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OF BOARD OF COUNTY COMMISSIONERS
OF MARCH 11, 2008

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March 11, 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 St., Vero Beach, Florida, on Tuesday, March 11, 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 Maureen Gelfo.

1. CALL TO ORDER

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

2. INVOCATION

Planning Director Stan Boling 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

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION BY MR. RYAN MORRELL, CIVATERRA, INC. ON GEOGRAPHIC TOOLS FOR LAND USE PLANNING

Ryan Morrell used a PowerPoint presentation (copy on file) to explain how Geographic Information Systems (GIS) works, and to discuss how it may be used as a planning tool to create a community of lasting value. He gave an overview of the GIS technology and talked about its practical applications.

For informational purposes, Mr. Morrell informed the Board that a conference on mining impacts to the human and natural environment would be held on March 15, 2008 in Punta Gorda, Florida. He then invited questions from the Board.

Commissioner O'Bryan thanked Mr. Morrell and acknowledged that the GIS system could be a very useful tool.

5.B. PRESENTATION BY SENIOR RESOURCES ASSOCIATION ON ~~GO-LINE~~ GOLINE

Karen Deigl, Senior Resources Association, presented a plaque to the Board in acknowledgement of their continued support of the public transit system, including the renaming of the bus line to GoLine. Mrs. Deigl talked about the improvements which have been made to

the system, and reported that ridership in 2007 showed a 23% increase over the previous year. She informed everyone that the GoLine buses were for everyone; gave a brief rundown on the schedules; and directed citizens to the website at GoLineIRT.com for further information.

Commissioner Flescher commended Ms. Deigl on the facelift of the GoLine Transit System.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF FEBRUARY 12, 2008

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of February 12, 2008. There were none.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Regular Meeting of February 12, 2008, as written.

6.B. REGULAR MEETING OF FEBRUARY 19, 2008

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of February 19, 2008. There were none.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved the Minutes of the Regular Meeting of February 19, 2008, as written.

7. CONSENT AGENDA

7.A. APPROVAL OF WARRANTS - FEBRUARY 22 - FEBRUARY 28, 2008

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of February 22, 2008 to February 28, 2008, as requested in the memorandum dated February 28, 2008.

7.B. RESOLUTION OPPOSING SENATE BILL 2406 LIMESTONE MINING

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved **Resolution 2008-033**, in opposition of Senate Bill 2406 prohibiting local regulation of limestone and lime rock mining.

7.C. WORK ORDER No. 7, (ENGINEERING/SURVEYING) CARTER ASSOCIATES, INC., PROPOSED 26TH STREET BETWEEN 74TH AVENUE AND 82ND AVENUE DRAINAGE DESIGN AND EASEMENT, COOK PROPERTY

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved Work Order No. 7 with Carter Associates, Inc., authorizing Project No. 0809, as outlined in the Scope of Services, and authorized Chairman to execute same, as recommended in the memorandum of February 28, 2008.

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

7.D. WORK ORDER No. 5 (ENGINEERING/SURVEYING) KIMLEY-HORN AND ASSOCIATES, INC., SR60 & 58TH AVENUE INTERSECTION IMPROVEMENTS AND RIGHT-OF-WAY PROJECT

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved Work Order No. 5 with Kimley-Horn and Associates, Inc., authorizing Project No. 0749, as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of March 3, 2008.

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

**7.E. FELLSMERE SIDEWALK PHASE II, IRC PROJECT #0382, BID NUMBER
2006087, CHANGE ORDER NO. 2 AND RELEASE OF RETAINAGE FOR
L.H. TANNER CONSTRUCTION CORPORATION**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved Change Order No. 2 with L.H. Tanner Construction Corporation, and final payment of Contractor's Application in the amount of \$63,489.84, with funding as specified, and as recommended in the memorandum of March 3, 2008.

**7.F. BRUCE L. AND NANCY G. STAMILE, 4150 OSLO ROAD, OSLO ROAD
IMPROVEMENTS PHASE II**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved Alternative No. 1, the \$68,628.00 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of March 3, 2008.

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

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

9. PUBLIC ITEMS

9.A. PUBLIC HEARING

9.A.1. BOARD OF COUNTY COMMISSION AGENDA: INFORMATIONAL ITEMS
(LEGISLATIVE)

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

County Attorney William Collins, through a review of the memorandum dated February 25, 2008, brought the Board up-to-date on this item, which had been discussed at the December 4, 2007 Board of County Commissioners meeting. Attorney Collins asked the Board to adopt the proposed Ordinance which would add to the Commission Agenda “Informational Items Not Requiring Board Action” becoming the new Item 7.

