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OF BOARD OF COUNTY COMMISSIONERS
OF JULY 15, 2008

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July 15, 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, July 15, 2008. Present were Chairman Sandra L. Bowden, Vice Chairman Wesley S. Davis, and Commissioners Joseph E. Flescher, Peter D. O'Bryan, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Maureen Gelfo.

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

Chairman Sandra L. Bowden led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

(Clerk's Note: this item was heard immediately following Item 5.B. and is placed here for continuity).

Administrator Baird requested the following changes to today's Agenda:

1. Delete Item 8.Q. Florida Power and Light (FPL) Agreement to Install Additional Street Lights in the Wabasso Street Lighting District

There was a CONSENSUS to approve the above change to the Agenda.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION HONORING THE RECIPIENTS OF THE 2008 DAN K. RICHARDSON AWARD, MR. ROBERT F. AND ELEANORA W. MCCABE

Chairman Bowden read and presented the Proclamation to Mr. Robert F. and Eleanor W. McCabe.

5.B. PRESENTATION BY DWIGHT JENKINS, CONSUMPTIVE USE POLICY DEVELOPMENT COORDINATOR, ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

Mr. Dwight Jenkins explained that the "Permit by Rule Conservation Requirements", which regulate water usage, apply to smaller water uses that do not require a

consumptive use permit where the water is used for irrigation. Through a PowerPoint presentation (copy on file), Mr. Jenkins provided background on the “Permit by Rule Conservation Requirements”, and outlined the proposed changes to the existing rules. He disclosed that the SJRWMD hoped to have the provisions in place effective March 2009.

Mr. Jenkins thereafter responded to Commissioner O’Bryan’s concerns regarding the proposed time schedule for irrigation; how enforcement might be accomplished; and whether some type of soil moisture meter could be provided to help citizens determine appropriate irrigation times.

The Board directed comments to Mr. Jenkins about streamlining the program to make it easier for citizen compliance. They also cautioned Mr. Jenkins that they did not want to see another unfunded mandate (helping SJRWMD enforce its irrigation rules) coming to the County.

Chairman Bowden thanked Mr. Jenkins for coming.

6. APPROVAL OF MINUTES-NONE

**7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS
NOT REQUIRING BOARD ACTION**

**7.A. TAKING APPLICATIONS FOR A CITIZEN MEMBER OF THE 2008 VALUE
ADJUSTMENT BOARD**

8. CONSENT AGENDA

Clerk's Note: The Consent Agenda was heard immediately following Item 14.A.1. and is placed here for continuity.

Commissioner O'Bryan asked that Item 8.F. be pulled for discussion.

Commissioner Flescher asked that Item 8.M. be pulled for discussion.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Consent Agenda as amended.

8.A. APPROVAL OF WARRANTS - JUNE 27, 2008 TO JULY 2, 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 June 27, 2008 to July 2, 2008, as requested in the memorandum dated July 2, 2008.

8.B. APPOINTMENT TO THE ECONOMIC DEVELOPMENT COUNCIL

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the appointment of Mr. Kevin J. Gould as the Local Manufacturing Appointee on the Economic Development

Council. His term expires in 2010, as recommended in the memorandum of July 9, 2008.

8.C. RESOLUTIONS TO CALL LETTERS OF CREDIT AND TO ACT ON BEHALF OF INDIAN RIVER COUNTY DURING THE TIME FRAMES OF JULY 16, 2008, THROUGH AND INCLUDING AUGUST 11, 2008, AND AUGUST 20, 2008, THROUGH AND INCLUDING SEPTEMBER 8, 2008

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

(1) **Resolution 2008-096**, delegating authority to the County Administrator or the Assistant County Administrator to execute Resolutions calling Letters of Credit as necessary during the period from July 16, 2008, through and including August 11, 2008, and further delegating to the County Administrator, the Assistant County Administrator, and the Emergency Services Director the authority to execute all documents necessary to the proper functioning of the County during the period from July 16, 2008, through and including August 11, 2008.

(2) **Resolution 2008-097**, delegating authority to the County Administrator or the Assistant County Administrator to execute Resolutions calling Letters of Credit as necessary during the period from August 20, 2008, through and including September 8, 2008, and

further delegating to the County Administrator, the Assistant County Administrator, and the Emergency Services Director the authority to execute all documents necessary to the proper functioning of the County during the period from August 20, 2008, through and including September 8, 2008.

