

**INDEX TO MINUTES OF REGULAR MEETING**  
**OF BOARD OF COUNTY COMMISSIONERS**  
**OF JANUARY 15, 2008**

1.	<b>CALL TO ORDER .....</b>	<b>1</b>
2.	<b>INVOCATION .....</b>	<b>1</b>
3.	<b>PLEDGE OF ALLEGIANCE.....</b>	<b>1</b>
4.	<b>ADDITIONS/DELETIONS TO THE AGENDA /EMERGENCY ITEMS .....</b>	<b>2</b>
5.	<b>PROCLAMATIONS AND PRESENTATIONS .....</b>	<b>2</b>
	<i>A. PRESENTATION BY DAVID K. ROACH, EXECUTIVE DIRECTOR, FLORIDA INLAND NAVIGATION DISTRICT .....</i>	<i>2</i>
6.	<b>APPROVAL OF MINUTES .....</b>	<b>2</b>
	<i>A. REGULAR MEETING OF DECEMBER 18, 2007.....</i>	<i>2</i>
7.	<b>CONSENT AGENDA.....</b>	<b>3</b>
	<i>7.A. REPORTS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD:.....</i>	<i>3</i>
	<i>1. CONVICTIONS FOR THE MONTH OF DECEMBER 2007 .....</i>	<i>3</i>
	<i>2. CITY OF FELLSMERE ORDINANCE 07-26 – ANNEXING 4.73±ACRES .....</i>	<i>3</i>
	<i>3. CITY OF FELLSMERE ORDINANCE 07-29 – ANNEXING 2,592 ACRES.....</i>	<i>3</i>
	<i>7.B. APPROVAL OF WARRANTS - DECEMBER 28 TO JANUARY 3, 2008.....</i>	<i>3</i>
	<i>7.C. ADDITION OF TWO MEMBERS TO THE ECONOMIC DEVELOPMENT COUNCIL.....</i>	<i>4</i>
	<i>7.D. DUNES COURSE PUMP STATION REPLACEMENT.....</i>	<i>4</i>

**7.E. CONSIDERATION OF APPROVAL OF A GRANT CONTRACT WITH THE FLORIDA COMMUNITIES TRUST FOR AFTER-PURCHASE COST SHARE REIMBURSEMENT FOR THE SOUTH PRONG PRESERVE (SHADOWBROOK ESTATES AND RYALL PARCELS ) ENVIRONMENTAL LAND ACQUISITION.....4**

**7.F. RIGHT-OF-WAY ACQUISITION 4505 US HIGHWAY 1 (CORNER OF US1 & 45<sup>TH</sup> STREET), DONN WALTRIP.....5**

**7.G. WORK ORDER No. 2 (ENGINEERING/SURVEYING), KIMLEY-HORN & ASSOCIATES, INC., FULL & FINAL PAYMENT, 8<sup>TH</sup> STREET (EAST OF US1) PROPOSED SIDEWALK TOPOGRAPHIC SURVEY, IRC PROJECT No. 0744, CONTINUING PROFESSIONAL SURVEYING & MAPPING/GIS SERVICES, CONTRACT 0725.....5**

**7.H. CONSIDERATION OF CONSULTANT CONTRACT FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) NEIGHBORHOOD REVITALIZATION ADMINISTRATION SERVICES.....6**

**7.I. UPGRADES AND GENERATORS BENT PINE LIFT STATIONS No. 68 AND 69, BID No. 2007039, PROJECT No. 9611 & 0001, CR 510 & CR 512 PHASE III IMPROVEMENTS, UCP No. 2806, APPROVAL OF FINAL PAYMENT TO CONTRACTOR, TLC DIVERSIFIED, INC., OF PALMETTO, FL, AND RELEASE OF RETAINAGE.....6**

**7.J. APPROVAL OF MODIFICATION #2 TO GRANT AGREEMENT 06-DS-3W-10-40-01-277 .....7**

**7.K. ACCEPTANCE OF CHANGE ORDER No. 35 FOR THE ADMINISTRATION BUILDING .....7**

**7.L. AMENDMENT No. 7 TO THE PROFESSIONAL SERVICES AGREEMENT WITH CARTER ASSOCIATES, INC., 66<sup>TH</sup> AVENUE PAVING IMPROVEMENTS (4<sup>TH</sup> STREET TO SR 60), IRC PROJECT No. 9810 .....8**