The Chairman opened the public hearing.

Bob Johnson, Coral Wind Subdivision, referenced a past meeting at which an item was proposed by a Commissioner and then voted on at the same meeting. He wanted the Board to include wording on the Ordinance so that items brought up at one meeting could be voted on at the next meeting, unless it is an emergency item.

Joseph Paladin, Black Swan Consulting, agreed with Mr. Johnson. He felt that if a Commissioner brings something up which is not on the Agenda, at least one week should ensue before action is taken on that item.

Vice Chairman Davis pointed out that what Mr. Johnson and Mr. Paladin were referring to was a different issue.

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

Commissioner O'Bryan clarified that the proposed Ordinance deals with items that are strictly informational, and not requiring any type of Board action.

Commissioner Wheeler provided background regarding the origin of this item. A brief discussion ensued between Commissioner Wheeler and Vice Chairman Davis regarding what would be an example of an "information only" item. Commissioner Wheeler felt it was unnecessary to set something special on the agenda for "information only" items.

Chairman Bowden supported adding the "informational items", stating that it was a convenient way to list important dates, and to keep the public informed.

The Commissioners continued to discuss what types of items might be put on the "information only" portion of the agenda, such as Annual Reports which are submitted to the County, but do not require action.

Commissioner Flescher supported having a separate area for the informational items.

MOTION WAS MADE by Vice Chairman Davis,
SECONDED by Chairman Bowden, for discussion, to add
a new section to the Agenda for informational items not
requiring Board action.

It was determined that items placed on the Agenda for "information only" would still be open for public discussion.

The Chairman CALLED THE QUESTION and the Motion carried 4-1 (Commissioner Wheeler opposed). The Board adopted **Ordinance 2008-006**, amending Indian River County Code Section 102.04 “Order of Business” to add “Informational Items from Staff or Commissioners not requiring Board action”; providing for codification; providing for severability; and providing for an effective date.

9.B. PUBLIC DISCUSSION ITEMS

9.B.1. REQUEST TO SPEAK FROM JOSEPH PALADIN, GROWTH AWARENESS COMMITTEE, REGARDING UPDATE ON STATUS OF GROWTH AWARENESS COMMITTEE

Joseph Paladin, Chairman, Growth Awareness Committee, reviewed the history and goals of the Growth Awareness Committee, a Private Citizens Group formed in December 2004. He discussed some of the Committee’s accomplishments, including fifteen (15) Land Development Regulations (LDR’s) which had been submitted to staff for their approval and for reworking.

Mr. Paladin recognized eight (8) of the original and four (4) of the newer members of the Committee, and divulged that there were three (3) openings for new members. He briefed the Board on upcoming agenda items for the Committee’s next meeting on March 25, 2008. Mr. Paladin stated that he had been approached by Commissioner Wheeler regarding the status of the Growth Awareness Committee, and he wanted to clarify that the Committee was not under the auspices of the County.

NO BOARD ACTION REQUIRED OR TAKEN

**9.B.2. REQUEST TO SPEAK FROM JOSEPH PALADIN, GROWTH AWARENESS
COMMITTEE, REGARDING WALL THAT SURROUNDS MICHAELS CREEK
SUBDIVISION**

Joseph Paladin, Growth Awareness Committee, presented a synopsis of the circumstances surrounding the construction of the unsightly large gray wall buffering the Michaels Creek Subdivision. He felt that the wall was located on the most important corridor in town (CR510); he discussed possible changes, and asked the Board for suggestions on improving the wall's appearance.

Vice Chairman Davis noted that the Board had been concerned about the quality of the Michaels Creek Subdivision, and was dismayed that the Subdivision's site plan had received approval. He wanted to see aesthetically pleasing landscaping provided at the site.

Attorney Collins wanted to review the site plans and the chronology of this item so that an informed decision could be made at a future meeting. Mr. Paladin was requested to bring the matter back the following week, after staff and the Board had a chance to review the facts.

NO BOARD ACTION REQUIRED OR TAKEN

Clerk's Note: Chairman Bowden requested that Item 13.A. be heard prior to Item 9.C. See 13.A. for discussion.

ON MOTION by Commissioner Wheeler, SECONDED
by Chairman Bowden, the Board unanimously approved
the above change to the Agenda.

