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OF BOARD OF COUNTY COMMISSIONERS
FEBRUARY 12, 2008

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February 12, 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 27th Street, Vero Beach, Florida, on Tuesday, February 12, 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

Reverend Tom Harris, First Presbyterian Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Vice Chairman Wesley S. Davis led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY

ITEMS - NONE

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION CELEBRATING THE GIFFORD YOUTH ACTIVITY CENTER 10TH ANNIVERSARY AND HONORING THE MEMORY OF DR. WILLIAM NIGH FOR HIS OUTSTANDING SERVICE

Commissioner Flescher read the Proclamation and Freddie Wolfork presented it to Mrs. William Nigh.

5.B. PRESENTATION OF PROCLAMATION CELEBRATING THE GIFFORD YOUTH ACTIVITY CENTER 10TH ANNIVERSARY AND HONORING RONALD HUDSON FOR HIS OUTSTANDING SERVICE

Commissioner Flescher read and presented the Proclamation to Dr. Ronald Hudson.

5.C. PRESENTATION OF PROCLAMATION CELEBRATING THE GIFFORD YOUTH ACTIVITY CENTER 10TH ANNIVERSARY AND HONORING DAN K. RICHARDSON FOR HIS OUTSTANDING SERVICE

Commissioner Flescher read and presented the Proclamation to Mr. K. Richardson.

Freddie Woolfork introduced Executive Director Angela Perry, and Chairman John Dean to the Board. He also gave an open invitation to attend the ten year celebration festivities for the Gifford Youth Activity Center, on February 15th and 16th 2008 at 10:00 a.m.

5.D. PRESENTATION BY THE INDIAN RIVER SOCCER ASSOCIATION

Bill Becker wanted the Board to know that lighting the soccer fields had improved the County's value since there are now numerous opportunities for outside groups around the State to come into the County and use our facilities. He acknowledged that Administrator Joe Baird had

been a great asset through this improvement project, and he thanked the Board for attending their celebration.

Neil Hockenull echoed Mr. Becker's comments. He wanted the public to know that by lighting the soccer fields, they are now able to give back to the County by hosting tournaments. He detailed the specifics of 70 teams coming in, of which 54 would be staying in Indian River County, for an economic impact of about \$139,000.00. Mr. Hockenull described, at the request of Commissioner Wheeler, how they had been self-sufficient, with an annual budget of \$70,000.00, and how the administration and operation of the program cost the taxpayer nothing.

**5.E. PRESENTATION BY JOE EARMAN AND TOBY TURNER ON FIRE
FIGHTERS INDIAN RIVER COUNTY FAIR**

Joe Earman announced that the Fair is in its 28th year of existence, and that it had been supported by the Fire Fighters since it started. He felt that the joint partnership with the County had made it a success over the years. He commended Administrator Baird and staff for their support, and provided them with a check for \$17,291.00, on behalf of the Indian River County Fair Association, Inc. for its contracted one-third share of profits. He requested the Board approve the Agreement to use the Fairgrounds for the next three years.

Toby Turner thanked the Board for their support and echoed appreciation to Administrator Baird and staff. He reported that since the jail facility moved out, they will now have lease space available to vendors and merchants, and said that they are adding new electric and water inside the main grounds. He announced that the Fair is scheduled for March 14th through March 22nd.

At the request of Vice Chairman Davis, Mr. Turner named a few of the new exhibits: canning, quilting, crafts, photography, citrus tree displays, livestock, and a “hands-on” attraction for children. He said that individuals wanting to sign-up to volunteer could do so at: www.firefightersfair.org, under the “Contact Us” page.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF JANUARY 22, 2008

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of January 22, 2008. There were none.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the Minutes of the Regular Meeting of January 22, 2008, as written and distributed.

7. CONSENT AGENDA

Commissioner Flescher requested Items 7.F, 7.G., and 7.H. pulled for discussion.

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

7.A. APPROVAL OF WARRANTS – JANUARY 25 – 31, 2008

ON MOTION by Commissioner O’Bryan, 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 January 25, 2008 to January 31, 2008, as recommended in the memorandum of January 31, 2008.

