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April 4, 2006

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, 1840 25th Street, Vero Beach, Florida, on Tuesday, April 4, 2006, at 9:00 a.m. Present were Chairman Arthur R. Neuberger, Vice Chairman Gary C. Wheeler, and Commissioners Sandra L. Bowden, Wesley S. Davis and Thomas S. Lowther. Also present were County Administrator Joseph Baird, County Attorney William G. Collins II, Executive Aide to the Board Kimberly Massung and Deputy Clerk Athena Adams.

1. CALL TO ORDER

Chairman Arthur R. Neuberger called the meeting to order at 9:00 A.M.

2. INVOCATION

Pastor Ray Scent of the Gathering of Devoted Servants delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman Arthur R. Neuberger led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

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

1. Addition – Item 5.E – Visiting Dignitary – Chief Nana from Ghana

2. Emergency Item 7.CC – Out of County Travel to Attend the Research Coast Outlook Conference

3. Additional Backup – Item 9.B.2. (provided by County Administrator's Office)

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously made the above changes to the Agenda.

5. PROCLAMATIONS AND PRESENTATIONS

A. HOLDEN KRIS NAMED NATIONAL PRESIDENT OF NATIONAL ASSOCIATION OF SHOOTING RANGES

General Services Director Tom Frame introduced Shooting Range Manager and newly appointed President of the National Association of Shooting Ranges (NASR), Holden Kriss.

Holden Kriss gave a brief description of the NASR. He felt great to be an ambassador for Indian River County representing us around the world.

Chairman Neuberger offered the Board's congratulations.

B. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF APRIL 2006, AS CHILD ABUSE PREVENTION MONTH

Commissioner Bowden read and presented to Nancy Gollnick the Proclamation designating the Month of April 2006 as Child Abuse Prevention Month (CAP).

Nancy Gollnick, President of the Exchange Club of Indian River County, thanked Heather Graal, Director of Exchange Club Castle, as well as Club members for their support. CAP Ribbons to promote awareness were presented to the Commissioners.

Heather Graal informed the Board that Club Castle was in its 25th year of Child Abuse Prevention, and invited everyone to the ribbon cutting ceremony on April 12, 2006. She also had CAP bracelets for each Commissioner.

Rob Hill, Director of Development Research, Hibiscus Children Center, thanked Commissioners and the community for all its support.

C. PRESENTATION OF SWEEP CHALLENGE BY KEEP INDIAN RIVER BEAUTIFUL, INC.

Sherry Hamlin, Executive Director of Keep Indian River Beautiful (KIRB), gave recognition to and thanked all the major sponsors (SouthStar Development Partners, Brackett & Company, Pointe West) for their support. She read the 2006 Inaugural KIRB Sweeps Challenge which is "to see who can generate the most support in recruiting volunteers to help clean up our community, and whose team can collect the most litter during the Challenge." The event will be on May 6, 2006 from 8:00 a.m. – 11:00 a.m. followed by lunch for all participants.

Mr. Bob Swift thanked Ms. Hamlin for all the work she did on the project.

D. PRESENTATION BY U.S. SMALL BUSINESS ADMINISTRATION

Tom Gallman, Senior Area Manager for the U.S. Small Business Administration (SBA), Fort Pierce, through a PowerPoint presentation entitled "Empowering America's

Entrepreneurs", briefly described the services offered by SBA, which include loans and counseling and managerial assistance.

Commissioner Davis admitted that SBA serves a valuable function but inquired of the number of people in Indian River County that had benefited from SBA assistance after the hurricanes. **Mr. Gallman** will e-mail the results to him.

E. VISITING DIGNITARY – CHIEF NANA FROM GHANA

Mrs. Geraldine White of the Vero Beach Community Church thanked the Board for allowing her to speak at such short notice. She introduced visiting Dignitary, Chief Bentum Bosomtwe Edwey "Chief Nana", from Ghana. Chief Nana is Leader of the Town of Mumford with a population of 9-10 thousand people whose main livelihood is fishing and farming; neither of which is working because they do not have the proper infrastructure in place. Assistance was needed to build a well for water so they can plant; and, to build a sea wall so the people coming in from the boats after fishing will not drown.

Mrs. White, whose Church community has collected and donated books and money to assist the needy in Mumford, appealed to everyone for assistance in helping to alleviate poverty and to promote education in Mumford.