**7.M. MISCELLANEOUS BUDGET AMENDMENT 004.....8**

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

**9. PUBLIC ITEMS.....8**

**A. PUBLIC HEARINGS - NONE .....9**

<b>B.</b>	<b>PUBLIC DISCUSSION ITEMS - NONE.....</b>	<b>9</b>
<b>9.C.</b>	<b>PUBLIC NOTICE ITEMS .....</b>	<b>9</b>
	<i>1. NOTICE OF SCHEDULED PUBLIC HEARING, JANUARY 22, 2008:.....</i>	<i>9</i>
	<i>PUBLIC NOTICE OF PUBLIC HEARING TO ADOPT AN ORDINANCE TO DESIGNATE AN OFFICIAL COUNTY SEAL (LEGISLATIVE).....</i>	<i>9</i>
<b>10.</b>	<b>COUNTY ADMINISTRATOR MATTERS - NONE .....</b>	<b>9</b>
<b>11.</b>	<b>DEPARTMENTAL MATTERS.....</b>	<b>9</b>
<b>A.</b>	<b>COMMUNITY DEVELOPMENT.....</b>	<b>9</b>
	<i>1. CONSIDERATION TO AUTHORIZE PULLING COMPLIANCE BONDS FOR NONCOMPLIANCE WITH SITE PLAN APPROVAL REQUIREMENTS RELATING TO THE TOM HAMMOND SAND MINE AND THE RANCH ROAD LAKE SAND MINE (QUASI-JUDICIAL).....</i>	<i>9</i>
	<i>11.A. 2. CONSIDERATION OF ESTABLISHING A PROCESS FOR REVISING COUNTY MINING REGULATIONS .....</i>	<i>16</i>
<b>11.B.</b>	<b>EMERGENCY SERVICES - NONE.....</b>	<b>18</b>
<b>11.C.</b>	<b>GENERAL SERVICES - NONE.....</b>	<b>19</b>
<b>11.D.</b>	<b>HUMAN RESOURCES - NONE.....</b>	<b>19</b>
<b>11.E.</b>	<b>HUMAN SERVICES - NONE .....</b>	<b>19</b>
<b>11.F.</b>	<b>LEISURE SERVICES – NONE.....</b>	<b>19</b>
<b>11.G.</b>	<b>OFFICE OF MANAGEMENT AND BUDGET - NONE .....</b>	<b>19</b>

11.H.	RECREATION - NONE .....	19
11.I.	PUBLIC WORKS .....	19
	1. <i>HERITAGE RESERVE DEVELOPER’S AGREEMENT FOR DEVELOPER           CONTRIBUTIONS TO ROADWAY AND INTERSECTION IMPROVEMENTS</i> .....	19
	11.I.2. <i>STATE ROAD 60 BETWEEN 82<sup>ND</sup> AVENUE AND 66<sup>TH</sup> AVENUE - JOINT           PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF           TRANSPORTATION TO ADVANCE FUNDS FOR WIDENING STATE ROAD 60 FROM           4-LANES TO 6-LANES</i> .....	20
11.J.	UTILITIES SERVICES.....	21
	1. <i>SAN SEBASTIAN SPRINGS SUBDIVISION, INDIAN RIVER COUNTY PROJECT No.           UCP 3014, APPROVAL OF WORK ORDER No. 6 TO RETAIN CARTER ASSOC. FOR           SURVEYING SERVICES</i> .....	21
12.	COUNTY ATTORNEY MATTERS .....	21
	A. <i>RESOLUTION DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR OR           DESIGNEE TO CALL LETTERS OF CREDIT AND ROAD MAINTENANCE SECURITY           ISSUED UNDER CHAPTER 934, EXCAVATION AND MINING, OF THE CODE OF           INDIAN RIVER COUNTY</i> .....	21
13.	COMMISSIONERS’ ITEMS.....	23
A.	COMMISSIONER SANDRA L. BOWDEN, VICE CHAIRMAN - NONE.....	23
B.	COMMISSIONER WESLEY S. DAVIS , VICE CHAIRMAN - <del>NONE</del> .....	23
	1. <i>ADDITION: REQUEST FOR TRAVEL EXPENSES FOR DR. SIDNEY T. BACCHUS</i> .....	23
C.	COMMISSIONER JOSEPH E. FLESCHER- NONE.....	24