9.C. PUBLIC NOTICE ITEMS

9.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR MARCH 18, 2008:

NOTICE OF TAX EQUITY AND FISCAL RESPONSIBILITY ACT (TEFRA)
HEARING TO APPROVE THE ISSUANCE OF PROPOSED PALM BEACH,
FLORIDA, VARIABLE RATE DEMAND REVENUE BONDS (THE
CHILDREN'S HOME SOCIETY OF FLORIDA PROJECT) IN AN
AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17,000,000
(INDIAN RIVER COUNTY NEW MONEY \$2.1 MILLION; REFINANCING
\$2.2 MILLION) (LEGISLATIVE)

9.C.2. NOTICE OF SCHEDULED PUBLIC HEARING FOR MARCH 18, 2008: THE

CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS' REQUEST FOR
SPECIAL EXCEPTION USE APPROVAL TO EXPAND AN EXISTING
CHURCH LOCATED AT 3866 12TH STREET (QUASI JUDICIAL)

9.C.3. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR APRIL 8, 2008:

A. KGP, LLC'S: REQUEST TO REZONE ± 1.57 ACRES LOCATED
APPROXIMATELY 580 FEET WEST OF U.S. 1 AND APPROXIMATELY 130

FEET SOUTH OF 13TH LANE FROM IG, GENERAL INDUSTRIAL DISTRICT, TO CG, GENERAL COMMERCIAL DISTRICT. KGP, LLC., OWNER. KIMLEY-HORN INC., AGENT (QUASI JUDICIAL)

B. ETAYEM, LLC'S: REQUEST TO REZONE ± 1.23 ACRES LOCATED AT THE NORTHWEST QUADRANT OF 27TH AVENUE S.W. AND 25TH STREET S.W. FROM CN, NEIGHBORHOOD COMMERCIAL, TO CL, LIMITED COMMERCIAL DISTRICT. ETAYEM, LLC OWNER. SCHULKE, BITTLE & STODDARD, LLC., AGENT (QUASI JUDICIAL)

The Chairman read the notices into the record.

10. COUNTY ADMINISTRATOR'S MATTERS

10.A. REQUEST FOR EXECUTIVE SESSION - MARCH 11, 2008

Chairman Bowden confirmed with Administrator Baird that the Executive Session to discuss collective bargaining strategies for negotiations with the International Association of Fire Fighters (IAFF) would be held at 11 a.m. this morning in his conference room.

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-NONE

11.J. UTILITIES SERVICES

11.J.1. GRAND HARBOR SPOONBILL MARSH - ARCHAEOLOGICAL SURVEY

Utilities Director Erik Olson reviewed his memorandum of February 19, 2008, and told the Board that the Spoonbill Marsh (FKA Grand Harbor Mosquito Impoundment Restoration Site) Project had received permitting. He informed the Board that although State and local reviews had indicated there were no significant archaeological areas at the subject location, the Division of Historical Resources had requested staff to do a final review of the site. Director Olson asked for Board approval to proceed with the professional cultural resource survey.

MOTION WAS MADE by Commissioner O'Bryan,
SECONDED by Commissioner Wheeler, for discussion,
to accept staff's recommendation.

Commissioner O'Bryan felt that the bid seemed extremely low, and he wanted to make sure staff knew what they were getting.

Director Olson told the Board that Environmental and Code Enforcement Chief Roland DeBlois had confirmed that the low bidder was a good contractor who could provide a valid review.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved entering into a contract with Panamerican Consultants, Inc. of Tampa, FL, and authorized the Chairman to execute same, as presented and recommended in the memorandum of February 19, 2008. All work is to be complete within 40 days from notice to proceed.

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

12. COUNTY ATTORNEY MATTERS

12.A. THE SOURCE

County Attorney William Collins, through a recap of the backup memorandum of March 5, 2008, provided a detailed chronology relating to The Source, a residential treatment facility which had been granted a legal, non-conforming use allowance by Community

Development. He asked the Board to bypass discussion on his recommendations at today's meeting, because neither Attorney Michael O'Haire, Legal Counsel for Steve and Erin Metz, nor Keith Hedin, concerned property owner, (both opposing Community Development's decision), could be in attendance. Attorney Collins asked for Board action only on setting the date for a Special Call Meeting. He suggested April 24, 2008 and asked if this date would be agreeable to representatives of The Source and Steve and Erin Metz.