Chief Nana acknowledged the receipt of gifts, in cash and kind, that he had already received from the Church community. He just wanted to say thanks to the Vero Beach Community Church; to other Church committees of Vero Beach; and, to the Board of County Commissioners and everyone present.

Commissioner Lowther, a member of the Rotary Club in Vero Beach, believed the Club, as an international body, would be willing to get involved in Chief Nana's cause. He felt it was the perfect opportunity for the Chief to bring the needs of his community to such an organization

and invited Chief Nana to be the Guest Speaker at the Club's meeting on Wednesday morning, April 5, 2006, at 6:45 a.m. Mrs. White was honored and promised to be there with the Chief.

Chairman Neuberger thanked the Chief for coming.

6. APPROVAL OF MINUTES

A. MEETING OF FEBRUARY 21, 2006

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of February 21, 2006. There were none.

> ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the Minutes of the Regular Meeting of February 21, 2006, as written.

7. CONSENT AGENDA

Commissioner Wheeler requested that Items 7.T, 7.Y and 7.Z be pulled for discussion.

Commissioner Bowden requested that Item 7.X be pulled for discussion.

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

1. REPORT OF CONVICTIONS – FEBRUARY 2006

2. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT – CAFR FY END SEPTEMBER 30, 2005 (CD FORMAT)

B. APPROVAL OF WARRANTS

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the period March 10, 2006 to March 16, 2006, as recommend in the memorandum of March 16, 2006.

C. APPROVAL OF WARRANTS

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the period March 17, 2006 to March 23, 2006, as recommended in the memorandum of March 23, 2006.

D. OUT OF COUNTY TRAVEL TO ATTEND THE 2006 FLORIDA GOVERNOR'S HURRICANE CONFERENCE

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved out-of-county travel for Commissioners and staff to attend the 2006 Florida Governor's Hurricane Conference, as requested in the memorandum of March 27, 2006.

E. SEBASTIAN CITY COUNCIL MEMBERS LIAISONS TO COUNTY AND REGIONAL BOARDS – MARCH 2006 - MARCH 2007

The following appointments of the City of Sebastian Council members, effective March 2006 to March 2007, were noted for the record:

Beach and Shore Preservation Committee	-	Nate McCollum (Mayor)
Council of Public Officials	-	Sal Neglia
Economic Development Council	-	Andrea Coy
Emergency Services District Advisory Committtee	-	Sal Neglia
Land Acquisition Advisory Committee	-	Andrea Coy
IRC Hospital District Planning Advisory Committee		Brian Burkeen
IRC County Parks & Recreation Committee	-	Al Minner
Metropolitan Planning Organization (MPO)	-	Nate McCollum & Brian Burkeen
Public School Planning Agreement	-	Nate McCollum
Sebastian River Area Chamber of Commerce	-	Al Paternoster
Tourist Development Council	-	Al Paternoster
Treasure Coast Council of Local Government	-	Sal Neglia
Treasure Coast Regional Planning Council	-	Sal Neglia

F. TOWN OF ORCHID REPRESENTATIVES TO COUNTY COMMITTEES

The following newly appointed Council Members of the Town of Orchid, effective March 2006 to March 2007, were noted for the record:

Beach & Shore Preservation Adv. Committee	-	Rob Tench
Council of Public Officials & Town Managers	-	Richard Dunlop
Emergency Services District Advisory Committee	-	Philip Redstone
Land Acquisition Advisory Committee	-	Bud Oatway
Metropolitan Planning Organization	-	Richard Dunlop
MPO Bicycle/Pedestrian Advisory Committee	-	George Sipp
MPO Technical Advisory Committee	-	Maria Aguilar
North Barrier Island Ongoing Review Committee	-	Suzanne Joyce

G. VERO BEACH CITY COUNCILMEMBERS TO COUNTY COMMITTEES AND REGIONAL BOARDS—MARCH 2006-MARCH 2007

The 2006 Committee Appointments by the City of Vero Beach were noted for the record. (See pages 44-45 of backup).

H. RESIGNATION FROM THE TOURIST DEVELOPMENT COUNCIL.

The Board accepted the resignation of Mrs. Cheryl Cummins from the Tourist Development Council as the not an owner/operator interested in tourist development appointee.