<b>D.</b>	<b>COMMISSIONER PETER D. O’BRYAN -NONE.....</b>	<b>24</b>
<b>E.</b>	<b>COMMISSIONER GARY C. WHEELER - NONE .....</b>	<b>24</b>
<b>14.</b>	<b>SPECIAL DISTRICTS AND BOARDS.....</b>	<b>24</b>
<b>A.</b>	<b>EMERGENCY SERVICES DISTRICT .....</b>	<b>24</b>
	<i>1. APPROVAL OF MINUTES – REGULAR MEETING OF DECEMBER 18, 2007.....</i>	<i>25</i>
	<i>2. APPROVAL FY 2007/08 EMS COUNTY AWARDS GRANT: PURCHASE OF CAPITAL/OPERATING EQUIPMENT USING NON-MATCHING EMS GRANT FUNDS AND GRANT RESOLUTION.....</i>	<i>25</i>
<b>B.</b>	<b>SOLID WASTE DISPOSAL DISTRICT.....</b>	<b>25</b>
	<i>1. APPROVAL OF MINUTES – REGULAR MEETING OF DECEMBER 11, 2007.....</i>	<i>25</i>
	<i>2. APPROVAL OF MINUTES – REGULAR MEETING OF DECEMBER 18, 2007.....</i>	<i>25</i>
	<i>3. PUBLIC ANNOUNCEMENT FOR AN ANNUAL ELECTRONICS RECYCLING EVENT ON JANUARY 26, 2008 .....</i>	<i>25</i>
<b>C.</b>	<b>ENVIRONMENTAL CONTROL BOARD - NONE .....</b>	<b>25</b>
<b>15.</b>	<b>ADJOURNMENT .....</b>	<b>26</b>

January 15, 2008

**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, January 15, 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 Athena Adams.

**1. CALL TO ORDER**

Chairman Bowden called the meeting to order at 9:02 a.m.

**2. INVOCATION**

Pastor Roger Ball, Immanuel Church, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

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

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

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

1. **Addition:** Item 13.B.1 – Request for Travel Expenses for Dr. Sidney T. Bacchus.

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

**5. PROCLAMATIONS AND PRESENTATIONS**

**A. PRESENTATION BY DAVID K. ROACH, EXECUTIVE DIRECTOR, FLORIDA INLAND NAVIGATION DISTRICT**

**David Roach** briefly described the Navigation District and gave a detailed status report on the activities of the District in this County. Mr. Roach thereafter responded to questions from the Board regarding the District's involvement on the manatee signs in the Indian River Lagoon, the long-term use of certain properties, and whether the groves in the dredging areas were currently being managed.

**6. APPROVAL OF MINUTES**

**A. REGULAR MEETING OF DECEMBER 18, 2007**

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of December 18, 2007. There were none.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Regular Meeting of December 18, 2007, as written.

**7. CONSENT AGENDA**

Commissioner O'Bryan asked to pull for discussion, Item 7.C.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the Consent Agenda, as amended.

**7.A. REPORTS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD:**

- 1. CONVICTIONS FOR THE MONTH OF DECEMBER 2007***
- 2. CITY OF FELLSMERE ORDINANCE 07-26 – ANNEXING 4.73±ACRES***
- 3. CITY OF FELLSMERE ORDINANCE 07-29 – ANNEXING 2,592 ACRES***

The Board noted the Reports on file.

**7.B. APPROVAL OF WARRANTS - DECEMBER 28 TO JANUARY 3, 2008**

ON MOTION by Commissioner Flescher, 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 28, 2007 to January 3, 2008, as requested in the memorandum dated January 3, 2008.



**7.C. ADDITION OF TWO MEMBERS TO THE ECONOMIC DEVELOPMENT COUNCIL**

Commissioner O'Bryan updated the Board on this issue and moved for approval of the resolution with the inclusion of a member from the Workforce Development Board.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-003**, as amended, providing representation for the Town of Indian River Shores and the Town of Orchid on the Economic Development Council.

**7.D. DUNES COURSE PUMP STATION REPLACEMENT**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the Agreement with Hoover Pumping Systems Inc., to replace the pump station at the Sandridge Golf Club, and authorized the Chairman to execute said Agreement, as recommended in the memorandum dated January 8, 2008.

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

**7.E. CONSIDERATION OF APPROVAL OF A GRANT CONTRACT WITH THE FLORIDA COMMUNITIES TRUST FOR AFTER-PURCHASE COST SHARE REIMBURSEMENT FOR THE SOUTH PRONG PRESERVE**

**(SHADOWBROOK ESTATES AND RYALL PARCELS ) ENVIRONMENTAL  
LAND ACQUISITION**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the FCT Grant Agreement for the “South Prong Preserve” parcels, and authorized the Chairman to execute said Agreement, as recommended in the memorandum of January 8, 2008.

PARTIALLY EXECUTED COPY OF CONTRACT ON FILE IN THE  
OFFICE OF THE CLERK TO THE BOARD

**7.F. RIGHT-OF-WAY ACQUISITION 4505 US HIGHWAY 1 (CORNER OF  
US1 & 45<sup>TH</sup> STREET), DONN WALTRIP**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved Option 1, the purchase of the needed right-of-way at a price of \$12,960.00, and authorized the Chairman to execute the Purchase and Sale Agreement, as recommended in the memorandum of January 7, 2008.