8.D. RESOLUTION CANCELING TAXES ON PROPERTY ACQUIRED FOR THE NORTH SEBASTIAN CONSERVATION AREA ADDITION

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-098**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(St. Johns River Water Management District)

8.E. PROPERTY ACQUISITION - TAX ROLL REMOVAL & TAX CANCELLATION

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

(1) **Resolution 2008-099**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(CR512 [Yuko Matsuda])

(2) **Resolution 2008-100**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(*CR512 [Yoko Osawa]*)

(3) **Resolution 2008-101**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(*43rd Avenue and 8th Street [Beachler]*)

(4) **Resolution 2008-102**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(*8th Street [Sanders]*)

(5) **Resolution 2008-103**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes.
(*43rd Avenue [Lazy J, LLC]*)

**8.F. INTERLOCAL SERVICE BOUNDARY AGREEMENT STAND DOWN
EXTENSION**

Commissioner O'Bryan asked Attorney Collins to clarify the difference between the original and the updated Stand Down Agreement.

Attorney Collins explained that the Agreement approved by the City of Sebastian included the right to seek dispute resolution procedures. Fellsmere had initially wanted to remove the mediation procedures; however, they have agreed to Sebastian's version of the Agreement, which the Board is being asked to approve today (July 15, 2008), and which retains the dispute resolution procedures.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Stand Down Agreement, and authorized the Chairman to execute same, as recommended in the memorandum of July 7, 2008.

8.G. PROCLAMATION AND RETIREMENT AWARD HONORING JOSEPH LOWTHER ON HIS RETIREMENT FROM INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS DEPARTMENT OF EMERGENCY SERVICES FIRE RESCUE WITH 26 YEARS SERVICE

The Board noted, for the record, the Proclamation honoring Joseph Lowther.

8.H. AWARD OF BID # 2008029, POWERLINE ROAD – IRC PROJECT NO. 0217

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the contract be awarded to J.W. Cheatham, LLC, in the amount of \$648,869.41, as recommended in the memorandum of July 3, 2008.

8.I. APPROVAL OF BID AWARD FOR IRC BID NO. 2008056, FURNISH ONE

(1) CUSHION TIRE FORKLIFT

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Bid Award to the second lowest bidder, United Rentals, Inc., as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the Invitation to Bid, as recommended in the memorandum of July 1, 2008. Staff's recommendation is based on the following: (1) the lowest bidder did not meet bid specifications; (2) the difference between the two (2) lowest bids is only \$79.00; and, (3) the lowest bidder is a local company whereas the low bidder is located out of state.

8.J. APPROVAL OF BID AWARD FOR IRC BID NO. 2008064 INSTALLATION

AND ELECTRICAL TIE-IN OF FIVE (5) GENERATORS

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously (1) approved 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, and with the approval to pull the additional funds from the Operating Budget; (2) approved the Sample Agreement and authorized the Chairman to execute same after the

required performance and payment bonds, along with the appropriate Certificate of Insurance, have been received and once the County Attorney has approved the Agreement as to form and legal sufficiency, as recommended in the memorandum of July 9, 2008.

**8.K. APPROVAL OF BID AWARD FOR IRC BID NO. 2008066 PORTABLE
FLOW METERS AND THICKNESS GAUGE**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) the Bid Award to Fluid Conservation Systems, Inc., as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the Invitation to Bid; and (2) the issuance of a Purchase Order after receipt of the appropriate Certificate of Insurance, as recommended in the memorandum of July 9, 2008.

**8.L. APPROVAL OF BID AWARD FOR IRC BID NO. 2008067 DEMOLITION
OF SIX (6) CONDEMNED STRUCTURES**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) the Bid Award to The Clearing Company, LLC, as the lowest most responsive and responsible bidder, meeting the specifications as set forth in the Invitation to Bid; and (2) the issuance of a Purchase Order after receipt of the

appropriate Certificate of Insurance, as recommended in the memorandum of July 8, 2008.

8.M. MEMORIAL PLAQUE

Commissioner Flescher explained that the memorial plaque would be placed at Golden Sands Beach Park, in honor of Robert (Bob) Woysner (aka Bob “Bear Woysner”), for over 35 years of service as an Ocean Rescue Lifeguard. Mr. Woysner’s colleagues were requesting that the County pay for the cost of the memorial plaque, and they would be taking donations to cover the remaining cost of the base (for a total cost of \$485.00). Commissioner Flescher felt that the County should pay the entire cost of both the plaque and the base. He also wanted to see if the Ocean Lifeguards would consider placing the memorial on the County Administration Grounds for greater public visibility.

MOTION WAS MADE by Commissioner Flescher, for discussion, to add the cost of the base to the cost of the memorial plaque, so that the County would cover the entire cost of the memorial to Robert Woysner. THERE WAS NO SECOND.

