VESTING" CONCURRENCY (CONTINUED FROM MEETING OF DECEMBER 11, 2007) (LEGISLATIVE)**

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

Director Boling noted that this item was a follow-up to the Public Hearing of December 11, 2007, whereby staff was directed to re-examine the proposed amendments relating to “permanent concurrency”. He recapped the memorandum dated December 27, 2007 and requested the Board adopt the Ordinance.

Discussion ensued regarding impact fees and vesting.

The Chairman opened the public hearing.

**Joseph Paladin**, President of Black Swan Consulting, supported and urged the Board to approve the Ordinance.

**Jim Granse**, requested that the Agenda be published in the Press Journal.

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

Commissioner O’Bryan felt that the proposal was better than before, and despite the challenge, would like to see permanent vesting for individual lot owners.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously adopted **Ordinance 2008-002**, concerning an amendment to Land Development Regulations (LDRs); providing findings; providing for an Amendment to Chapter 910, Concurrency

Management System, by amending Development Review Systems Section 910.07, and by amending Determination of Concurrency, generally Section 910.08, by providing for repeal of conflicting provisions; codification; severability; and effective date.

**9.B. PUBLIC DISCUSSION ITEMS**

**9.B.1. REQUEST TO SPEAK FROM DR. STEPHEN J. FAHERTY, SR. REGARDING  
PETITION FROM BOARD TO CITY OF VERO BEACH FOR CHANGE IN  
ELECTRIC SERVICE PROVIDER**

**Dr. Stephen Faherty**, resident of District 5, detailed his Summary of Report, dated November 15, 2007 (see pages 320 and 321 in backup). The report provided data to support the need for County petitions related to correcting the lack of County and State controls over the City of Vero Beach (COVB) electric utilities, and reducing the high rates and taxes.

There was a lengthy discussion pertaining to the rates between Florida Power and Light (FP&L) and the City of Vero Beach utilities, how the jurisdiction was derived, the appropriate process, equity, and representation.

County Attorney Collins acknowledged that Dr. Faherty's report was accurate and that the issue was "how can this be resolved." He indicated that the City itself could petition the Public Service Commission to resolve its territorial dispute. He felt that Dr. Faherty had laid out the options properly, and that the City should consider either divesting to FP&L or supporting legislation that might allow representation of the County Codes through governmental corporation under the Interlocal Agreement.

Dr. Faherty planned to present his report to the City Council but wanted this to move forward as to “how” the rates could be reduced.

Budget Director Jason Brown clarified that the millage rate on the annexation of Barrier Island properties would be raised by one millage.

The Chairman opened the public hearing.

**John Sullivan**, 1500 S. Highway A1A, expressed that this issue was a “gross inequitable situation” where everyone should pay the same rates for the same services.

**John Lee**, Customer Service Manager for the City Vero Beach, agreed that Dr. Faherty’s figures were accurate but refuted some of his remarks pertaining to regulations. He suggested Dr. Faherty make his presentation to the Utilities Commission and the City Council, then move forward in a positive direction.

Commissioner Wheeler thought an independent Utilities Commission would be a positive step in offering representation. He acknowledged that he would feel better about taking a position on this after a presentation has been made to the Utilities Advisory Committee, and the City of Vero Beach City Council, to afford them the opportunity to address the problem before the Board steps-in with a solution. The other Commissioners agreed.

There was further discussion regarding representation issues, annexing, the possibly of waiving franchise fees for County residents, and the importance of working together.

The Chairman called a break at 11:37 a.m., and reconvened the meeting at 11:46 a.m., with all members present.

**Bill Walker**, 2295 Saint Christopher Lane, representing a community with twelve residents, voiced concern over the inequity of fees and structures.

**John Berns**, 1811 East Sandpointe Place, supported Dr. Faherty's report and voiced concerns of inequity and discrimination over the rates being charged by the City of Vero Beach utilities. He requested: (1) staff contact the City of Vero Beach and request that they equalize the charges to the City and County utility customers, and (2) staff contact City government to suggest that any excess monies (left over after meeting expenses) be put into a reserve account that could be used for future expenditures.

NO BOARD ACTION TAKEN

**9.C. PUBLIC NOTICE ITEMS**

**9.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR JANUARY 15, 2008:**

**KENNEDY GROVES, INC./510, LLC REQUEST TO ABANDON A SEGMENT OF 86<sup>TH</sup> STREET BETWEEN 47<sup>TH</sup> AVENUE AND CR510, AND A SEGMENT OF 46<sup>TH</sup> AVENUE BETWEEN 86<sup>TH</sup> PLACE AND CR510 IN WABASSO**

*Clerk's Note: Chairman Bowden announced that this Item was pulled from the Agenda, it was not addressed under Item No. 4.*

**10. COUNTY ADMINISTRATOR'S 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 - NONE**

**11.I. PUBLIC WORKS**

**11.I.1. AWARD OF BID # 2008012, CR512, PHASE IV**

Public Works Director Jim Davis informed the Board that all the bids received came in under the Engineer's estimate, feeling that it was because of low economic development.

There was a brief discussion between Vice Chairman Davis and Attorney DeBral regarding the land swap issue of 101<sup>st</sup> and 102<sup>nd</sup> Terrace.



ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the contract be awarded to H & J Contracting, Inc. in the amount of \$8,584,040.58, as recommended in the memorandum of December 19, 2007.

## **11.J. UTILITIES SERVICES**

### **11.J.1. ROCKRIDGE STORM WATER PROTECTION**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved, in concept, an upper limit of \$350,000.00 for funding the storm water improvements needed within Rockridge, as recommended in the memorandum of January 3, 2008. Upon conceptual approval by the Commission of the storm water change order, staff will finalize a detailed change order, and take the change order back to the Commission for final approval.

### **11.J.2 SR60 FROM 66<sup>TH</sup> AVENUE TO 84<sup>TH</sup> AVENUE CONFLICT RESOLUTION WITH FDOT DRAINAGE, PAVEMENT AND TRAFFIC SIGNAL IMPROVEMENTS, APPROVAL OF WORK ORDERS FOR ENGINEERING DESIGN SERVICES TO RETAIN SCHULKE, BITTLE & STODDARD AND MASTELLER, MOLER, REED & TAYLOR AND APPROVAL OF PROJECT FOR PUBLIC BID, UCP #3026**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved: (1) the total construction and consulting costs for the project estimated at \$3,468,053.50; (2) the project for public bidding through the County Purchasing Division, (3) retaining Schulke, Bittle and Stoddard & Masteller & Moler for engineering and surveying services; (4) Work Order No. 5 with Schulke, Bittle & Stoddard for a total amount of \$91,472.50, (5) Work Order No. 11 with Masteller & Moler for a total amount of \$102,690.00; and (6) authorized the Chairman to execute both Work Orders, as presented and recommended in the memorandum of December 18, 2008.

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

**12. COUNTY ATTORNEY MATTERS - NONE**

**13. COMMISSIONER ITEMS**

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

**13.B. COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN - NONE**

**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**

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 appended to this document.

**14.A.1. APPROVAL OF MINUTES OF REGULAR MEETING OF DECEMBER 11, 2007**

**14.A.2. CONTRACT WITH BARTH CONSTRUCTION, INC. TO POUR THE FOUNDATION AND DRIVE AREAS FOR THE NEW FIRE TRAINING FACILITY**

**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 11:58 a.m.

ATTEST:

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

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

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

BCC/LAA/2008Minutes