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

**7.G. WORK ORDER No. 2 (ENGINEERING/SURVEYING), KIMLEY-HORN  
& ASSOCIATES, INC., FULL & FINAL PAYMENT, 8<sup>TH</sup> STREET (EAST  
OF US1) PROPOSED SIDEWALK TOPOGRAPHIC SURVEY, IRC**

**PROJECT No. 0744, CONTINUING PROFESSIONAL SURVEYING & MAPPING/GIS SERVICES, CONTRACT 0725**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved payment of Invoice No. 3233299, dated December 20, 2007, in the amount of \$7,845.00, as recommended in the memorandum of January 7, 2008.

**7.H. CONSIDERATION OF CONSULTANT CONTRACT FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) NEIGHBORHOOD REVITALIZATION ADMINISTRATION SERVICES**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the proposed contract with Guardian Community Resource Management, Inc., for administration of a Neighborhood Revitalization Community Development Block Grant, and authorized the Chairman to execute said contract, as recommended in the memorandum of January 3, 2008.

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

**7.I. UPGRADES AND GENERATORS BENT PINE LIFT STATIONS No. 68 AND 69, BID No. 2007039, PROJECT No. 9611 & 0001, CR 510 & CR 512 PHASE III IMPROVEMENTS, UCP No. 2806, APPROVAL OF FINAL PAYMENT TO CONTRACTOR, TLC DIVERSIFIED, INC., OF**

**PALMETTO, FL, AND RELEASE OF RETAINAGE**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved Application for Payment No. 4 – Final as final payment to TLC Diversified, Inc., of Palmetto, FL, Inc., in the amount of \$68,528.18, as recommended in the memorandum of December 13, 2007. The final payment of \$68,528.18 will release the retainage and complete the County's obligation to TLC Diversified, Inc., of Palmetto, FL.

**7.J. APPROVAL OF MODIFICATION #2 TO GRANT AGREEMENT  
06-DS-3W-10-40-01-277**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved the modification to the Federally Funded Subgrant Agreement (06-DS-3W-10-40-01-277) between Indian River County Emergency Management and the Florida Department of Community Affairs, Division of Emergency Management, as recommended in the memorandum of January 2, 2008.

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

**7.K. ACCEPTANCE OF CHANGE ORDER NO. 35 FOR THE ADMINISTRATION  
BUILDING**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved Change Order # 35 and authorized the Chairman to execute

said Change Order, as recommended in the memorandum of January 9, 2008.

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

**7.L. AMENDMENT NO. 7 TO THE PROFESSIONAL SERVICES AGREEMENT WITH CARTER ASSOCIATES, INC., 66<sup>TH</sup> AVENUE PAVING IMPROVEMENTS (4<sup>TH</sup> STREET TO SR 60), IRC PROJECT No. 9810**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved Amendment No. 7 for engineering services by Carter Associates, Inc., in the amount of \$2,790.00, as recommended in the memorandum of January 9, 2008.

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

**7.M. MISCELLANEOUS BUDGET AMENDMENT 004**

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution 2008-004** amending the fiscal year 2007-2008 budget.

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

**9. PUBLIC ITEMS**

**A. PUBLIC HEARINGS - NONE**

**B. PUBLIC DISCUSSION ITEMS - NONE**

**9.C. PUBLIC NOTICE ITEMS**

**1. NOTICE OF SCHEDULED PUBLIC HEARING, JANUARY 22, 2008:  
PUBLIC NOTICE OF PUBLIC HEARING TO ADOPT AN ORDINANCE TO  
DESIGNATE AN OFFICIAL COUNTY SEAL (LEGISLATIVE)**

The Chairman read the Notice into the record.

**10. COUNTY ADMINISTRATOR MATTERS - NONE**

**11. DEPARTMENTAL MATTERS**

**A. COMMUNITY DEVELOPMENT**

**1. CONSIDERATION TO AUTHORIZE PULLING COMPLIANCE BONDS  
FOR NONCOMPLIANCE WITH SITE PLAN APPROVAL REQUIREMENTS  
RELATING TO THE TOM HAMMOND SAND MINE AND THE RANCH  
ROAD LAKE SAND MINE (QUASI-JUDICIAL)**

*(Clerk's Note: Court Reporter Sharon Northrup was present, representing Attorney Eugene O'Neil, Esquire, for Ranch Road Lake Sand Mine)*

County Attorney William Collins updated the Board on this matter and outlined the

issues that have brought this request to call the letters of credit for compliance bonds. He thereafter presented staff's recommendation to approve the resolutions pulling the compliance bonds for the Tom Hammond Sand Mine and for the Ranch Road Lake Sand Mine, and to authorize the Chairman to sign the resolutions.