7.B. APPROVAL OF AGREEMENT TO USE THE INDIAN RIVER COUNTY FAIRGROUNDS FOR THE COUNTY FAIR

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the Agreement for use of Indian River County Fairgrounds as presented, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of February 5, 2008.

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

7.C. NONPROFIT ORGANIZATION ON EZ APPOINTMENT TO THE ENTERPRISE ZONE DEVELOPMENT AGENCY

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the Appointment of Godfrey Gipson (Gifford Progressive League) for the Nonprofit Organization providing services in the Enterprise Zone vacancy, as recommended in the memorandum of February 5, 2008.

**7.D. MEMBER AT LARGE APPOINTMENT TO THE ENTERPRISE ZONE
DEVELOPMENT AGENCY**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the appointment of Ardra K. Rigby as the Member at Large Appointee to the Enterprise Zone Development Agency, as recommended in the memorandum of February 5, 2008. The Enterprise Zone Development Agency Member at Large position is currently vacant.

**7.E. APPOINTMENT OF ATTORNEY APPOINTEE TO HISTORIC RESOURCES
ADVISORY COMMITTEE**

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the appointment of Ms. Lynne Larkin as the Attorney Appointee to the Historic Resources Advisory Committee, as recommended in the memorandum of February 5, 2008. She replaced Mr. W. E. (Gene) Roddenberry, and her term will expire in 2010,

**7.F. OUT OF COUNTY TRAVEL TO ATTEND THE MPOAC WEEKEND
INSTITUTE FOR ELECTED OFFICIALS**

Commissioner Flescher voiced that he had no interest in attending the MPOAC Weekend Institute for Elected Officials. He felt it warranted, but thought the wording should afford all County Commissioners the opportunity to attend.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved out of county travel for Commissioner Peter O'Bryan to attend the MPOAC Weekend Institute for Elected Officials, in Tampa, on Friday, April 25, 2008 at 4:00 p.m. until Sunday, April 27, 2008, at noon, as recommended in the memorandum of February 4, 2008.

7.G. MODIFY RESOLUTION 2008-003 ON THE ECONOMIC DEVELOPMENT COUNCIL

Commissioner Flescher wanted to assign a citizen of Indian River County to serve on the Workforce Development Board. He surmised that vested interest should be a local citizen as opposed to a citizen from another jurisdiction. He felt there were enough members in this County that would like the opportunity to serve on the Board.

Commissioner O'Bryan clarified that of the eighteen (18) positions, they were requesting one member's residential requirement to be waived since the Treasure Coast Workforce Board is considered a "Regional Board." He said that the Treasure Coast Workforce Board felt Director Glenda Thompson's input was important to the Council; therefore, he requested the recommendation go through as presented.

Discussion ensued as to whether Ms. Thompson could be an ex-officio member. The Board also expressed concerns over regional perspective, capitalizing and improving economic development, whether to amend the Resolution, and stipulations as to where the member resides.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board unanimously approved and directed the Legal staff to prepare a modified Resolution to the membership of the Economic Development Council for representation from the Work Force Development Board of the Treasure Coast, as requested in the memorandum of February 5, 2008.

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

**7.H. OUT OF COUNTY TRAVEL FOR COMMISSIONERS AND STAFF TO ATTEND
THE 2008 GOVERNOR'S BASEBALL DINNER**

Commissioner Flescher did not feel that attendance to this dinner would be an educational benefit, but rather a tremendous cost to the taxpayer.

Administrator Baird emphasized that this celebration is the Governor's kick-off of spring training statewide. He felt that Indian River County needs to show involvement, that we want to be involved in spring training, we want to attract teams, and we want to keep the economy moving. He thought attendance would be in the County's best interest.

Commissioner Wheeler thought that sending Administrator Baird would be a networking tool and would benefit the County.

Commissioner O'Bryan concurred with Administrator Baird and Commissioner Wheeler. He felt that it would impart a negative message by not sending Administrator Baird to represent our County, especially since we are in the process of negotiating a future team. He thought that this would be a small investment to make to keep our foot in the door while moving forward.

