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OF BOARD OF COUNTY COMMISSIONERS
OF JUNE 3, 2008

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June 3, 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, June 3, 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

Pastor Doug Vogt, First Church of God, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

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

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

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

1. Delete Item 8.T. - IRC Jail Expansion Project proposed Deductive Change Order #18.

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

5. PROCLAMATIONS AND PRESENTATIONS-NONE

6. APPROVAL OF MINUTES

The Chairman asked if there were any corrections or additions to the Minutes of the Special Call Meeting of April 28, 2008. There were none.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Special Call Meeting of April 28, 2008, as written.

7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION-NONE

8. CONSENT AGENDA

Chairman Bowden requested to pull Item 8.S. for discussion.

Commissioner Wheeler requested to pull Items 8.K., 8.L., 8.M., and 8.S. for discussion.

Commissioner O'Bryan requested to pull Items 8.H. and 8.N. for discussion.

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

8.A. FLORIDA DEPARTMENT OF REVENUE-REVENUE SHARING APPLICATION FOR 2008-09

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized the Chairman to execute the State Revenue Sharing Application, as recommended in the memorandum of May 16, 2008.

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

8.B. UPDATED INVESTMENT POLICY

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously accepted the Investment Policy, as recommended in the memorandum of May 16, 2008.

**8.C. INDIAN RIVER COUNTY INVESTMENT ADVISORY COMMITTEE,
QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDING
3/31/08**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously accepted the Investment Advisory Committee Quarterly Report, as recommended in the memorandum of May 16, 2008.

8.D. APPROVAL OF WARRANTS - MAY 9, 2008 THRU MAY 15, 2008

ON motion by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of May 9, 2008 through May 15, 2008, as requested in the memorandum dated May 15, 2008.

8.E. APPROVAL OF WARRANTS - MAY 16, 2008 THRU MAY 22, 2008

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of May 16, 2008 through May 22, 2008, as requested in the memorandum dated May 22, 2008.

8.F. APPOINTMENT TO PROFESSIONAL SERVICES ADVISORY COMMITTEE

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the appointment of Dr. Jonathan Day as the Environmental Appointee on the Professional Services Advisory Committee, replacing Mr. Ryan Morrell and serving the remainder of his term, as recommended in the memorandum of May 22, 2008.

8.G. REQUEST FOR EXTENSION OF LEASE FOR LENNIE'S LOUNGE

PROPERTY

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved extending the lease for Lennie's Lounge, with Jeraldine Lawrence, for thirty (30) days until July 3, 2008, as recommended in the memorandum of May 21, 2008.

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

8.H. QUAIL CREEK PD, REQUEST FROM SUCCESSOR DEVELOPER, SLM INVESTMENTS, LLC (STANLEY MARKOFSKY, MARK ACKERMAN, EUGENE SHALIK, AND EDWARD KALIKOW, MANAGING MEMBERS) FOR AN EXTENSION TO COMPLETE REQUIRED IMPROVEMENTS

Commissioner O'Bryan explained why he was opposed to SLM Investments, LLC's request for a third extension to the Contract for Construction of Required Improvements within Quail Creek Planned Development (PD). He reminded the Commissioners that on September 4, 2007, SLM Investments, LLC, had declared that they were 95% complete, and had received from the Board a second extension to the subject Contract. At that time, they had also promised to resolve some issues which remain unresolved.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, for discussion, to deny staff's recommendation to approve a 90-day extension to SLM Investments, LLC's Contract for Construction of Required Improvements within Quail Creek PD.

Matthew Markofsky, 1400 East Oakland Park Blvd., Ft. Lauderdale, FL., representing SLM Investments, LLC, explained that there had been a problem with the lift station during inspection. Although they are correcting the problem, they needed the three-month extension to obtain the Certificate of Completion (CC).

Vice Chairman Davis supported making a decision to approve a sixty-day delay for SLM Investments, LLC to obtain a CC, or pull the Letter of Credit.

Discussion continued regarding the ramifications of the County having to take over the completion of the subdivision (if the Letter of Credit is pulled) and whether or not SLM Investments, LLC, would be able to fulfill their obligations within sixty days.

Mr. Markofsky assured the Board that his company could obtain the Certificate of Completion within sixty days.

Motion WAS AMENDED by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, to approve a sixty-day extension for SLM Investments, LLC, on condition that if they do not receive their Certificate of Completion by that time, the County will pull the Letter of Credit.

The Chairman CALLED THE QUESTION and the Motion, as amended, carried unanimously. The Board approved the sixty-day (60-day) extension for SLM Investments, LLC, conditional upon obtaining the Certificate of Completion within the required period; if not, the Letter of Credit would be pulled.

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

8.I. OFFICIAL RIGHT-OF-WAY MAPS FOR OSLO ROAD: PHASE 1 - 27TH AVENUE TO U.S. HIGHWAY NO. 1, PHASE 2 - 43RD AVENUE TO 27TH AVENUE

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-056**, approving specific purpose survey right-of-way maps for Oslo Road (C.R. 606) - Indian River County Project No. 0501, Phase 1 (27th Avenue to U.S. Highway No. 1) and Indian River County Project No. 0533, Phase 2 (43rd Avenue to 27th Avenue).