Chairman Bowden questioned whether a public hearing was required. Attorney Collins explained that this was not a public hearing, but just findings of fact the Board was being asked to make after staff presented its case and the mine operators have the opportunity to state their case. The parties have a right to file a written appeal, but he understood none had been filed to date. Attorney Collins addressed the right of the parties to file an appeal and noted that to date none had been filed.

Commissioner Wheeler wanted to follow the rules and require the parties to file a written appeal, and have the matter brought back before the Board.

**Eugene O'Neil**, Esquire, Gould, Cooksey, Fennell, P.A., 979 Beachland Boulevard, representing Ranch Road Mines, requested that before staff begins its presentation, the two mining issues (Hammond and Ranch Road) be separated and not be heard as one issue, to avoid alleged violations that are not necessarily pertinent to their mine. He also requested that the Board treat this as their appeal, as they were ready to go forward.

In response to queries from the Board, Attorney Collins thought the request for separation of the issues was appropriate, because there has to be two findings, one for each mine, because they are independent operators.

**Paul Amos**, Esquire, O'Haire, Quinn, Candler & Casalino, 3111 Cardinal Drive, representing Hammond Mines, also wanted the issues addressed separately. Mr. Amos informed the Board that he would be requesting a continuance of this matter to allow him time to conduct an investigation, as he only received notice of this matter three days ago.

Attorney Collins explained that Mr. Amos's client was not ready to make his case right now. He also explained Mr. Amos's right to appeal after he gathers his facts.

**Attorney Amos** pointed out the issues of which the Board needed to have proper information before deciding on the matter, and reiterated his desire for a continuance to enable him the opportunity to gather facts.

Commissioner Wheeler continued to point out the rules of procedure for an appeal. He felt we would be shortcutting this matter if the appeal is granted today. Attorney Collins repeated the rules of procedure and pointed out that it was up to the Board how it wanted to conduct its hearings.

**Attorney O'Neil** drew reference to County Code and its interpretation, and addressed the matter of non-compliance. Messrs. O'Neil and Amos continued to argue the issue of the Board making a decision without giving them an opportunity to be heard.

Commissioner Flescher believed there should be an appeal process before findings of fact. The Board debated whether to have a hearing, treat this as an appeal process, and whether to decide to pull the letters of credit. Chairman Bowden agreed the issues should be separated and asked staff to begin its presentation starting with the Hammond Sand Mine.

### **Hammond Mines**

Chief of Environmental Planning Roland DeBlois recapped the backup memorandum dated January 8, 2008, and provided description and analysis on the subject mine. He displayed by slide the approved haul routes and read that portion of the Code that addresses non-compliance. Mr. DeBlois thereafter responded to questions from the Board.



Code Enforcement Officer Kelly Zedek and Administrator Baird responded to questions from Commissioner Flescher regarding how evidence was gathered and what brought the matter before the Board.

Mr. DeBlois turned the presentation over to Kelly Zedek, who explained how she gathered her information of non-compliant trucks, and what each displayed photograph depicted. Ms. Zedek responded to questions from Mr. DeBlois regarding her employment status, and her observation of the vehicles coming and going from the mines. She also responded to questions from Board members.

Mr. DeBlois summarized his presentation and presented staff's recommendation for approval of the resolution pulling the compliance bonds for the Tom Hammond Sand Mine.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Commissioner Flescher, under discussion,  
to accept and approve the resolution pulling the compliance  
bonds for the Tom Hammond Sand Mine.

Attorney Collins explained that Mr. Amos has a right on behalf of his client to file an appeal to overturn whatever decisions the Board makes. Mr. Amos explained his concern that he was not provided an opportunity to rebut allegations, this being a quasi-judicial hearing.

Commissioner Wheeler did not think the Commission was obliged to continue this appeal today. He and Mr. Amos continued to debate the interpretation of the Ordinance and the requirement of a written appeal.

The Chairman CALLED THE QUESTION and the Motion  
carried unanimously. The Board approved **Resolution**

**2008-005** declaring default by the Eddie Huggins Land Grading Co., LLC, under the terms or conditions of Section 934.07 of the Code of Indian River County, and authorizing staff to make sight draft against First National Bank and Trust Company of the Treasure Coast (now known as Seacoast National Bank) Irrevocable Standby Letter of Credit No. 2006-07 dated March 29, 2006.

### **Ranch Road Lakes Sand Mine**

**Eugene O’Neil**, Esquire, representing Ranch Road Lakes Sand Mine, was willing to “call this our appeal process.”

The Board briefly debated whether to have a vote to call this an appeal. Chairman Bowden invited staff to present its analysis and findings.