Chairman Bowden also felt it important to stay involved.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board by a 4-1 vote (Commissioner Flescher opposed), authorized out of county travel for all Commissioners and staff to attend the 2008 Governor's Baseball Dinner in St. Petersburg, Florida on February 26, 2008, as recommended in the memorandum of February 6, 2008.

7.I. CIVIL ENGINEERING AND LAND SURVEYING AGREEMENT FOR BRIDGE REPLACEMENTS AND WIDENING OF 66TH AVENUE FROM SOUTH OF SR60 TO 59TH STREET, AMENDMENT No. 3

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved Amendment No. 3, as specified and as recommended in the memorandum of February 5, 2008.

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

7.J. APPROVAL OF WORK ORDER No. M2 WITH MALCOLM PIRNIE, INC. FOR LABORATORY SUPPORT SERVICES AND REPORTING FOR THE MAIN RELIEF CANAL POLLUTION CONTROL SYSTEM

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved

Work Order No. M2 with Malcolm Pirnie, Inc., and authorized the Chairman to execute it on behalf of the County, as recommended in the memorandum of January 25, 2008.

ATTACHMENT 1 ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.K. APPROVAL OF WORK ORDER NO. 3-EM WITH MALCOLM PIRNIE, INC. FOR ADDITIONAL ENGINEERING SERVICES FOR EGRET MARSH REGIONAL STORMWATER PARK FINAL REDESIGN AND CONSTRUCTION

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved Work Order No. 3-EM with Malcolm Pirnie, Inc., and authorized the Chairman to execute it on behalf of the County, as recommended in the memorandum of January 30, 2008.

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

7.L. MISCELLANEOUS BUDGET AMENDMENT 006

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved **Resolution No. 2008-012**, amending the fiscal year 2007-2008 budget.

7.M. PROFESSIONAL ENGINEERING SERVICES AGREEMENT, CR 512
CORRIDOR IMPROVEMENTS – IRC PROJECT NO. 9611, ADDENDUM
NO. 14 (MASTELLER & MOLER, INC.) – RELEASE OF RETAINAGE

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved release of retainage and payment of Masteller & Moler, Inc., Invoice No. 9649ALU-1RET, dated 01/29/08, in the amount of \$485.00, to be funded as specified and as recommended in the memorandum of January 31, 2008.

7.N. TRAFFIC CONTROL DEVICE LEDGER

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved the Traffic Control Device Ledger Update, Exhibit “A,” as recommended in the memorandum of January 30, 2008 .

7.O. WORK ORDER NO. HH-1; HARDESTY & HANOVER, LLP
ENGINEERING; WABASSO CAUSEWAY EAST AND WEST FISHING PIERS
REPAIR

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved payment of Invoice No. 2418-2 in the amount of \$2,884.81 for the full and final payment of Work Order No. HH-1, to

be funded as specified and as recommended in the memorandum of January 24, 2008.

7.P. CR512 CORRIDOR IMPROVEMENTS – IRC PROJECT No. 9611, ADDENDUM No. 13, REQUEST FOR RELEASE OF RETAINAGE

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Davis, the Board unanimously approved release of retainage and payment of Masteller & Moler, Inc., Invoice Nos. 9649ALQ-1RET, 9649ALR-1RET, 9649ALS-1RET and 9649ALT-1RET, to be funded as specified and as recommended in the memorandum of January 30, 2008.

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS

9.A. PUBLIC HEARINGS

9.A.1. CONTINUED HEARING FROM FEBRUARY 5, 2008: REQUEST BY BILLY L. HITCHCOX FOR A VARIANCE FROM THE REQUIREMENTS OF THE SUBDIVISION ORDINANCE (CHAPTER 913) FOR A MOBILE HOME DEVELOPMENT AT 48TH AVENUE AND 43RD STREET (QUASI-JUDICIAL)

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

Planning Director Stan Boling told the Board that this request was a subdivision variance request, a continued Public Hearing from December 4, 2007, when Mr. Hitchcox wanted more time to consult with his attorney, and February 5, 2008, when Mr. Hitchcox wanted certain Building Division and Planning Division staff present at the hearing. He acknowledged that staff was in attendance.