8.J. RESOLUTION CANCELING TAXES ON PROPERTY ACQUIRED THROUGH FORECLOSURE BY THE CITY OF FELLSMERE

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-057**, cancelling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.

(City of Fellsmere v. Jack Jones, et al)

8.K. CITRUS SPRINGS VILLAGE “F” PHASE 2, SIDEWALK EXTENSION
REQUEST, DEVELOPER: THE SUNTREE PARTNERS AND HMM, INC.

Commissioner Wheeler reported that SunTree Partners and HMM, Inc., who had received prior extensions, were late asking for the sidewalk extensions. He pointed out that this has been an ongoing problem for at least three years. He observed that in Citrus Springs Village, there were already quite a few residents living in the primarily single-family development, which is not yet completely built out. Commissioner Wheeler declared that the sidewalks should be put in for the existing residents, and added that the developer should also clean the vacant lots on the property. He acknowledged that some of the sidewalks which are put in place before building the remaining homes may become damaged from construction activities.

Commissioner Wheeler asked Director Boling to confirm that the sidewalks at Citrus Springs Village were four feet wide. Director Boling replied that when the Village received approval in 1999, the four-foot wide sidewalks were in compliance with County Code.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Commissioner O’Bryan, to deny the
extension, and to get the sidewalks put in.

Under discussion, Commissioner O’Bryan declared that although some progress has been made as a result of meetings with the developers, no resolutions have been attained. He felt that it was time for the developer to construct the sidewalks; this was affirmed by Vice Chairman Davis and Commissioner Wheeler.

Attorney Collins explained why County Code allows for longer time periods and two to ten-year extensions to put in the sidewalks. He explained that if the contract for sidewalk

construction is not extended, it would fall to the County to go out to bid and put in the required sidewalks. Attorney Collins pointed out that putting the sidewalks in prior to construction might lead to an unhappy situation for the residents who might end up replacing damaged sidewalks.

The Board and staff discussed at what point the responsibility for repairing damaged sidewalks would become the homeowner's responsibility.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board denied the request for a sidewalk extension for an additional two years (to February 21, 2010) and desired to have the developer, Suntree Partners and HMM, Inc., proceed with the construction of the sidewalks.

8.L. CITRUS SPRINGS VILLAGE "E" SIDEWALK EXTENSION REQUEST,
DEVELOPER: THE SUNTREE PARTNERS AND HMM, INC.

Clerk's Note: Please see Item 8.K. for discussion which also applies to Item 8.L.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board unanimously denied the request for a sidewalk extension for an additional two years (to February 21, 2010) and desired to have the developer, Suntree Partners and HMM, Inc., proceed with the construction of the sidewalks.

8.M. CITRUS SPRINGS VILLAGE “D” PHASE 2, SIDEWALK EXTENSION
REQUEST, DEVELOPER: THE SUNTREE PARTNERS

Clerk’s Note: Please see Item 8.K. for discussion which also applies to Item 8.M.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O’Bryan, the Board unanimously denied the request for a sidewalk extension for an additional two years (to February 21, 2010) and desired to have the developer, Suntree Partners and HMM, Inc., proceed with the construction of the sidewalks.

8.N. PALADIN PLACE II, SIDEWALK EXTENSION REQUEST, DEVELOPER:
ATLANTIC COAST CONSTRUCTION AND DEVELOPMENT, INC. (JOSEPH
PALADIN, PRESIDENT)

Commissioner O’Bryan noted that this was a situation similar to Citrus Springs Village (see discussion under Item 8.K.), but in this case, the developer has put some cash towards the project’s completion.

Community Development Director Robert Keating observed that Paladin Place II, which has both single-family homes and town houses (platted but not yet built), differs from Citrus Springs, which has only single-family homes. He explained that normally staff does not have the same concerns about putting in sidewalks at town houses as they do for single-family homes; however, in this case, the road through the town house portion of the subdivision accesses another tract, Paladin Hammock. Staff feels that the sidewalk needs to be there to provide access to Paladin Hammock when it is developed.

Using a PowerPoint presentation, Director Keating displayed the plats of the single-family and townhomes at Paladin Place II. He thereafter presented staff's recommendation for approval of the sidewalk extension for two more years and responded to questions from the Board regarding the bonding requirements for the sidewalks.

Commissioner O'Bryan inquired whether Mr. Paladin would have the sidewalks in by the conclusion of the time extension.

Joseph Paladin, President of Atlantic Coast Construction Development, explained that he had sold the town house lots to a builder who would construct the sidewalks when the town houses were built. Since he no longer owned the lots, Mr. Paladin could not guarantee when the sidewalks would be put in. He reported that all the sidewalks in the common areas had been built and the only sidewalks not in place were the ones that were required in the town house area.