Vice Chairman Davis suggested that each Commissioner personally contribute \$50.00 to cover the costs of the plaque and the base.

Commissioner Wheeler agreed; however, he felt that the best place for the memorial would be at Golden Sands Beach Park.

John Frazier, Ocean Rescue Lifeguard Captain, described how the memorial would be secured to the new boardwalk for security. He conveyed the wish of the Ocean Lifeguards for the memorial to be placed at Golden Sands Beach, where Mr. Woyshner had spent most of his time.

Each Commissioner agreed to the \$50.00 contribution to the memorial plaque; however, Administrator Baird interjected that the County's precedent has been to pay the entire cost for this type of item.

Although Chairman Bowden would be happy for each Commissioner to contribute to the plaque, she did not want to establish such a policy. She felt that the Board should follow the County's policy, if this has been done before for others – it should also be done now.

Commissioner Flescher and Captain Frazier briefly discussed “passing the hat” to establish a scholarship or similar memorial fund. The Board members decided that they would make their personal contributions to the scholarship fund, and have the County purchase the entire memorial.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Commissioner O'Bryan, to have the County pay the complete costs pertaining to the plaque and the base for the memorial for Bob “Bear” Woyshner; and to afford the Commissioners the opportunity to contribute to the scholarship fund.

Commissioner O'Bryan commended the Ocean Rescue Lifeguards for organizing a wonderful “paddle-out” memorial ceremony in honor of Mr. Woyshner.

The Chairman CALLED THE QUESTION. The Board unanimously: (1) authorized staff to place the memorial plaque for Robert Woyshner in Golden Sands Park; and (2) approved for the County to pay the total expenditure of the plaque and the base, for Mr. Woyshner's memorial.

**8.N. ACCEPTANCE OF EMERGENCY MANAGEMENT PERFORMANCE GRANT
FUNDING AND APPROVAL OF EXPENDITURES**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) the funding provided by the Emergency Management Performance Grant (EMPG) and the expenditures to be funded from the Emergency Management Performance Grant, the Emergency Management Preparedness Agreement, and the Hazardous Materials Grant; and (2) authorized Emergency Services Director John King to execute documents associated with the EMPG, and to make adjustments to the appropriated grant dollars in the categories of requested spending as needed, as recommended in the memorandum of June 30, 2008.

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

8.O. FEDERAL FISCAL YEAR 2008 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG)

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Substance Abuse Council Advisory Board's recommendations and authorized the Chairman to execute the Approval Letter and the Grant Applications and other necessary related documents for submittal to the State prior to the deadline of Friday, July 25, 2008, as recommended in the memorandum of July 9, 2008.

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

8.P. APPROVAL TO PURCHASE 911 RECORDING EQUIPMENT FROM REPLAY SYSTEMS

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the sole source purchase of the 24 channel RACAL recorder and the purchase of the eight-port analog interface card with licenses from Replay Systems to include installation in the amount of \$32,637.00, as recommended in the memorandum of July 7, 2008.

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

**8.O. FLORIDA POWER AND LIGHT (FPL) AGREEMENT TO INSTALL
ADDITIONAL STREET LIGHTS IN THE WABASSO STREET LIGHTING
DISTRICT**

This item was deleted from the Agenda.

**8.R. FLORIDA POWER AND LIGHT (FPL) AGREEMENT TO INSTALL
ADDITIONAL STREET LIGHTS IN THE GIFFORD STREET LIGHTING
DISTRICT**

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously authorized the County Administrator to sign the Florida Power and Light (FPL) Street Lighting Agreement, thereby authorizing FPL to proceed with the installation of street lights in the Gifford area, as recommended in the memorandum of July 2, 2008.

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

**8.S. WORK ORDER NO. 5 (ENGINEERING/SURVEYING) CARTER
ASSOCIATES, INC. FULL & FINAL PAY, OLD DIXIE HIGHWAY STUDY
FROM CR512 TO US HIGHWAY No. 1**

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

payment of Invoice No. 08204-1, dated June 6, 2008, in the amount of \$15,000.00 for full and final payment of Work Order No. 5 to Carter Associates, Inc., as recommended in the memorandum of July 2, 2008.

8.T. WORK ORDER NO. 12 (ENGINEERING/SURVEYING) FULL & FINAL PAY, CARTER ASSOCIATES, INC. – ADDITIONAL SERVICES, OLD DIXIE HIGHWAY STUDY FROM CR512 TO US HIGHWAY NO. 1

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved payment of Carter Associates, Inc. Invoice No. 08204-2, dated July 1, 2008, in the amount of \$6,733.75 for full and final payment of Work Order No. 12, as recommended in the memorandum of July 2, 2008.