The Chairman opened the public hearing.

Billy Hitchcox, 4282 48th Avenue, informed the Board that he had received a package from Director Boling's office that he was not in agreement with. He said the contents did not match what the County Attorney's office had provided.

Commissioner Wheeler voiced concern over Mr. Hitchcox's situation, but wanted to know what his objectives were since Legal Counsel had informed him at the last public hearing that zoning was in place, and that staff did not have the ability to change the use of the property.

County Attorney Collins offered his knowledge pertaining to variance provisions, and divulged that staff had acknowledged that the criteria had not been satisfied.

Mr. Hitchcox spoke of installing four electric panels, the Health Department signing-off on the mobile homes, the specifics of the surveyor's certificate, and the various processes he had gone through after having purchased the property. He also expressed the financial difficulties that he would incur, should he be required to remove the two mobile homes from the property.

Clerk's Note: The Chairman called a recess at 10:15 a.m. and reconvened at 11:04 with all members present.

Mr. Hitchcox displayed numerous documents on the overhead projector as he sought to clarify his situation.

Chairman Bowden asked Mr. Hitchcox if it would be permissible to release staff, and Mr. Hitchcox stated that he wanted the Board and staff to understand that everything he had done was according to the rules of Indian River County, and he agreed to let them go.

Commissioner O'Bryan stated that he did not see enough grounds on which to grant a variance.

Mr. Hitchcox said he had bought the property with the understanding that he would be able to put six mobile homes on the lot, and that it was something he could afford. He emphasized that he was not trying to get out of making improvements to his property.

Chairman Bowden asked Mr. Hitchcox if there were any "new" points that he wanted to clarify to the Board, to which he displayed his mortgage documents and stressed how the bank was "very much involved" in his situation.

Discussion ensued as the Board questioned Mr. Hitchcox in an attempt to gain clarification of the variance objective.

Director Boling detailed the history of what occurred in 2006 (memorandum in Backup). He explained that in 2006, Certificate of Occupancies were then allowed to be issued on the new mobile homes and that Mr. Hitchcox was allowed to proceed; however, he never removed the two older mobile homes, which is the subject with the Code Enforcement Application. Today, there are four mobile homes on the site, two new ones which staff issued Certificate of Occupancies for, and the two older ones. He said Mr. Hitchcox had initially paid impact fees for one of the mobile homes, but felt certain that the fee was refunded once staff realized what the situation was in 2006.

Director Boling informed the Board that Mr. Hitchcox had three alternatives: (1) remove the two illegal mobile homes from the property, (2) apply for a plat approval so he can develop the property more intensely, or (3) seek the variance (from the Board). He acknowledged that staff had found the variance unwarranted.

Mr. Hitchcox again referred to his mortgage and explained the requirements of the bank. He showed the receipt where he paid \$4,720.69 for his impact fees, and insisted that he did not receive the money back. He felt that he had accomplished all the improvements that were required by Code, except paving the street.

Director Boling reiterated that the impact fees were paid in May of 2006, but were later reversed. He agreed to meet with Mr. Hitchcox after the meeting to show him the cancelled check.

Attorney Collins confirmed the options that Director Boling had mentioned, and listed the four requirement conditions that must apply for variance: (1) physical conditions shape topography of the specific property that causes undue hardship, (2) it will not cause injury to adjacent property, (3) the conditions are unique and not generally applicable to other property in the adjacent area, and (4) the variance is consistent with the land development regulations. He acknowledged that staff did not find that any of the conditions applied; therefore, there was no basis to grant the variance.

Rhonda Anderson, 4275 48th Avenue, lives directly across the street from Mr. Hitchcox and did not feel the variance should be allowed. She believed that granting him variance would decrease her property value.

Wess Coleman, 4885 42nd Street, did not care if Mr. Hitchcox was granted the variance, he wanted everyone to be treated fairly.

Commissioner O'Bryan said that based upon testimony from staff, he did not favor granting Mr. Hitchcox a variance. He felt that if Mr. Hitchcox wanted to keep all the units on the property that he should go through the formal plat process that staff outlined. He concurred with the residents, whereby if the Board opens this door, they would be required to grant variances to everyone.