Douglas A. Vitunac, Esquire, 756 Beachland Blvd., representing The Source, wanted to have two meetings; one hearing to consider jurisdiction, and then if necessary, a second hearing to consider the merits of the case.

Gregg Casalino, O'Haire and Quinn, representing the Metz's, confirmed that April 24, 2008 was a suitable date, and presented his case for having only one hearing.

Attorney Collins concurred with Attorney Casalino that one hearing would be the best option.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Commissioner Flescher, for discussion,
to hold a Special Call Meeting on April 24, 2008 at 9:00
a.m.

Commissioner O'Bryan suggested that the Board hold an evening meeting to accommodate the public, many of who were interested in this issue.

Steve Henderson Esquire, representing The Source, felt that the hearing would be very lengthy. He suggested that the Board be prepared to extend the meeting to the following day, or to set two dates.

Attorney Collins interjected that there probably could not be a night meeting on Thursday, April 24th, 2008, because the Planning Commission normally occupies the Chambers on the fourth Thursday of each month.

Steve Henderson stated for the record, that in a judicial setting, the question of jurisdiction would be handled early in the proceedings. He stated that the Commission had reversed their ruling on this matter at a previous meeting, without providing notice to the appropriate parties. Mr. Henderson declared that The Source was entitled to be heard on the issue of jurisdiction again, and felt that it would save time and expense if it was done on a preliminary basis because, if jurisdiction is determined not to exist, the case ends.

Commissioner Wheeler explained why the Commissioners had made conflicting decisions at the two previous meetings.

Spencer Simmons, 118 43rd Avenue, remarked on some inconsistencies he felt were associated with this item. He also asked for clarification on what constitutes the proper appeal process.

Attorney Collins agreed with Mr. Simmons that the appeal process could be clarified, and felt that this point would be addressed at the Special Meeting.

Chairman Bowden judged that the Special Meeting would be lengthy and supported having it during the day. She asked for feedback from the Commissioners, who agreed to hold the meeting at 9:00 a.m. on April 24, 2008.

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

holding a Special Call Meeting on April 24, 2008 at 9:00
a.m.

Clerk's Note: The Chairman called a recess at 10:39 a.m. The Board reported back to the dais at 10:51 a.m., and then departed to convene the Executive Session. After the Executive Session, the Chairman reconvened the meeting at 11:37 a.m., with all members present.

12.B. ANNUAL EMPLOYMENT CONTRACT

Attorney William G. Collins informed the Board that his current employment contract with the County expires on March 18, 2008. Due to budgeting difficulties facing the County relative to the passage of Amendment 1, Mr. Collins proposed a reduction in his salary and benefits package, as outlined in the backup memorandum of March 4, 2008. Attorney Collins asked the Board to approve his new Annual Employment Contract.

Commissioner Flescher commended Attorney Collins on the “pair-downs” he was offering. He then aired concerns and posed questions regarding deferred compensation, to which Attorney Collins responded.

MOTION WAS MADE by Vice Chairman Davis,
SECONDED by Chairman Bowden, for discussion, to
approve the new Annual Employment Contract for County
Attorney William G. Collins II.

Chairman Wheeler commended Attorney Collins for the proposal he was making, and emphasized that his opposition to the employment contract was not a reflection of the

County Attorney. However, he disagreed with the deferred compensation, the dual retirement system, and the severance package; and was philosophically opposed to contracts where people work at “the pleasure of a Commissioner or Council.”

Commissioner Flescher was uncomfortable with individual contacts for employment in Indian River County. He reiterated his concerns about the deferred compensation which was an option included in Attorney Collins’ employment contract.

Commissioner O’Bryan mentioned that this was the second employment contract to come before the Board without undergoing any formal job evaluation process. He wanted to formalize the review process through the use of a full written review.

Chairman Bowden stated that she had advocated formal written reviews in the past, but it had always been left to the Chairman’s discretion. It was decided that Commissioner O’Bryan would obtain further information about evaluation forms used by other counties, add that to information previously garnered by Chairman Bowden, and bring this matter back to the Board.

Further discussion ensued between the Board and Attorney Collins regarding the deferred compensation.

Vice Chairman Davis felt that the proposed contract for Attorney Collins was a step in the right direction, and was ready for the vote.

The Chairman CALLED THE QUESTION and the Motion carried 3-2 (Commissioners Flescher and Wheeler opposed). The Board approved renewal of the Annual Employment Contract with County Attorney William

Collins II, effective March 18, 2008, with the changes outlined in the memorandum of March 4, 2008. All other terms of the current employment agreement remain the same.