Board members made observations regarding the differences between Paladin Place II and Citrus Springs, pointing out that no town houses were occupied or had been built at Paladin Place II, while single family dwellings already existed and were occupied at Citrus Springs.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Bowden, the Board unanimously approved the sidewalk extension for an additional two years (to February 21, 2010), and authorized the Chairman to execute both the Modification to Contract for Construction of Required Sidewalk Improvements, and the Cash Deposit and Escrow Agreement, only after payment of the \$445.00 extension fee and the \$485.00 modification fee

(substitution of security and reduction) have been made pursuant to Resolution No. 2005-041. If the required fees are not paid within 14 days, staff is authorized to deduct \$930.00 plus administrative fees before returning the difference in the amount posted and the amount necessary, all as recommended in the memorandum of May 27, 2008.

AGREEMENTS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.O. PROPERTY ACQUISITION – TAX ROLL REMOVAL & TAX CANCELLATION (RESOLUTIONS NOS. 2008-058 - 2008-074)

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

- (1) **Resolution 2008-058**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. *(66th Avenue - William & Eva Graves)*
- (2) **Resolution 2008-059**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. *(Old Dixie Hwy - Pioneer Baptist Church)*
- (3) **Resolution 2008-060**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. *(43rd Avenue - VB Moose Lodge #1822)*

- (4) **Resolution 2008-061**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(70th Avenue - Chester Wilcox)
- (5) **Resolution 2008-062**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(Old Dixie Hwy. - Lucien Clark)
- (6) **Resolution 2008-063**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(43rd Avenue - Jeraldine Lawrence)
- (7) **Resolution 2008-064**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(69th Street - Gendell Partners Advocate LLC & Gendell Realty Partners Florida LLC)
- (8) **Resolution 2008-065**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(Oslo Road - Bruce Stamile)
- (9) **Resolution 2008-066**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(R/W 58th Avenue - Donald Staszewski)
- (10) **Resolution 2008-067**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(85th Street - Redlands Christian Migrant)

(11) **Resolution 2008-068**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(82nd Avenue (Westfield of Vero))

(12) **Resolution 2008-069**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(45th Street - Salt of Earth Ministries)

(13) **Resolution 2008-070**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(66th Avenue - Jo-Ann Dowling)

(14) **Resolution 2008-071**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(49th Street & 31st Avenue - Ken McKellar)

(15) **Resolution 2008-072**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(43rd Avenue - Grace Baptist Church)

(16) **Resolution 2008-073**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(Scrub Jay Parcel - Park Place)

(17) **Resolution 2008-074**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(Old Dixie Hwy - Easy Storage/Kuhnert)

**8.P. APPROVAL OF BID AWARD FOR IRC BID No. 2008050, DIESEL
GENERATOR FOR FLEET MAINTENANCE FACILITY**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) the Bid Award to Eau Gallie Electric, Inc. as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the Invitation to Bid; (2) the Sample Agreement; and (3) authorized the Chairman to execute said Agreement when required performance and payment bonds have been received along with appropriate Certificate of Insurance and the County Attorney has approved the Agreement as to form and legal sufficiency, as recommended in the memorandum of May 20, 2008.

**8.O. RIGHT-OF-WAY ACQUISITION – COUNTY ROAD PROJECT #0370, 6875
AND 6885 66TH AVENUE, LOCATED ON THE SOUTHWEST CORNER OF
69TH STREET AND 66TH AVENUE, MICHAEL A. AND SHARON
LOUDERMILK**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the purchase of the parcel at 6875 and 6885 66th Avenue for \$400,000, and authorized the

Chairman to sign the Purchase Agreement, as recommended in the memorandum of May 19, 2008.

AGREEMENTS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.R. RIGHT-OF-WAY ACQUISITION ROAD PROJECT # 0749, IMPROVEMENT
AND WIDENING OF SR60 AND 58TH AVENUE INTERSECTION,
PROPERTY ADDRESS: 2005 55TH AVENUE, OWNER: QUANG N.
NGUYEN AND LE THU THI TRAN**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the right-of-way purchase located at 2005 55th Avenue, for \$8,970.00, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of May 19, 2008.

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

**8.S. RIGHT-OF-WAY ACQUISITION ROAD PROJECT # 0749, IMPROVEMENT
AND WIDENING OF SR60 AND 58TH AVENUE INTERSECTION,
PROPERTY ADDRESS: 5620 20TH STREET, OWNER: DONNA J. AND
RODNEY R. LUKE**

Chairman Bowden declared that she had heard conflicting information that homeowners were not always given their full rights when the County acquires property from individuals. She wanted staff to detail the County's land acquisition processes.

Commissioner Wheeler conveyed that it was rumored that the Lukes (not present) were not happy with the purchase agreement. He wanted to contact the Lukes to ensure that they were being treated properly, and to postpone this item for a week or two. Additionally, he wanted to make sure that when the County purchases a property, that the owner is fully noticed of all their rights.

Vice Chairman Davis wanted the opportunity to move forward, in the event that the sellers still wanted to abide by the agreement.