Chief of Environmental Planning Roland DeBlois presented background on the code violations by Ranch Road Sand Mines, by recapping backup memorandum dated January 8, 2008. Code Enforcement Officer Kelly Zedek read the Affidavit on her observation of vehicular operations at the subject mine. She displayed photographs of trucks in the area and explained her observation of the movements of each truck. She thereafter responded to questions from the Board.

**Attorney O’Neil** requested permission to question Ms. Zedek, and staff had no objection.

**Steven Smith**, owner of Ranch Road Sand Mines, concurred that the trucks Ms. Zedek observed did come out of their sand mine. He, however, defended the actions of the two

“new” truck drivers because it was their first day working in Vero Beach and they were not familiar with the area. He said the violation was a one-time occurrence, which was immediately remedied. He thought that to shut down the mines because of a legitimate mistake that was immediately corrected was “unconscionable.” He pleaded to the Board for reasonableness. Mr. Smith thereafter responded to questions from Commissioner O’Bryan regarding orientation of new drivers.

Commissioner Wheeler asked if the evidence presented by Mr. Smith was verified. Director Keating confirmed that staff had verified the evidence. Attorney Collins explained the “waiving of an appeal” in response to comments by Attorney O’Neil that they would waive any future appeal. Chairman Bowden asked if the Board wanted to consider this as an appeal. Board members had no objection.

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved to void the requirements for a written appeal.

Mr. DeBlois briefly updated the Board on the amount of compliance bonds being discussed.

**Attorney O’Neil** then presented his case. He suggested the error was minimal and insignificant and the punishment would be shocking in light of the crime.

Commissioner Wheeler thought staff had verified the evidence presented by Mr. Smith and the Board needed to determine if there was a violation, and whether or not it is diminimis.

**Mike Eisert**, Cathco Construction, Vero Beach, at the invitation of Attorney O’Neil, explained his contractual relationship with the subject mine and to what extent he would

be impacted if the Board voted to shut down the mines.

MOTION WAS MADE by Commissioner O'Bryan,  
SECONDED by Commissioner Flescher, under discussion,  
**to not** approve the resolution revoking the compliance  
bonds.

Commissioner Wheeler said he was accepting Mr. Smith's evidence at face value and was comfortable that staff had verified the evidence. Some Commissioners disclosed that they had received calls from residents regarding the mining issue and they had informed those residents of their inability to discuss the matter because it was slated for hearing today.

Commissioner O'Bryan expressed to all parties the seriousness of the Board in fully enforcing the law, in relation to mining violations. The Chairman also cautioned about the violations and assured miners that the law would be strictly enforced.

The Chairman CALLED THE QUESTION and the Motion carried unanimously, **to not** approve the resolution revoking the letter of credit.

*The Chairman called a recess at 10:42 a.m., and reconvened the meeting at 10:55 a.m., with all members present.*

Commissioner O'Bryan stated that it was verbally expressed that mining operators were on notice, and he wanted to make a formal Motion.

MOTION WAS MADE by Commissioner O'Bryan,  
SECONDED by Vice Chairman Davis, to instruct the  
County Administrator to continue to take any and all

actions to ensure that all mines are in compliance even if it means additional code enforcement activity.

Under discussion, Chairman Bowden was not sure that was needed, but felt it was always good to have things in writing.

**Suzon Franzke** reported that she observed trucks running southbound yesterday.

The Chairman CALLED THE QUESTION and the Motion carried unanimously, instructing the County Administrator to take any and all action necessary to ensure mining operators are compliant with County Code.

**11.A. 2. CONSIDERATION OF ESTABLISHING A PROCESS FOR REVISING COUNTY MINING REGULATIONS**

Planning Director Stan Boling updated the Board on this request by recapping the backup memorandum dated January 8, 2008. He pointed out that one of the considerations of the Board is who would manage the process of review during the moratorium period. He asked the Board to use an existing committee to hold a series of workshops and said Committee would present a report to the Board on its proposed regulations.

Director Boling then presented staff's recommendation that the Board review the proposed mining regulation review process and activities, make changes as appropriate, and direct staff and the Planning & Zoning Commission (P&Z) to initiate the process and conduct the activities outlined in the memorandum. Staff did not see the need to hire a consultant to manage the review process. Directors Boling and Keating thereafter responded to questions from the Board. The Board and staff discussed how to best handle this process.

**Joseph Paladin**, President of Black Swan Consulting, agreed that a Consultant should not be hired, and did not think the P&Z should be used to review this process. He thought the Board needed to get a fresh set of eyes and/or create a new committee with staff and outside experts.

Vice Chairman Davis understood Mr. Paladin's thoughts, but thought it was important for P&Z staff to understand why we have the LDRs that we have whenever they make their decisions.