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

13. COMMISSIONER ITEMS

13.A. COMMISSIONER SANDRA L. BOWDEN, CHAIRMAN

13.A.1. ~~LAPORTE~~ LAPORTE CLAIMS BILL

Clerk's Note: This item was heard following 9.B.2. Public Discussion Items, and it is placed here for continuity.

Chairman Bowden stated that this is currently a Bill in the Legislature that she wants to see acted on immediately. She asked Attorney David Carter to provide some background on this item.

Attorney David Carter, Gould, Cooksey, and Fennell, representing Laura LaPorte, presented some background on Ms. LaPorte, a lifelong resident and former owner of a mobile petting zoo. Ms. LaPorte, a Muscular Dystrophy survivor, was tragically injured in 1999 by a State Department of Agriculture grove inspector, Sandra Jackson, who was under the influence of multiple prescription medications, and who had a history of prescription drug abuse known to her employer. Attorney Carter described how the accident had dramatically affected and negatively impacted Ms. LaPorte's health, financial circumstances, and her ability to maintain her independence and livelihood.

Attorney Carter discussed the steps which had been taken to achieve a settlement with the Department of Agriculture. He noted that Ms. LaPorte and the Legislature have agreed to reduce the amount of the Bill in order to facilitate its passage. Attorney Carter reported that the Bill was now in the hands of the State Legislature, and spoke about the importance of the County approving the Resolution in support of Ms. LaPorte.

Chairman Bowden affirmed the Board's desire to provide support for Ms. LaPorte and to see this matter resolved.

MOTION was made by Commissioner Wheeler, SECONDED by Vice Chairman Davis, for discussion, to direct staff to prepare a Resolution in support of the passage of the Florida Legislature's Claims Bill in the LaPorte case.

Because Ms. LaPorte had agreed to accept the lesser settlement amount which had been set forth in the House Bill, Commissioner O'Bryan wanted to ensure that the Resolution was specific to the House Bill, and not to the amount of the jury verdict.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved and directed staff to prepare a Resolution supporting the Florida Legislature's passage of a Claims Bill, with the amount as specified in the House Bill, in the LaPorte v. Agriculture Department Settlement.

13.A.2. OSLO BOAT RAMP UPDATE

Public Works Director Jim Davis reported on the progress of the Oslo Boat Ramp Project. He related that on January 11, 2008, staff had applied for permitting to the St. John's River Water Management District (SJRWMD), and on February 8, 2008, staff had received a twelve-page letter from St. John's requesting additional information. Director Davis related that although the St. John's River Water Management District had passed waiver criteria regarding the paving of unpaved roads (as related to stormwater treatment), the District had denied staff's request for the stormwater exemption.

Vice Chairman Davis and Commissioner O'Bryan agreed that staff should obtain a written response from St. John's River Water Management District stating why the project does not qualify for the stormwater exemption and stating the justification for requiring the additional information.

Director Davis pointed out that there were a tremendous amount of contradictions in the St. John's River Water Management Report. He informed the Board that letters from the Florida Fish and Wildlife Conservation Commission, and the Army Corps of Engineers had also indicated that they did not support the Oslo Boat Ramp Project, and the Army Corps of Engineers had felt the project was contrary to the overall general public interest.

Director Davis reported that there had been a meeting with St. John's River Water Management District at which staff was directed to get additional survey work done. He stated that staff would hopefully submit their response to the St. John's River Water Management District letter within six weeks. If St. John's comes back wanting further information, Director Davis said the County might have to seek assistance from the Legislative Delegation.

Chairman Bowden asked how long it would take the St. John's River Water Management District to respond to staff's new report, and learned that it would take them thirty (30) days.

Further discussion ensued regarding Oslo Road not qualifying for an exemption, particularly in regard to the requirements for phosphorous treatment. Director Davis explained that staff had no plans to make any improvements that would cause phosphorous run-off.

Commissioner O'Bryan urged the Board to expedite this matter, and suggested contacting George Kulczycki of G K Environmental, Inc. He reminded everyone that there was a deadline for the Florida Inland Navigation District (FIND) Grant, and learned from Director Davis that the application must be in by April 1, 2008, with the permit in hand by September 2008.