Attorney Collins suggested bringing the item back in two weeks, on June 17, 2008.

Chris Mora, Public Works, explained that staff had negotiated with the owners for the better part of a year, and they did agree to the sale, and execution of the Purchase Agreement.

Vice Chairman Davis wanted to contact the property owners, and if there was an issue, to bring solutions up at the projected meeting in two weeks. He wanted approval of this item, pending the seller's saying "yes" one more time.

Chairman Bowen wanted to have the details of the eminent domain process explained and put on the record.

Commissioner O'Bryan pointed out that this Agreement was consistent with the Consent Agenda Item R., a similar right-of-way purchase at the same price.

Administrator Baird said he would check with the Lukes again, and would work with Legal to determine if the sellers were happy with the Agreement.

The Board Consensus was to proceed with the Agreement, if the sellers were happy; and if not, for staff to bring this item back to the Board. Additionally, the Board directed Attorney Collins to return with details on the County's land acquisitions processes to make sure the sellers are being treated fairly.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously: (1) approved the right-of-way purchase located at 5620 20th Street, for \$9,545.00; (2) authorized the Chairman to execute same, conditioned upon the seller's satisfaction with the Agreement; and (3) directed the County Attorney to return in two weeks (June 17, 2008) with a presentation regarding the County's eminent domain process.

8.T. IRC JAIL EXPANSION PROJECT PROPOSED DEDUCTIVE CHANGE
ORDER #18

This item was deleted from the Agenda.

8.U. ENERGY SAVING PERFORMANCE CONTRACTING RFQ SELECTION

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved that FPL Energy Services be selected as Energy Services Performance Contractor, and authorized staff to negotiate a contract with them following the standard form of Agreement for Guaranteed Energy Performance Contracting provided by FPL Energy Services and modified and approved by the County Attorney's Office, as recommended in the memorandum of May 15, 2008.

8.V. AMENDED AS-BUILT RESOLUTION & ASSESSMENT ROLL FOR PAVING AND DRAINAGE IMPROVEMENTS TO 31ST & 32ND AVENUE SW FROM 10TH STREET SW TO 13TH STREET SW IN GROVENOR ESTATES S/D, IRC PROJECT # 0420

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-075**, an amendment to Resolution 2008-029 of Indian River County that certified "as built" costs for certain paving and drainage improvements to 31st and 32nd Avenues SW, from 10th Street SW, to 13th Street SW, designated as County Project No. 0420, to provide for an amended completion date, amended interest rate, and amended date for prepayment without penalty or interest.

**8.W. 58TH AVENUE AND SR60 INTERSECTION – FPL TRANSMISSION
RELOCATION DEPOSIT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the non-refundable deposit to Florida Power & Light Company (FP&L), in the amount of \$60,000.00, to commence with a detailed design to remove and replace 17 concrete poles, as recommended in the memorandum of May 12, 2008.

**8.X. APPROVAL WORK ORDER NO. 1 (ENGINEERING) WITH ARDAMAN &
ASSOCIATES, INC., PROVIDING PROFESSIONAL GEOTECHNICAL
SERVICES IN ACCORDANCE WITH THE ANNUAL GEOTECHNICAL
SERVICES CONTRACT NO. 0534, 1ST ROAD FROM 35TH AVENUE TO 32ND
AVENUE, IRC PROJECT # 0522**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved Work Order No. 1 (Engineering) to Ardaman & Associates, Inc., authorizing the Project as outlined in the Scope of Services; and (2) authorized the Chairman to execute the Work Order, for a fee not to exceed \$6,402.00, as recommended in the memorandum of May 20, 2008.

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

8.Y. RIGHT-OF-WAY ACQUISITION, GRENFALL J. AND DONNA B.

BEACHLER, 4310 8TH STREET, VERO BEACH

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative 1, the \$50,000.00 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of May 23, 2008.

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

8.Z. RELEASE OF RETAINAGE KIMLEY-HORN AND ASSOCIATES, INC. –

AMENDMENT NO. 2 4TH STREET BRIDGE REPLACEMENT OVER COOCH DITCH (35TH AVENUE) IRC PROJECT NO. 0209

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Invoice No. 7035049-0308, dated 03/31/08 releasing retainage in the amount of \$1,384.07, as recommended in the memorandum of May 13, 2008.

8.AA. WORK ORDER NO. 7 (ENGINEERING/SURVEYING) – FULL AND FINAL PAYMENT, CARTER ASSOCIATES, INC., PROPOSED 26TH STREET BETWEEN 74TH AVENUE AND 82ND AVENUE, DRAINAGE DESIGN AND EASEMENT, COOK PROPERTY, IRC PROJECT NO. 0809

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved payment of Invoice No. 08245-1, dated May 7, 2008, in the amount of \$3,880.00 for full and final payment of Work Order No. 7 to Carter Associates, Inc., as recommended in the memorandum of May 27, 2008.