**Robert Adair**, Chairman of the Agricultural Advisory Committee (AAC), asked if the Board could possibly consider allowing the AAC a venue with P&Z to address the matter.

**Mr. Paladin** and the Board debated whether to have P&Z involved in the review process.

**Ralph Evans**, 1420 Shorelands Drive West, said neither he nor Mr. Paladin was speaking on behalf of Wild Turkey Mines. He also thought it was not a good idea to have P&Z be a part of the review process.

**Gary Smith**, 6625 West 82<sup>nd</sup> Avenue, supported P&Z being a part of the review process.

Chairman Bowden suggested they could consider enlarging the P&Z membership for this process. Director Keating responded to questions from Vice Chairman Davis as to how staff would like to proceed with this matter, based on discussions and suggestions heard today

Commissioner O'Bryan confirmed with Attorney Collins that this being a legislative matter they were free to have discussions with residents, staff and mine operators, but not to talk to other Commissioners about this until it comes to a public meeting.

**John Sanders**, 2146 20<sup>th</sup> Avenue, asked if the Department of Transportation's decision in February would change the way this Committee might look at things. Attorney Collins explained that it was not a DOT decision but a task force appointed by the Governor and they were supposed to make a report to the Legislature by February 1, 2008, and staff would be on top of that to make it available to whatever groups are involved in this discussion.

Commissioner Wheeler wanted to see a place where any interested party could register their ideas and give a snail mail or e-mail address, and they would in turn be notified of every workshop and/or meetings, so they would know where meetings are and would be able to give their input. Chairman Bowden thought it was a good idea.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Vice Chairman Davis, to approve staff's  
recommendation.

Commissioner Flescher supported staff's recommendation that P&Z would be the best-suited entity to do this review.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved and directed staff and the Planning & Zoning Commission to initiate the process and conduct the activities outlined in the backup memorandum dated January 8, 2008, recommended.

**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**

**1. HERITAGE RESERVE DEVELOPER'S AGREEMENT FOR DEVELOPER CONTRIBUTIONS TO ROADWAY AND INTERSECTION IMPROVEMENTS**

Assistant Public Works Director Chris Mora provided detailed background on this matter by recapping the backup memorandum dated January 8, 2008. He thereafter presented staff's recommendation to approve Alternative 1, the Developer's Agreement. He also responded to questions from the Board regarding right-of-way acquisition, who would pay for it, and the need for the right-of -way.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative 1, the Developer's Agreement, as recommended in the memorandum of January 8, 2008.



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

**11.I.2. STATE ROAD 60 BETWEEN 82<sup>ND</sup> AVENUE AND 66<sup>TH</sup> AVENUE -  
JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA  
DEPARTMENT OF TRANSPORTATION TO ADVANCE FUNDS FOR  
WIDENING STATE ROAD 60 FROM 4-LANES TO 6-LANES**

Assistant Public Works Director Chris Mora provided detailed background on this matter by recapping backup memorandum dated January 7, 2008. He thereafter presented staff's recommendation to approve Alternative 1, authorizing the Chairman to execute the Locally Funded Agreement to construct the widening of SR60 between 82<sup>nd</sup> Avenue and 66<sup>th</sup> Avenue from 4-lanes to 6-lanes. He also requested that the Board direct staff to amend the interest share fee ordinance to adjust the fees to reflect changes presented. He thereafter responded to questions from the Board.

**Betsy Jeffers**, Department of Transportation (DOT), District 4, and Project Manager for Design of SR 60, said they are on a tight schedule and are ready to proceed. She urged approval of the Agreement.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved Alternative 1, authorizing the Chairman to execute the Locally Funded Agreement to construct the widening of SR60 between 82<sup>nd</sup> Avenue and 66<sup>th</sup> Avenue from 4-lanes to 6-lanes, but to hold off on the refunds until the actual cost is known. The Board also directed staff to amend the State

Road 60 Interest Share Fee Ordinance to reflect the revised cost and repayment components of the Locally Funded Agreement, as recommended in the memorandum of January 7, 2008.

**Chuck Mechling**, 1999 Pointe West Drive, spoke of Assistant Director Mora and Administrator Baird's involvement in the process and appreciated their time, diligence, and dedication to the matter.

PARTIALLY EXECUTED COPY OF AGREEMENT ON FILE IN THE  
OFFICE OF THE CLERK TO THE BOARD

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

### **I. SAN SEBASTIAN SPRINGS SUBDIVISION, INDIAN RIVER COUNTY PROJECT NO. UCP 3014, APPROVAL OF WORK ORDER NO. 6 TO RETAIN CARTER ASSOC. FOR SURVEYING SERVICES**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 6 (Engineering/Surveying) from Carter Associates for a total lump sum amount of \$24,400.00, and authorized the Chairman to execute Work Order No. 6 as recommended in the memorandum of January 2, 2008.