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

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously denied the requested subdivision variance, as recommended in the memorandum of February 5, 2008.

Vice Chairman Davis reminded Mr. Hitchcox that the variance would be allowed when he meets the requirements of paving the roads and putting the infrastructure in, and he explained how staff was trying to steer him in the right direction.

9.A.2. ADULT COMMUNITY TOTAL SERVICES, INC.'S REQUEST FOR MAJOR SITE PLAN AND SPECIAL EXCEPTION APPROVAL TO CONSTRUCT A TOTAL CARE FACILITY TO BE KNOWN AS INDIAN RIVER ESTATES PHASE III (QUASI-JUDICIAL)

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

Director Boling used a PowerPoint presentation to recap the Memorandum of January 12, 2008. He told the Board that this was a special exception use request for additional development

and additional property being added to the Indian River Estates community. He pointed out that the ten-acre addition was the subject of this particular request, and that the proposed project would expand the “total care use,” to include skilled nursing beds and different types of residential units.

He detailed the proposed site plan, off-site improvements, landscaping plan, and recommended approval conditions. He explained the requested change to the recommended conditions (see page 132.A.1. of Backup), saying that prior to issuing a Certificate of Occupancy for this project, the applicant would like the ability to not tie-up their Certificate of Occupancy, so they want to close their entrance until 26th Street is paved.

A brief discussion ensued as to whether a time limit should be included.

The Chairman opened the public hearing.

Bob Johnson, Coral Wind Subdivision, felt it was imperative that 26th Street be paved all the way to 82nd Street to expedite traffic paralleling SR60.

George Simons, Project Manager for Carter Associates, had no objections to paving 26th Street, and acknowledged that he was currently working with Public Works Director Jim Davis to pave all the way to 82nd Street. He voiced concern that should they invest in the project, put the building up, and then if for some reason the right-of-way would not be timely, they would not want to be stuck with a building that is ready to receive residents, and not be able to receive the Certificate of Occupancy.

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

ON MOTION by Vice Chairman Davis, SECONDED by
Commissioner Flescher, the Board unanimously found that:

(1) it is empowered under the provisions of Chapter 971 to review the special exception applied for; (2) granting of the special exception would not adversely affect the public interest; (3) the application satisfies the general and specific criteria required for special exception approval; and (4) the site plan design would be adequate to ensure compatibility between the special exception use and surrounding land uses. The Board also granted special exception approval for the proposed total care facility use for the proposed Indian River Estates Phase III addition, with the following conditions: (1) Prior to issuance of a C.O. (certificate of occupancy) for this project, the applicant shall: (a) pave 26th Street from a point 50 feet west of the project's proposed 26th Street entrance east to the existing 26th Street end of pavement, or close the Citrus Blossom Avenue entrance at 26th Street until the paving of 26th Street is complete; (b) install the required landscape buffers and opaque features, as shown on the project's landscape plan; and (c) to issue a bond for security.

**9.A.3. CONSIDERATION OF FINAL INTERLOCAL AGREEMENT FOR
COORDINATED PLANNING AND SCHOOL CONCURRENCY (LEGISLATIVE)**

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

Community Development Director Robert Keating announced that this is the final Interlocal Agreement for Coordinated Planning and School Concurrency. Even though this was a required public hearing item, he said that staff wanted public input; therefore, it was advertised as such.

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

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously adopted the Interlocal Agreement for Coordinated Planning and School Concurrency, and authorized the Chairman to execute same, as recommended in the memorandum of February 4, 2008.

Vice Chairman Davis thanked staff for allowing Indian River County to be one of the first in the State to have complied with Senate Bill 360, having pushed to receive grant money, and to be chosen to be a pilot community.

9.A.4. PUBLIC HEARING TO AMEND SECTION 201.08.H OF THE INDIAN RIVER COUNTY CODE TO REMOVE THE REQUIREMENT OF INTEREST PAYMENT ON WATER AND SEWER DEPOSITS (LEGISLATIVE)

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

Assistant County Attorney Marian Fell recapped the backup memorandum dated January 30, 2008, and clarified that the change will protect the customers because they will no longer be required to provide their social security numbers, and that it will allow the County to comply with the new State law regarding the collection of social security numbers.