8.BB. RELEASE OF RETAINAGE KIMLEY-HORN AND ASSOCIATES, INC. – AMENDMENT NO. 9, OSLO ROAD WIDENING PHASE I FROM WEST OF OLD DIXIE HIGHWAY TO 27TH AVENUE, ENGINEERING SERVICES AMENDMENT NO. 9 – OSLO ROAD POND SITING

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Invoice No. 7035050-0308, dated March 31, 2008, releasing retainage in the amount of \$1,728.01 to Kimley-Horn and Associates, Inc., as recommended in the memorandum of May 19, 2008.

8.CC. MISCELLANEOUS BUDGET AMENDMENT 012

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-076**, amending the Fiscal Year 2007-2008 Budget.

**8.DD. GRANT OF EASEMENT TO INDIAN RIVER COUNTY, ANNE FROST
IRREVOCABLE TRUST 9300 NORTH HWY A1A**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative #1, the terms of the agreement for Grant of Easement with Anne Frost as Trustee of the Anne Frost Irrevocable Trust, as recommended in the memorandum of May 15, 2008.

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

8.EE. DEMOLITION AT 4004 46TH LANE, VERO BEACH

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved delaying demolition of the Charlie Jones home located at 4004 46th Lane for a period of 60 days, and authorized staff to continue with the demolition process, if no progress has been made during that time or if no regular

inspection passes for any 60-day period after the issuance of the permit, all as recommended in the memorandum of May 28, 2008.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES-NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARINGS

10.A.1. CONSIDERATION OF PROPOSED AMENDMENTS TO LDR CHAPTER 910, CONCURRENCY MANAGEMENT SYSTEM, TO ADD SCHOOL CONCURRENCY REGULATIONS AND UPDATE TRANSPORTATION MONITORING AREA OF INFLUENCE REFERENCE (LEGISLATIVE)

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

Planning Director Stan Boling recapped the backup memorandum of April 25, 2008 to provide background description and conditions of the School Concurrency Mandate (passed in 2005) which requires local governments and school districts to establish school concurrency at the local level. He stated that two of the three requirements of the mandate had already been satisfied, and the third requirement, to adopt Land Development Regulations (LDR's) to codify school concurrency regulations, must be adopted by July 1, 2008. He thereafter presented staff's recommendation for approval, based on the conditions outlined on pages 298 and 299 of the backup, and including the effective date of July 1, 2008.

The Chairman opened the public hearing. Seeing no one, the Chairman closed the public hearing.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously adopted **Ordinance 2008-011**, concerning amendments to Land Development Regulations (LDRs); providing findings; providing for amendments to Chapter 910, Concurrency Management System, by amending Section 910.01(3) to update the intent of the concurrency regulations; by amending Section 910.07(3),(4), and (5) “Development Review System”, to update for school concurrency; by amending Section 910.09 “Determination of Concurrency, Components”, to update for school concurrency; by amending Section 910.10 “Level of Service Standards established in the Comprehensive Plan”, to update for school concurrency; by amending Section 910.11, “Determination of Concurrency, Specifically” to update for school concurrency; by amending Section 910.12, Proportionate Fair-Share Mitigation, to update for school concurrency; by amending Section 910.13, Proportionate Fair-Share Mitigation for Public School Facility, to update for School Concurrency; by amending Section 910.14, Appeal Process and Vested Rights Determination, to update for school concurrency; by amending Section 910.15, Assignability and Transferability, to update for school concurrency; by amending Section 910.09(4) “Transportation Monitoring”,

to update area of influence; by providing for repeal of conflicting provisions; codification; severability; and effective date.

10.A.2. MINING MORATORIUM ORDINANCE EXTENSION (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 recap of the backup memorandum of May 27, 2008, discussed the details of the mining moratorium extension. He recalled that on January 7, 2008, a six-month moratorium, due to expire on July 10, 2008, was imposed on the acceptance and processing of applications for mining permits. On April 22, 2008, the Board had directed Attorney Collins to initiate the process of extending the moratorium (which must be done by Ordinance) for up to an additional six months. After briefing the Board on the statutory requirements regarding moratoriums, Attorney Collins reported that this would be the first of two public hearings on the Mining Moratorium extension, and that it was necessary to select a date and time for the second and final public hearing at today's (June 3, 2008) meeting. Attorney Collins recommended that the second public hearing be held at the regular Board of County Commission Meeting on June 17, 2008.

The Chairman opened the public hearing. Seeing no one, the Chairman closed the public hearing.