NO BOARD ACTION REQUIRED OR TAKEN

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

13.E.1. DISCUSS DECISION ON REQUEST TO HAVE A PROCESS FOR REGISTERING AS A LOBBYIST

Commissioner Wheeler explained that at the BCC meeting of December 4, 2007, the Board had discussed enacting procedures to allow ex parte communications, and to have a registration policy whereby individuals could declare whom they represented. He talked about the merits of having transparency in government, and directed the Board to review the Lobbyist Registration Form (copy on file) which is used by St. Lucie County. Commissioner Wheeler emphasized that he was not personally invested in the outcome of this issue; he was simply following directions by bringing this item back for consideration.

Vice Chairman Davis noted that the definition of a lobbyist is simply someone who wants to discuss an issue. He was not averse to giving people the option of registering as a lobbyist, but he wanted citizens to be able to discuss issues with the Commissioners without “jumping through any hoops”.

Commissioner Wheeler pointed out that the form would be utilized only by those individuals who are being paid to lobby; it would not apply to most of the people who talk with the Commissioners.

Commissioner O’Bryan noted that according to the St. Lucie County Code, persons appearing before the Board, in their individual capacity “without compensation or reimbursement”, would still be free to speak to the Commissioners. He voiced support to move ahead on a policy regarding the ex parte communications.

Chairman Bowden invited Commissioner O'Bryan to bring back the latter item at the next BCC meeting, since his comments were directed towards a separate issue.

Charles Wilson, 1936 19th Ave., advocated having the lobbyist registration process. He detailed four points in support of establishing ex parte communications, which he called P.A.I.N. : (1) Protection for the Commissioners; (2) Access for the public and for businesses; (3) Input by the Commissioners, and (4) Needs of the community for information.

Doug Vitunac, Esquire, 756 Beachland Blvd, supported the registration process for lobbyists. He felt that this item would provide transparency and would protect the Board from any accidental communications.

Spencer Simmons, 118 43rd Avenue, saw no need for a lobbyist registry, and felt that lobbyists tend to make things more difficult.

Penny Chandler, representing the Indian River County Chamber of Commerce, asked the Board for feedback on what they believed was the problem. She felt that a lobbyist registrar would add one more layer of bureaucracy between the people and government.

A lengthy discussion ensued between the Commissioners and Attorney Collins regarding what is considered "quasi judicial", what is considered "legislative", what procedures are currently being used for discussing those matters, and the possibility of altering procedures with a formal statutory process.

Joseph Paladin, President of Black Swan Consulting and President of Atlantic Coast Construction and Development, opposed having the lobbyist registry, stating that a registered lobbyist should have no more rights to the Commissioners or staff than any other individual.

Mr. Wilson stressed that the purpose of the lobbyist registrar was to provide an equal chance for individuals to talk to the Board about a quasi judicial matter, and to provide transparency.

Jeff Thompson, Seville Avenue, supported the Board for maintaining an open door policy.

Brian Curley, 4101 Ocean Drive, opposed the lobbyist registrar. He asked the Board to think through this decision, which might impact the ability of individuals to petition their own government.

Commissioner Flescher was opposed to having an avenue of registry for lobbyists. His key points were: (1) concern that the lobbyists would take precedence, and supersede the opportunity for individual citizens to speak with the Commissioners; (2) registering lobbyists might be an additional expense to staff and taxpayers; (3) the County already maintains a local, approachable, transparent government; and (4) if a quasi judicial matter is inadvertently discussed, a protection for the Commissioners already exists, in the form of public disclosure.

Vice Chairman Davis wanted to have the ability to speak to someone about a quasi judicial issue, and wondered whether the subject form would enable him to do so.

Attorney Collins explained that a procedure for discussing quasi judicial matters could be established, such that a form could be filled out and made part of the public record.

Further discussion ensued between the Commissioners and Attorney Collins regarding whether various matters, on which the Board receives public inquiries, would be

considered quasi judicial or legislative. The Board also briefly debated how best to help the constituents who approach them for assistance.

Chairman Bowden wondered if it would be prudent to hold a workshop to explain exactly what is quasi judicial and what is legislative, and to set some ground rules on different policies and procedures, and ways of doing business.

NO BOARD ACTION REQUIRED OR TAKEN

14. SPECIAL DISTRICTS AND BOARDS

14.A. EMERGENCY SERVICES DISTRICT-NONE

14.B. SOLID WASTE DISPOSAL DISTRICT-NONE

14.C. ENVIRONMENTAL CONTROL BOARD-NONE

15. ADJOURNMENT

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

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 1:00 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Sandra L. Bowden, Chairman

Minutes Approved: _____

BCC/MG/2008Minutes