8.U. INDIAN RIVER DRIVE, PHASE ONE AND TWO, RIGHT-OF-WAY MAP APPROVAL

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Indian River Drive Right-of-Way Maps (Phase One and Two) and authorized the Chairman to execute the maps as an official depiction of said corridor, as recommended in the memorandum of July 1, 2008.

8.V. CONSIDERATION OF STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM AND U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT HOME PROGRAM FUNDS SET-ASIDE FOR HABITAT FOR HUMANITY CLIENTS FOR FY 2008 – 2009

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved to set aside \$549,211.30 of FY 2008/2009 SHIP funds and \$145,714.70 of HOME funds for Habitat For Humanity to be used for down payment/closing cost and impact fee loan assistance for Habitat for Humanity (HFH) clients, as recommended in the memorandum of July 7, 2008.

8.W. JOHN AND NANCY LAVISKA'S REQUEST FOR PARTIAL RELEASE OF AN EASEMENT AT 13255 OLD DIXIE HIGHWAY (LOT 8, JEAN'S UNIT, INDIAN RIVER TWIN ESTATES)

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2008-104**, releasing a portion of an easement on Lot 8, Jean's Unit, Indian River Twin Estates.

8.X. APPROVAL TO PURCHASE M/A-COM FX SOFTWARE SERVICES

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

authorized the tag-on purchase of FX Software Services from M/A-COM, Inc., as recommended in the memorandum of July 8, 2008.

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

8.Y. DERELICT VESSEL REMOVAL, CONSTRUCTION CONTRACT ABSOLUTE MARINE TOWING AND SALVAGE, INC

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously: (1) approved the Privity Agreement with Absolute Marine Towing and Salvage, Inc., in the amount of \$37,920.00 (and is eligible for \$18,960.00 or 50% cost sharing with Florida Inland Navigation District [FIND]); and (2) waived the requirement for payment and performance bonds, as recommended in the memorandum of July 8, 2008.

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

8.Z. PROVIDING CONSTRUCTION MATERIALS TESTING SERVICES FOR POWERLINE ROAD IMPROVEMENTS, IRC PROJECT #0217

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 5, authorizing Professional Geotechnical

Services with Dunkelberger Engineering & Testing, Inc., as outlined in the Scope of Services; and authorized the Chairman to execute same, for a fee not-to-exceed \$13,704.00, as recommended in the memorandum of July 8, 2008.

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

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

9.A. JEFFREY K. BARTON, CLERK OF CIRCUIT COURT:

JIM RIZZO, SENIOR ACTUARY FROM GABRIEL ROEDER SMITH & COMPANY (GRS), IS HERE TO REVIEW THE OPEB (OTHER POST EMPLOYMENT BENEFITS) REPORT AND OUR OBLIGATION TO ACCOUNT FOR THESE BENEFITS. HE HAS A SHORT POWER POINT SLIDE PRESENTATION AND WILL BE AVAILABLE TO ANSWER QUESTIONS

Clerk of the Circuit Court Jeffrey K. Barton recalled the Board's approval, in July 2007, of a contract with Gabriel Roeder Smith & Company (GRS) to complete an actuarial study for OPEB (Other Post-Employment Benefits), which is also known as Statement No. 45 of the GASB (Government Accounting Standards Board), and which pertains to post-employment benefit costs. Mr. Barton divulged that the Constitutional Officers, Clerk of the Court staff, and County Budget Director, Jason Brown, had gathered the necessary information for the actuarial study to be done.

James J. Rizzo, Senior Consultant & Actuary from GRS, explained that the Government Accounting Standards Board requires the County to measure and incorporate into the County's financial statements, the long-term costs for subsidies provided to retiring employees. Through a PowerPoint Presentation (copy on file), he detailed the retirement benefits which are available to current and future retirees; discussed the wisdom of letting current and new retirees know about the Medicare Advantage Plan; and provided a comparison of the actuarial values for non-prefunded and pre-funded subsidies. Mr. Rizzo encouraged the Board to establish an OPEB trust to pre-fund the long-term obligations of the retiree benefits plan.

Discussion ensued as the Board, staff, and Mr. Rizzo made observations about the establishment of a Trust Fund, and the appointment of trustees and what their functions would be.

Director Brown reported that between July 15, 2008 and September 30, 2008, the Budget Director would be returning with a Trust Agreement for Board approval.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Other Post-Employment Benefits (OPEB) Actuarial Report as of October 1, 2007, as presented on pages 262 through 307 of the backup.