Commissioner O'Bryan asked whether the Planning and Zoning Commission (PZC) and the Professional Services Advisory Committee (PSAC) would be able to conclude

their workshop meetings prior to the expiration date of the extension, and staff provided a timeline for the review process of the Moratorium.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously directed desired changes be made to the Ordinance prior to the second public hearing, and established a date and time for the second (final) public hearing on the Mining Moratorium Ordinance Extension, to be held no sooner than June 13, 2008, as recommended in the memorandum of May 27, 2008.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM KEEP INDIAN RIVER BEAUTIFUL

REGARDING KITE PROPERTIES TO RECEIVE AWARD FOR THEIR STEWARDSHIP

Melanie Jones, 343 13th Street SW, Executive Director of Keep Indian River Beautiful (KIRB) informed the Board that Kite Properties would be relocating thirty-four (34) live oak trees to provide space for their new hotel, SpringHill Suites by Marriott. She provided a PowerPoint presentation depicting the Live Oak Relocation Project, and detailed the positive environmental impacts of preserving the live oaks, as well as the advantages gained by tree planting. Ms. Jones thereafter read and presented the Stewardship Recognition Award to Kelly Kite and Michael Lore, both of Kite Properties.

Kelly Kite thanked KIRB and let the County know that Kite Properties would be taking further “green” initiatives as they develop SpringHill Suites.

Vice Chairman Davis commended Kite Properties for holding open meetings prior to construction to receive input from neighboring residents.

The remaining Commissioners praised Kite Properties for providing such a good model of doing business in Indian River County.

No Board action required or taken

**10.B.2. REQUEST TO SPEAK FROM JOSEPH GUFFANTI REGARDING
TRANSFER STATIONS**

Joseph Guffanti, 441 Holly Road, presented statistics to support his opposition to the proposed privatization of the transfer stations, opining that the County should not jeopardize the welfare of the current employees in order to effect what he believed would be an insignificant savings.

No Board action required or taken

10.C. PUBLIC NOTICE ITEMS-NONE

11. COUNTY ADMINISTRATOR'S MATTERS-NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT-NONE

12.B. EMERGENCY SERVICES

12.B.1. APPROVAL OF THE BELL SOUTH SPECIAL SERVICE AGREEMENT

ON MOTION by Commissioner Wheeler , SECONDED by Commissioner Flescher, the Board unanimously approved the Special Service Arrangement (SSA) Agreement with BellSouth Telecommunications, Inc. d/b/a/ AT&T Florida, and authorized the Chairman to execute same, as recommended in the memorandum of May 27, 2008.

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

12.C. GENERAL SERVICES-NONE

12.D. HUMAN RESOURCES-NONE

12.E. HUMAN SERVICES-NONE

12.F. LEISURE SERVICES-NONE

12.G. OFFICE OF MANAGEMENT AND BUDGET

12.G.1.TOURIST DEVELOPMENT COUNCIL, 2008/2009 BUDGET

RECOMMENDATIONS

County Budget Director Jason Brown recapped the May 27, 2008 memorandum to brief the Board on the Tourist Development Council's (TDC) ratings system for tourist tax revenues, which are distributed among the following five agencies: (1) Indian River County and Sebastian Chambers of Commerce; (2) Vero Heritage; (3) the Cultural Council; (4) Treasure Coast Sports Commission; and (5) the Indian River County Historical Society. He conveyed that since the Indian River County Historical Society had received the lowest ratings and would not have been eligible for funding, the Tourist Development Council came up with an option (outlined on page 371 of the backup) to ensure that some of the revenues would be apportioned to the Historical Society. Director Brown thereafter presented staff's recommendation for approval of that option (Alternative 2), limiting each agency to no more than a 2% increase to their current year funding, and then applying the rating system to each requestor.

Chairman Bowden, who had chaired the Tourist Development Council meeting, agreed that Alternative No. 2 was the most fair and equitable way to allocate the funds.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 2, the Tourist Development Council's recommendation to limit each agency to no more than a 2% increase to their current year funding, then to apply the rating system to each requestor, as recommended in the memorandum of May 27, 2008.

12.H. RECREATION-NONE

12.I. PUBLIC WORKS-NONE

12.J. UTILITIES SERVICES

**12.J.1. CONTINUING CONSULTING SERVICES WORK ORDER NO. 8 WITH
BRIDGE DESIGN ASSOCIATES, INC FOR DESIGN OF FORCE MAIN
RELOCATION ON 16TH STREET BRIDGE AT 74TH AVENUE, UCP 3079**

Michael Hotchkiss, Capital Projects Manager, explained that this item was a Work Order to design the approach pipe routing and the force main crossing. It would be a continuation of services provided by Bridge Design Associates, Inc. for the 16th Street Bridge.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 8 with Bridge Design Services, Inc. in the amount of \$4,814.00, for engineering design of the force main crossing of the 16th Street Bridge at 74th Avenue, and authorized the Chairman to execute the same, as presented, and as recommended in the memorandum of May 15, 2008.

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

**12.J.2. AMENDMENT NO. 6 TO WORK ORDER NO. 1 WITH ECOTECH
CONSULTANTS, INC.**

Clerk's Note: This item was heard following Item 12. J.3. and is placed here for continuity.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously approved Amendment No. 6 to Work Order No. 1 with Ecotech Consultants, Inc., in the amount of \$1,610.00, and authorized the Chairman to execute same, as recommended in the memorandum of May 20, 2008.