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

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously adopted **Ordinance 2008-004**, amending Section 201.08.H of the County's County Water and Sewer Services Ordinance to remove the requirement to pay interest on water and sewer deposits; providing for severability; providing for repeal of other conflicting ordinances; providing for inclusion in the code of ordinances of Indian River County; providing for filing with the Department of State; and providing for an effective date.

9.A.5. PUBLIC HEARING TO ENACT A RESOLUTION TO AMEND RESOLUTION 99-58 (UTILITIES RATE RESOLUTION) (LEGISLATIVE)

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

Assistant County Attorney Marian Fell recapped the backup memorandum dated February 4, 2008, and asked the Board to amend the utilities rate resolution by deleting the interest rate of 2.5%, payable on water and sewer deposits.

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

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved **Resolution 2008-013**, amending Resolution No. 99-58 (Rate Resolution) adopting the Department of Utility Services schedule of water and sewer rates, fees, and other charges.

9.B. PUBLIC DISCUSSION ITEMS

9.B.1. REQUEST TO SPEAK FROM FRANK ZORC REGARDING PRESIDENTIAL PICTURES AVAILABLE FOR DISPLAY IN ADMINISTRATION BUILDING

Frank Zorc, 1695 20th Avenue, informed the Board that over the years he had collected 43 Presidential portraits, all by the same artist. He offered to display the portraits in the Administration building for whatever period of time they would agree to, at no cost. He said that he would cover the costs of the frames and framing. Mr. Zorc felt it would be appropriate to use them this year since it is an election year.

Commissioner O'Bryan thought this to be a good thing and thanked Mr. Zorc, yet voiced concern over insurance and coverage against theft and fire. He wanted it to be clearly delineated, and to see them hang until after the Presidential election in November 2008.

Vice Chairman Davis thought it would be appropriate to obtain a waiver, but did not want the County to be involved in insurance issues, nor insure the artwork for our walls.

Chairman Bowden suggested establishing a policy regarding artwork since others will undoubtedly come forward. She thought it would be appropriate for staff to bring back a policy for the Board to review.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved to display the artwork in the County Administration building, and directed staff to create a written policy, including a “hold harmless” or waiver.

Chairman Bowden confirmed that staff would decide where to place the artwork. Administrator Baird acknowledged that staff would need a couple weeks to develop the policy and mentioned that the library conference room would also be appropriate for hanging artwork.

9.C. PUBLIC NOTICE ITEMS

9.C.1. NOTICE OF SCHEDULED PUBLIC HEARING ON FEBRUARY 19, 2008:

**PUBLIC NOTICE OF PUBLIC HEARING FOR AMENDMENT TO
ORDINANCE NO. 2003-03 CODIFYING AND PUBLISHING THE
ORDINANCES TO READOPT THE CODE UP TO AND INCLUDING
SUPPLEMENT 65 (LEGISLATIVE)**

The Chairman read the notice into the record.

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. DEVELOPER'S AGREEMENT BETWEEN INDIAN RIVER COUNTY,
FLORIDA, AND PIONEER BAPTIST CHURCH OF VERO BEACH, INC.**

Public Works Director Jim Davis told the Board that this was a right of way acquisition parcel for a stormwater pond at south Old Dixie Highway near the South Relief Canal bridge. He

said they plan to replace the bridge and put turn lanes along Old Dixie to facilitate the heavy truck movement by the Oslo transfer station. He informed the Board that staff had negotiated the right-of-way acquisition with the Church for \$60,630.00.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the \$60,630.00 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of February 1, 2008.