10. PUBLIC ITEMS

10.A. PUBLIC HEARING

**10.A.1. CONSIDERATION OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY FOR A CLASS E1 CERTIFICATE FOR
CONSULATE HEALTH CARE OF VERO BEACH**

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

Brian Burkeen, Assistant Chief, Fire Rescue, through a recap of the memorandum of June 16, 2008, provided background history on Consulate Health Care of Vero Beach's request to provide Wheelchair services to transport its residents. He then presented staff's recommendation that Consulate Health Care of Vero Beach be granted a Class E1 Certificate of Public Convenience and Necessity (COPCN).

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

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved that a class "E1" Certificate be issued to Consulate Health Care of Vero Beach, to be effective from July 15, 2008, and expiring July 15, 2010, as recommended in the memorandum of June 16, 2008.

The Chairman called a break at 10:24 and reconvened the meeting at 10:41 a.m. with all members present.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM VINCE DETURIS REGARDING ELECTRIC UTILITY REFERENDUM

Vince DeTuris, 595 Reef Road, recalled that in May 2008, Dr. Stephen Faherty had addressed the Board regarding issues with the City of Vero Beach's Electric Utilities. He stated that the citizens in Indian River Shores and the unincorporated City Limits are paying higher costs for City Electric, but are not receiving representation. Through his report (copy on file), Mr. DeTuris updated the Board on the events that have occurred since Dr. Faherty's presentation, and provided details on the upcoming November 4th Referendum for City Electric Utility customers, regarding the creation of a separate Electric Utility Authority (expected to be with the Orlando Utility Commission). If the Referendum passes, the City must appoint representatives of all Electric Utility customers, to create a Utility Charter which must be presented to the State Legislature by January 2009. Mr. DeTuris urged Board support of the Referendum, and asked the Board to authorize County staff to arrange with the City of Vero Beach for the use of its mailing list for communications with City Electric customers.

Chairman Bowden thanked Mr. DeTuris for his efforts.

Dr. Stephen Faherty reported that a proposed Resolution, pertaining to the benefits of the Referendum for the County and its citizens, had been sent to Administrator Baird and Budget Director Brown and was currently being re-drafted by County legal staff, for presentation at an August 2008 BCC Meeting.

No Board action required or taken.

10.B.2. REQUEST TO SPEAK FROM SEBASTIAN SOCCER ASSOCIATION
REGARDING NORTH COUNTY PARK LIGHTING

Cory Richter, President, Sebastian Soccer Association, presented slides depicting the growth of the soccer fields from inception to the present time. He provided background history of the Soccer Association; discussed its mission and benefits to the County's youth; and provided details on the current program as well as its plans for future growth. He discussed the need for lighting at the soccer complex at the North County Park, and thereafter asked the Board to grant the Soccer Association's request for the lights.

Administrator Baird commented that the Soccer Association was an example of the type of private/public partnership that the County looks for in Recreation, and he would like to look at County funding for the lights at a future time. Right now, there are already projects in the Comprehensive Plan which have been postponed, and which must be done before new projects are undertaken.

Discussion ensued, as the worthiness of the Soccer Association was affirmed by the Board, which desired to have staff come back with an account of how the Park Impact Fees are being spent, to see if funding for the lighting can be found.

MOTION WAS MADE by Vice Chairman Davis,
SECONDED by Commissioner Flescher, for discussion,
to have staff come back with a reprioritization of Park
Impact Fee dollars, with an emphasis on finding the
funding for the lighting at the North County Park.

Commissioner Flescher noted that there is new cost-effective “green” lighting available.

County Budget Director Jason Brown confirmed with Mr. Richter that the County would not be asked to fund the operating costs of the lights.

The Chairman CALLED THE QUESTION. The Board unanimously approved having staff return with a reprioritization of Park Impact Fee dollars, such that the necessary funding for the lights requested by the Sebastian Soccer Association, at the North County Park, could be found.

**10.B.3. REQUEST TO SPEAK FROM REBECCA STARR OF REBECCA STARR
DESIGNS REGARDING 5055 NORTH A1A, SUITE B**

Ms. Starr was not present.

10.C. PUBLIC NOTICE ITEMS-NONE

11. COUNTY ADMINISTRATOR’S MATTERS-NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT

12.A.1. CONSIDERATION OF IMPACT FEE CONSULTANT CONTRACT MODIFICATION

Community Development Director Robert Keating recapped the backup memorandum dated July 7, 2008, to provide an update on the July 2007 Duncan Associates Impact Fee Study, which has not yet received Board approval. At this time, Duncan Associates has expended the money allotted for the Study; however they (Duncan) would like to return, with Traffic Engineering Consultant, Leftwich and Associates, to address the concerns raised by the Board at the May 9, 2008 Workshop Meeting. Director Keating asked the Board to concur with Duncan's selection of the traffic engineer, Leftwich and Associates; and to approve staff's recommendation to authorize the \$11,500.00 expenditure for additional Impact Fee Study work; to allow staff to extend Duncan Associates' Contract; and to allow staff to schedule a Workshop meeting wherein Duncan Associates and the traffic engineer make presentations.