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

**12.J.3. APPROVAL OF BID AWARD FOR IRC BID NO. 2008044, SR60
UTILITY IMPROVEMENTS – 8300 BLOCK OF SR60 TO INDIAN CREEK
BLVD. WIP NO. 471-23536-044699-08503, 472-169000-08503, UCP
NO. 3026**

Clerk's Note: This item was heard following Item 12.J.1. and is placed here for continuity.

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman Davis, the Board unanimously: (1) approved the Bid Award to the lowest, most responsive

and responsible bidder, SPS Contracting, Inc. of Vero Beach, Florida, for \$1,435,128.83; (2) approved the Sample Agreement; and (3) authorized the Chairman to execute said Agreement when required performance and payment bonds have been submitted along with appropriate Certificate of Insurance and the County Attorney has approved the agreement as to form and legal sufficiency, as recommended in the memorandum of May 7, 2008.

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

13. COUNTY ATTORNEY MATTERS

13.A. REPORT ON MENSING REQUEST TO RESCIND RESOLUTION No. 2008-043

County Attorney William Collins recalled that on May 20, 2008, Douglas Vitunac, Esquire, representing Fred Mensing, had presented arguments for the County to rescind Resolution 2008-043, the acceptance of the implied dedication of a 60-foot strip right of way in Section 30 of the Fleming Grant Plat of 1888. Attorney Collins, through a recap of the backup memorandum of May 28, 2008, presented legal opinion for his recommendation that the Board retain the Resolution, which was approved on April 22, 2008. He thereafter noted that Mr. Mensing would have a right to sue for adverse possession and discussed what the basis for this would be; however, he believed that it would be difficult for Mr. Mensing to establish adverse possession.

Douglas Vitunac, Esquire, Collins Brown and Caldwell, representing Fred Mensing, countered that the subject strip of land was not an unequivocal offer of public dedication. He presented a slide depicting the plat, and discussed an agreement previously reached between the County and Mr. Mensing (on a code enforcement lien), which resulted in a settlement specifically releasing the County's claims on the subject strip of land.

Attorney Vitunac told the Board that it would be best for the County to stay out of what amounts to a civil real property dispute between Mr. Mensing and his neighbor, Mr. Kirrie. He declared that if the County needs the right-of-way for access, it should go through the proper process of either negotiating with Mr. Mensing, or proceeding with the process of condemnation. Attorney Vitunac wanted the Board to table this item, reconsider it, or let Mr. Mensing and Mr. Kirrie seek legal intervention in their ongoing right-of-way dispute.

Responding to Commissioner Wheeler's question, Attorney Collins provided the details of the settlement previously mentioned by Attorney Vitunac.

Attorney Collins discussed past cases where the County had accepted, through Resolutions, dedications of old platted areas that have not yet been opened up or utilized, in order to avoid future problems. He declared that there was ongoing dispute between Mr. Kirrie and Mr. Mensing, each making claims to rights on the road, and he believed the County's acceptance of the right-of-way was a way to clear up a claim to title, which he believed was questionable. Attorney Collins believed that the land should be claimed, opened up, and made useful, on behalf of the public.

Fred Mensing related background information on the subject parcel, and stated that he had received a quit-claim deed from the grandson of one of three original owners of the plat. He urged the Board to freeze this item until Mr. Collins and Mr. Vitunac could review all the issues relating to the subject parcel, and thus avoid the expense of going to court.

A brief question and answer period ensued as the Board and Attorney Collins discussed the implications of going to court. Attorney Collins felt that more meetings would not be productive.

Attorney Vitunac reiterated that the County should not be interfering in what is a civil real property dispute.

Attorney Collins pointed out that Mr. Mensing and Mr. Kirrie have repeatedly shown up at the Sheriff's and the Attorney's offices, arguing points, and that this item needs to be resolved. He recommended that the Board not rescind Resolution 2008-043.

A brief discussion ensued between the Board and staff regarding possible uses for the subject property.

Mr. C.N. Kirrie made observations regarding the history of the sixty-foot strips, as they were originally platted.

No Board action required or taken

The Chairman called a recess at 10:46 a.m. and reconvened the meeting at 10:56 a.m. with all members present.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER SANDRA L. BOWDEN, CHAIRMAN

14.A.1. TASK FORCE

Chairman Bowden recalled the recent decision of Piper Aircraft to remain in Indian River County. She wanted to continue with that momentum and actively seek more light, clean businesses, such as aviation and avionics. She invited Florida Representative Ralph Poppell, and Penny Chandler of the Vero Beach Chamber of Commerce, to help develop a strategy to work on this, and to put forth the message that Indian River County is open for business.

Florida Representative Ralph Poppell supported moving forward in a spirit of cooperation and teamwork to establish a good business climate, and he offered his support in this endeavor.

Commissioner Wheeler felt that steps to maintain and attract businesses were already being taken by the Chamber of Commerce and the Economic Development Council.

Vice Chairman Davis agreed with Commissioner Wheeler, but pointed out that the County has a great opportunity to capitalize on the current momentum. He wanted to see the County focus on anticipating the growth needs of established and future businesses; and he wanted to see the goal of accomplishing the permitting within thirty (30) days.