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

## **12. COUNTY ATTORNEY MATTERS**

### **A. RESOLUTION DELEGATING AUTHORITY TO THE COUNTY**

**ADMINISTRATOR OR DESIGNEE TO CALL LETTERS OF CREDIT AND ROAD MAINTENANCE SECURITY ISSUED UNDER CHAPTER 934, EXCAVATION AND MINING, OF THE CODE OF INDIAN RIVER COUNTY**

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Vice Chairman Davis, to approve staff's recommendation.

Attorney Collins disclosed that in light of this morning's earlier hearings, what this would do is to allow under our ordinance, that the Board can delegate certain duties to our Administrator, and in this case it would delegate the authority to call letters of credit relating to road maintenance security or compliance bonds, and anything related to mines.

Commissioner O'Bryan thought they should continue to handle the matter the way they have been, and felt it might be too much to lay on Administrator Baird's shoulders. Administrator Baird agreed that it was a more fair process to continue things the way they have been.

Based on comments from Attorney Collins and Administrator Baird, Commissioner Wheeler WITHDREW HIS MOTION.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, the Board unanimously agreed **to not** approve the resolution. Staff's recommendation DENIED.

**13. COMMISSIONERS' ITEMS**

**A. COMMISSIONER SANDRA L. BOWDEN, VICE**

**CHAIRMAN - NONE**

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

**CHAIRMAN - ~~NONE~~**

**I. ADDITION: REQUEST FOR TRAVEL EXPENSES FOR DR. SIDNEY  
T. BACCHUS**

*(Clerk's note: this item was heard following the District Meetings)*

Vice Chairman Davis informed the Board of a recommendation of the Agricultural Advisory Committee (AAC) to retain the services of Dr. Sidney T. Bacchus to evaluate and review the current water quality and usage of existing mining in Indian River County. He requested that the Board approve travel expenses for Dr. Bacchus, not to exceed \$1,000.00, to present her findings on the current water quality and usage of existing mining in this County. He pointed out that Dr. Bacchus and the State permitting agencies have opposing views on the effects of mines on our water supply.

MOTION WAS MADE by Vice Chairman Davis,  
SECONDED by Commissioner Flescher, to approve the  
request for travel expenses for Dr. Sidney T. Bacchus.

In response to questions from Commissioner Wheeler, Robert Adair, Chairman of the AAC, provided curriculum vitae on Dr. Bacchus and explained the need to use her services.

Commissioner Wheeler did not want to set any precedence for consultants to come and offer their services. Chairman Bowden thought it was a good thing to do this periodically. The Board debated the need to use this Consultant's services.

The Chairman CALLED THE QUESTION and by a 4-1 vote (Commissioner Wheeler opposed) the Board approved travel expenses, not to exceed \$1,000.00, for Dr. Sidney Bacchus to visit the County to evaluate and review the current water quality and the effects of mining activities on our water supply, as requested in the memorandum of January 14, 2008.

Commissioner Wheeler made it clear that this has nothing to do with the Consultant's expertise, but was just a matter of principle.

**C. COMMISSIONER JOSEPH E. FLESCHER- NONE**

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

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

**14. SPECIAL DISTRICTS AND BOARDS**

**A. EMERGENCY SERVICES DISTRICT**

The Chairman announced that immediately upon adjournment of the Board of County Commissioners Meeting, the Board would reconvene as the Board of Commissioners of the Emergency Services District. Those Minutes are being prepared separately and are appended

to this document.

1. *APPROVAL OF MINUTES – REGULAR MEETING OF DECEMBER 18, 2007*
2. *APPROVAL FY 2007/08 EMS COUNTY AWARDS GRANT: PURCHASE OF CAPITAL/OPERATING EQUIPMENT USING NON-MATCHING EMS GRANT FUNDS AND GRANT RESOLUTION*

**B. SOLID WASTE DISPOSAL DISTRICT**

The Chairman announced that immediately upon adjournment of the Emergency Services District Board Meeting, the Board would reconvene as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are being prepared separately and are appended to this document.

1. *APPROVAL OF MINUTES – REGULAR MEETING OF DECEMBER 11, 2007*
2. *APPROVAL OF MINUTES – REGULAR MEETING OF DECEMBER 18, 2007*
3. *PUBLIC ANNOUNCEMENT FOR AN ANNUAL ELECTRONICS RECYCLING EVENT ON JANUARY 26, 2008*

**C. ENVIRONMENTAL CONTROL BOARD - NONE**

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

**15. ADJOURNMENT**

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 12:08 p.m.

ATTEST:

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

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

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

BCC/AA/2008 Minutes