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

Commissioner Wheeler aired concerns generated by a negative e-mail (copy on file) regarding the Duncan Associates Study, which the Commissioners had received from Nancy Offutt, of the Treasure Coast Builders Association (TCBA). The e-mail suggested that the Duncan Report was flawed and obsolete, and also offered suggestions regarding the impact fees.

Administrator Baird voiced that he was not in agreement with the e-mail, or with the Impact Fee Report which had been generated by the Treasure Coast Builders Association.

He also stated that staff was addressing the Board's concerns regarding high commercial impact fees by bringing in a traffic engineer.

Vice Chairman Davis wanted to find a traffic engineer whom all parties could agree to, and then move forward.

Director Keating remarked that out of the \$11,500.00 which was being requested to continue the Impact Fee Study, \$7,500.00 would be for the traffic engineer and \$4,000.00 would be for Duncan Associates. He pointed out that the traffic engineer would be presenting detailed information regarding trip concurrency.

Board discussion ensued as the Commissioners agreed to the importance of obtaining a traffic engineer independent of Duncan Associates; and as they aired some of their concerns relative to the impact fees, especially the methods for calculating trip generation.

Nancy Offutt, Treasure Coast Builders Association, supported the Board's paying for the traffic engineer independently of Duncan Associates, and she commented on the impact fee suggestions which she had e-mailed to the Commissioners.

Vice Chairman Davis felt that having an independent consultant evaluate the traffic impact fees would alleviate suspicion.

Administrator Baird informed the Board that the traffic engineer's fee could be separated from the Duncan Associates' fee, such that the traffic consultant would be working directly for the County.

Director Keating conveyed that the Board would still want to have the Duncan Associates consultant present to answer questions at the Workshop Meeting.

MOTION WAS AMENDED by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, to approve staff's recommendation with the following change: to separate the \$11,500.00 expenditure for additional Impact Fee Study work into two separate contracts: (1) \$7,500.00 for the Traffic Engineering Consultant, Leftwich and Associates, and (2) \$4,000.00 for the Impact Fee Study Consultant, Duncan Associates.

The Chairman CALLED THE QUESTION and the Motion, as amended, carried unanimously. The Board approved the expenditure of \$11,500.00 for additional Impact Fee Study work, with one contract for \$7,500.00 to provide for the attendance of the Traffic Engineering Consultant, Leftwich and Associates at a Workshop Meeting; and one contract for \$4,000.00 to provide for the attendance of the Impact Fee Consultant, Duncan Associates, at a Workshop Meeting.

Director Keating conveyed that staff would coordinate with the Commissioner Assistants to find an appropriate date for the Workshop Meeting, which would likely be held in September 2008.

12.B. EMERGENCY SERVICES-NONE

12.C. GENERAL SERVICES-NONE

12.D. HUMAN RESOURCE-NONE

12.E. HUMAN SERVICES-NONE

12.F. LEISURE SERVICES-NONE

12.G. OFFICE OF MANAGEMENT AND BUDGET-NONE

12.H. RECREATION-NONE

12.I. PUBLIC WORKS-NONE

12.J. UTILITIES SERVICES

**12.J.1. COUNTRYSIDE MOBILE HOME PARK EMERGENCY WATER
INTERCONNECT**

Utilities Director Erik Olson explained that this was a request to enter into an agreement with Countryside Mobile Home Park for an emergency water connection.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Emergency Water Interconnect Agreement with Countryside Mobile Home Park (MHC) as presented, and authorized the Chairman to execute same, as recommended in the memorandum of July 8, 2008.

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

**12.J.2. GRAND HARBOR SPOONBILL MARSH – BASELINE SAMPLING AND
MONITORING**

Utilities Director Erik Olson reported that the Florida Department of Environmental Protection (FDEP) is requiring a certain amount of baseline sampling as part of the Spoonbill Marsh Project, and staff wants to have an independent testing process done, which would withstand scrutiny. Director Olson thereafter presented staff's recommendation to use Florida Atlantic University (FAU) at Harbor Branch laboratories, for the sampling and monitoring relative to the Grand Harbor Spoonbill Marsh Site.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Commissioner Flescher, for discussion,
to approve staff's recommendation.