Chairman Bowden wanted to incorporate the thirty-day permitting into a strategic plan.

Commissioner Flescher mentioned that Piper Aircraft's CEO, Jim Bass, had offered to provide input to the government and to the Chamber of Commerce on his experiences, and to help recruit other businesses to the County.

Penny Chandler, of the Vero Beach Chamber of Commerce, said that Piper was a great example of how effective teamwork can be, and advocated working together to make

economic development work for the County, to create more jobs, and to create a better tax base for the County.

Michael Maggiano discussed his background in aerospace, and applauded the County for seeking ways to bring necessary jobs into Florida. He suggested that the County create the task force as a pilot program.

Commissioner O'Bryan agreed that it was important to promote the news that the County is business friendly and wants to expand its aviation and other businesses. He felt that the biggest delay in permitting did not arise from the local level, but in obtaining the St. John's Water Management District (SJRWMD) and other State permits.

Administrator Baird agreed, stating that the County is the clearing house for the other permitting agencies, such as the Department of Environmental Protection (DEP) and SJRWMD. He noted that the County does have a good relationship with all the agencies.

Chairman Bowden conveyed that she was setting up a Chairman's Advisory Committee that would advise her on different processes and procedures, and CEO's have already contacted the committee.

The Board and staff continued to discuss the best ways to get out the message that the County is not doing business as usual; whether it was possible to achieve the 30-day permitting goal; the importance of having a process whereby business people have a points person to guide and inform them; and the necessity to meet with the cities that may have different permitting processes.

Representative Poppell felt that the top priority would be for the County to change its image, and that other items could be fine-tuned and fall into place.

Charlie Wilson, 1057 6th Ave., talked about the efficiency and affability of County staff, but agreed with a remark made earlier by Representative Poppell that there is always room for improvement. He suggested that when a group is put together, perhaps people such as new or retired CEO's, could be appointed to provide fresh input. He also suggested having an ombudsman to oversee and walk people through the system.

Joseph Paladin, Black Swan Consulting, had two suggestions: (1) Assign one staff member to a particular permit so that one contact could be provided to a business person; and (2) Have all the information available at the onset of the permitting process, regarding what the business needs to address.

Further discussion ensued as the Board noted that Administrator Baird already acted as a points person for incoming businesses.

Commissioner O'Bryan clarified that there were two elements involved in the development of a strategy: (1) To have the Economic Development Council work within the 30-day parameter (as a Sunshine Committee), to come up with an advertising program to highlight the Piper decision, and to send the message that the County is business friendly; and (2) To survey the builder and developer community for suggestions on improving the permitting process.

Vice Chairman Davis MOVED, SECONDED by Chairman Bowden, to survey those who are utilizing the building department for the purpose of obtaining constructive criticism.

Under Discussion, Commissioner O'Bryan asked those in the developer community to spread the word that the County is seeking constructive criticism.

Renee Renzi, Waverly Place, cautioned that business expansion is not always the best thing, and asked the Commissioners to be careful to preserve the County's lifestyle.

Chairman Bowden hoped that within thirty (30) days, the Board would have information back from the County Administrator and the Chamber of Commerce.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved to survey those who are utilizing the Building Department, in order to obtain constructive criticism on improvements which could be made to the department.

Administrator Baird interjected that staff would be working with the Economic Development Council on the goals discussed today.

14.B. COMMISSIONER WESLEY S. DAVIS, VICE CHAIRMAN-NONE

14.C. COMMISSIONER JOSEPH E. FLESCHER-NONE

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

14.E. COMMISSIONER GARY C. WHEELER-NONE

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT-NONE

15.B. SOLID WASTE DISPOSAL DISTRICT

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

15.B.1. APPROVAL OF MINUTES, REGULAR MEETING OF APRIL 8, 2008

15.B.2. APPROVAL OF MINUTES, REGULAR MEETING OF APRIL 22, 2008

**15.B.3. WORK AUTHORIZATION NO. 5 - FINAL PAY TO GEOSYNTEC
CONSULTANTS, INC. FOR 2007 ANNUAL ENGINEERING SERVICES AND
ENVIRONMENTAL COMPLIANCE ASSISTANCE**

**15.B.4. WORK AUTHORIZATION NO. 8 - FINAL PAY TO CAMP DRESSER AND
MCKEE, INC. FOR 2007 ANNUAL PERMITTING SERVICES**

**15.B.5. WORK ORDER NO. 16 TO GEOSYNTEC CONSULTANTS, INC. FOR
ENGINEERING SERVICES WITH THE CONSTRUCTION OF VERTICAL
EXPANSION OF THE CLASS I LANDFILL, ON-SITE BORROW POND, AND
EXPANSION OF THE LANDFILL GAS COLLECTION SYSTEM**

15.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

16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at
11:42 a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Sandra L. Bowden, Chairman

Minutes Approved: _____
BCC/MG/2008Minutes