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

11.J. UTILITIES SERVICES

11.J.1. AMENDMENT NUMBER 1 TO CONTINUING CONSULTING SERVICES

**WORK ORDER NO. 4 WITH MASTELLER & MOLER, INC. FOR
ENGINEERING SERVICES FOR CONVERSION OF LATERAL G FORCE
MAIN TO REUSE MAIN – UCP No. 2830**

Capital Projects Manager Mike Hotchkiss reviewed the information in his memorandum dated January 30, 2008.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved Amendment No. 1 to Work Order No. 4 with Masteller and Moler, Inc., for an additional amount of \$77,535.00 for engineering services, bringing the new total amount for Work Order No. 4 to \$104,165.00, and authorized the

Chairman to execute the same, as recommended in the memorandum of January 30, 2008.

AMENDMENT 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

**13.B.1. DISCUSSION REGARDING ELIMINATION OF RECEPTIONIST POSITION
IN THE BOARD OF COUNTY COMMISSION OFFICE**

Vice Chairman Davis wanted to observe the Receptionist position for thirty (30) days to see if the office could manage without it. He indicated that it was not indicative of the person currently holding the position, but thought it would save the County money by rotating the Aides into the position. He emphasized he wanted the position filled, and was concerned whether the County could afford to do without it, but he felt they owed it to the taxpayer to try.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, by a 3-2 vote (Chairman Bowden and Commissioner Flescher opposed), the Board approved to experiment rotating the existing aides for 30 days, to see if the receptionist position could be eliminated.

Chairman Bowden wanted to go on record to express that she felt Vice Chairman Davis was “out of character” and that this situation was “most unusual” because no backup material was provided, especially since the Board had voted, during the reorganization, to keep this position. She reminded the Board that they usually do not vote on anything of this consequence without backup material, and she felt the most appropriate time to have handled this would have been during budget time.

Commissioner O’Bryan reasoned that the County had been given a mandate by 70% of the voters, wanting to see the budget cut. He said that Budget Director Jason Brown had provided numbers and calculated that the \$25,000.00 additional exemption would burden the County with about \$5.3 million.

Chairman Bowden asked when they wanted the position eliminated, and what was their plan. Vice Chairman Davis said he wanted the Office Aides to come up with a plan to make it work.

Discussion ensued regarding the evaluation process, the Aides’ schedules, and the volume of paperwork that passes through their office.

Joseph Paladin, President of Atlantic Coast Construction Company and Black Swan Consultant, thought that when the Board voted, they were required to have backup, offer public input, and that decision making was a “procedure.” He did not think eliminating the position would be a cost savings to taxpayers, and felt it would take away from public services. He asked Vice Chairman Davis to withdraw his motion until there was public input and discussion.

Human Resources Director Jim Sexton reviewed the recent actions taken by the Board and acknowledged that they decided to go with an option which provided for a receptionist as well as an individual Aide for each commissioner.

Chairman Bowden asked Director Sexton if there were any unusual practices in hiring for the reception position, to which Director Sexton replied, "No." He acknowledged that there had been a hiring freeze, and confirmed that every position that becomes vacant goes to the County Administrator for the decision to fill or not fill. He reviewed the process and noted that nothing was unusual about the hiring process.

Administrator Baird emphasized that procedures were followed and felt that the position was warranted.

Chairman Bowden wanted to know when the position would be extinguished. Director Sexton said that according to the Motion, the position would be eliminated today, for a 30-day period of observance. He indicated that he would notify the employee, and suggested the Board meet at a later date to reevaluate the situation.

13.C. COMMISSIONER JOSEPH E. FLESCHER - NONE

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

13.E. COMMISSIONER GARY C. WHEELER - NONE

14. SPECIAL DISTRICTS AND BOARDS

14.A. EMERGENCY SERVICES DISTRICT - NONE

14.B. SOLID WASTE DISPOSAL DISTRICT - NONE

14.C. ENVIRONMENTAL CONTROL BOARD

**14.C.1. REPORT OF ACTIVITIES DURING FOURTH QUARTER (OCTOBER
THROUGH DECEMBER 2007)**

The Chairman announced that immediately upon adjournment, the Board would reconvene as the Board of Commissioners of the Environmental Control Board. Those Minutes are being prepared separately and appended to this document.

15. ADJOURNMENT

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

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 12:32 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Sandra L. Bowden, Chairman

Minutes Approved: _____
BCC/LAA/2008Minutes