Director Olson responded affirmatively to Commissioner O'Bryan's inquiry regarding whether the environmental people (who were involved with the Spoonbill Marsh Project), were satisfied with Florida Atlantic University's bid proposal.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved: (1) the proposal for benthic invertebrate assessment and monitoring at Spoonbill Marsh; (2) authorized the purchase of services with the Florida Atlantic University, c/o Harbor Branch, Ft. Pierce, FL; and (3) authorized the Chairman to execute the proposed Scope of Work, as presented and recommended in the memorandum of July 1, 2008.

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

12.J.3. PRICE INCREASE FOR SULPHURIC ACID AND ZINC ORTHO PHOSPHATE

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously accepted the changes to the prices from the County's current suppliers for Sulfuric Acid and Zinc Orthophosphate, as recommended in the memorandum of July 2, 2008.

12.J.4. CHANGE ORDER NO. 4 TO IRC CONTRACT 2006012 WITH POOLE AND KENT COMPANY OF FLORIDA, INC. FOR THE EXPANSION OF THE NORTH RO PLANT

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 4 to IRC Contract 2006012 with Poole and Kent Company of Florida, Inc., to increase the contract in the amount of \$61,936.00, as recommended in the memorandum of June 30, 2008.

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

**12.J.5. DEVELOPER'S AGREEMENT BETWEEN GRAND HARBOR LLC AND
INDIAN RIVER COUNTY FOR PLACEMENT OF FILL FROM SPOONBILL
MARSH SITE**

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

Jens Tripson suggested that the Board convey to Grand Harbor that the type of fill being excavated from Spoonbill Marsh would not be usable for landscape berms, pursuant to County Ordinance.

Director Olson clarified that Grand Harbor was not purchasing the material; the County would be using it to store the excavated material.

The Chairman CALLED THE QUESTION. The Board unanimously approved and authorized the Chairman to execute: (1) the Developer's Agreement with Grand Harbor, LLC; and (2) the proposal from Sawmill Ridge Trucking, for the total amount of \$100,000.00, as recommended in the memorandum of July 9, 2008.

DEVELOPER'S AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

13. COUNTY ATTORNEY MATTERS

13.A. ORGANIZATIONAL MEETING OF THE VALUE ADJUSTMENT BOARD AND RESOLUTION APPOINTING VALUE ADJUSTMENT BOARD MEMBERS AND PROVIDING FOR OR REJECTING PER DIEM COMPENSATION FOR VALUE ADJUSTMENT BOARD

County Attorney William Collins recapped the backup memorandum of July 9, 2008, regarding the changes which will occur in the composition of the Value Adjustment Board (VAB). Currently, three Commissioners must be appointed to the Board, but as of September 1, 2008, one Commissioner will be replaced with a Citizen appointee, to be selected at the August 19, 2008 BCC meeting. Applications for the Citizen Appointee position may be obtained at the County's website, and submitted by August 12, 2008. Attorney Collins noted that prior to that time, there would be a Value Adjustment Board (VAB) Organizational Meeting. He recommended appointing Commissioners Flescher and O'Bryan (who are not standing for re-election), and selecting the third appointee, who will serve until September 1st, from the remaining Commissioners.

Attorney Collins reported that Legal staff has prepared two separate draft Resolutions: one to accept per diem compensation; the other to reject per diem compensation, as has been done in the past.

Discussion ensued between staff and the Board regarding whether rejection of the per diem provision would affect both the Commissioners and the Citizen Appointee. After learning that the per diem provision would apply to all VAB members, the Board's Consensus was to approve the Resolution granting the per diem compensation. It was noted that doing so would allow the Citizen Appointee to be reimbursed for his/her costs, but would not obligate the Commissioners to request or accept compensation.

Vice Chairman Davis volunteered to be the third Board appointee.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, the Board unanimously: (1) approved the appointment of Commissioners Flescher and O'Bryan to the 2008 Value Adjustment Board (VAB); (2) approved the appointment of Vice Chairman Davis to serve from July 24, 2008 until September 1, 2008, when he would be replaced by the citizen member of VAB (to be appointed August 19, 2008), and when Vice Chairman Davis would then become the alternate member of VAB, as recommended in the memorandum of July 9, 2008; and (3) approved **Resolution 2008-105**, appointing the 2008 Value Adjustment Board members, and accepting statutory per diem compensation.

13.B. APPOINTMENT OF "AT LARGE" MEMBERS TO ADVISORY COMMITTEES

Deputy County Attorney William DeBraal recalled that in July 2008, the County Attorney's office was directed to prepare a method for selecting "at large" advisory committee members. Recapping his backup memorandum of July 9, 2008, he discussed publicizing committee vacancies through placement on the Board's regular BCC meeting agendas. The Board could, at a subsequent meeting, submit the names of interested candidates, and decide with whom to fill the committee vacancies. Attorney DeBraal thereafter asked the Board to approve setting forth the selection process for "at large" committee appointees in a Resolution, which he would prepare and bring back for approval.

Vice Chairman Davis felt that this would be a good general rule, but he would like the option to be able to expedite the selection process, should it become necessary.

Commissioner Wheeler suggested using a supermajority (4-1) vote to override the general rule.

Chairman Bowden wanted to ensure that the Board had sufficient time to learn about the applicants prior to making a selection.

Commissioner Flescher suggested that a time-frame of two weeks would likely not delay any major business.

Deputy Attorney DeBraal assured the Board that language to override any set time provision, by a supermajority vote, could be included in the Resolution. Relative to Chairman Bowden's concerns regarding time, the Resolution could include language that fourteen (14) days shall pass before any votes can be taken by the Commission, unless the supermajority overrides it.

Commissioner O'Bryan's concern was that having the applicants' qualifications discussed publicly at a Board meeting might deter some of the interested citizens; however, Chairman Bowden disagreed.

ON MOTION BY Vice Chairman Davis, SECONDED BY Commissioner Wheeler, the Board, by a 4-1 vote (Commissioner O'Bryan opposed) directed the Deputy County Attorney to draft a Resolution for committee vacancies which are filled by the appointment of "at large" members, to be publicized on the Board of County

Commission Meeting Agendas; to provide for two weeks for Board consideration of the applicants; and to include a provision for overriding the mandates of the Resolution by a supermajority vote if the Board deems it necessary to immediately appoint a member to an advisory committee.

**13.C. APPROVAL OF MEDIATED SETTLEMENT AGREEMENT FOR PURCHASE
OF PROPERTY LOCATED AT 4705 66TH AVENUE**

(Clerk's Note: This item was heard immediately following Item 4. and is placed here for continuity).

Deputy County Attorney William DeBaal explained that this matter involved the purchase of property at 4705 66th Avenue. He invited private Counsel Anthony Policastro (Eminent Domain Specialist) to report on the Mediated Settlement Agreement reached with the property owner, Mr. Woodrow Dawsey.

Anthony Policastro, Esquire, reviewed the history of this item and discussed the details of the Mediated Settlement Agreement reached with Mr. Dawsey. Through an aerial slide, he depicted the subject property, and detailed what was included in the area of taking. He revealed that Mr. Dawsey had requested that the County purchase the entire three-acre property, rather than the 1.02 acres of property which was originally targeted for right-of-way acquisition. Attorney Policastro conveyed that after a lengthy mediation process, Mr. Dawsey and the County had agreed upon a purchase price of \$465,000.00 (for the 3 acres), and he asked for Board approval of the Agreement.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously approved the Pre-litigation Mediated Settlement Agreement with Woodrow Dawsey, for purchase of property at 4705 66th Avenue, as recommended in the memorandum of July 9, 2008.

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

14. COMMISSIONER ITEMS

14.A. COMMISSIONER SANDRA L. BOWDEN, CHAIRMAN

14.A.1. OVERVIEW OF WORKFORCE DEVELOPMENT BOARD

Clerk's Note: This item was heard prior to Item 6. and is placed here for continuity.

Gwenda L. Thompson, President and CEO of the Workforce Development Board, presented a report and a PowerPoint presentation (copies on file) on the role of the Workforce Development Board, as it relates to the work done by Penny Chandler (Vero Beach Chamber of Commerce) and Helene Casteline (Economic Development Council) to recruit and retain local businesses. She provided details on the services, tools, and incentives offered to employers by the Workforce Development Board.

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

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

15.A.1. DELEGATION OF AUTHORITY TO SIGN DOMESTIC SECURITY

DOCUMENTS

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 OF REGULAR MEETING OF JUNE 3, 2008

15.B.2. APPROVAL OF MINUTES OF REGULAR MEETING OF JUNE 10, 2008

15.B.3. NEGOTIATION SUMMARY WITH FRANCHISED WASTE HAULERS

**15.B.4. APPROVAL OF BID AWARD FOR IRC BID NO. 2008047, 40 CU YD
OPEN TOP ROLL-OFF CONTAINERS REFUSE DISPOSAL**

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 11:46 a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Sandra L. Bowden, Chairman

Minutes Approved: _____

BCC/MG/2008Minutes