I. APPOINTMENTS TO THE TOURIST DEVELOPMENT COUNCIL

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved

the appointment of Ms. Susan P. Adams as the not an owner/operator interested in tourist development appointee on the Tourist Development Council ((TDC), as recommended in the memorandum of March 21, 2006.

J. APPOINTMENT TO THE AGRICULTURE ADVISORY COMMITTEE

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the appointment of Mr. Gary Pressley as the Associated Industry Representative on the Agricultural Advisory Committee (AAC), replacing Mr. Dave Berggren, Sr., as recommended in the memorandum of March 20, 2006.

K. QUIT-CLAIM DEED WM. GREGORY CONSTRUCTION, INC.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to execute the Quit-Claim Deed, but retain the drainage easement, as recommended in the memorandum of March 24, 2006.

COPY OF RECORDED QUITCLAIM DEED ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

L. ANNUAL FINANCIAL REPORT

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to sign the County's Annual Local Government Financial Report for the fiscal year 2004-2005, as requested in the memorandum of March 28, 2006.

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

M. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT GRANT AWARD

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the grant application from the School District of Indian River County for additional funding for the driver education summer school programs and authorized a budget amendment to allocate funding in the amount of $15,392.00, as recommended in the memorandum of March 23, 2006.

N. WORK ORDER #1, APPLIED TECHNOLOGY AND MANAGEMENT INC. SECTORS 1&2 BIOLOGICAL MONITORING

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved Work Order #1 to the Contract for Professional Coastal

Engineering Services, with Applied Technology and Management Inc., for the development of an appropriate biological monitoring plan for the planned re-nourishment of Sectors 1 & 2 project and for preconstruction monitoring of sea turtle nesting to be conducted this summer, as recommended in the memorandum of March 22, 2006.

WORK ORDER NO. 1 ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

O. AMENDMENT #2, FDEP GRANT AGREEMENT NO. H51R1

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously granted approval for execution of Amendment #2 to FDEP Grant Agreement H5IR1, which extends the expiration date of H5IR1 until July 1, 2007 and provides $3,870,000 for the Sector 7 construction costs (including a 10% local match), as recommended in the memorandum of March 14, 2006.

AMENDMENT #2 ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

P. SERENOA L.L.C.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS SERENOA—PHASE 1

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously granted final Plat approval for Seronoa – Phase 1, with recordation of the Plat only after the letters of credit have been

received, reviewed, approved, and validated by the County Attorney's Office and the contracts executed by the County Administrator, as recommended in the memorandum of March 21, 2006.

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

Q. FEDERAL FISCAL YEAR 2006 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM CERTIFICATION OF PARTICIPATION (STATE FISCAL YEAR 2007)

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved Alternative 2, accepting the invitation to serve as the coordinating unit of government in the FDLE, Edward Byrne Memorial Justice Assistance Grant (JAG) Program and authorized the Chairman to sign the Certificate of Participation naming Jason E. Brown, Director, Management & Budget, as the contact person; and, provided 25% matching funds, not to exceed $27,206, for the Substance Abuse Council portion and also for the Multi-Agency Criminal Enforcement Unit (M.A.C.E.) grants, as recommended in the memorandum of March 28, 2006.

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

R. FINAL PAYMENT FOR RELEASE OF RETAINAGE FOR THE EMERGENCY CONTRACT MID STATE MECHANICAL-HVAC REPLACEMENT SHERIFF'S ADMINISTRATION

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the final payment of the release of retainage (total $98,973.90) for the Agreement with Mid State Mechanical for the replacement of the HVAC System at the Indian River County Sheriff's Administration Building, as recommended in the memorandum of March 16, 2006.

S. FOR PROPOSED COUNTY ROAD 512, PHASE IV (FOUR) FROM PHASE III (THREE) ROSELAND ROAD TO EAST OF I-95 (TOPOGRAPHIC SURVEY) IRC PROJECT NO. 0445 WORK ORDER NO. 4 (ENGINEERING) REQUEST FOR FINAL PAYMENT AND RELEASE OF RETAINAGE FOR MASTELLER, MOLER, REED & TAYLOR, INC.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the release of final payment plus retainage in the amount of $5,745.64 to Masteller, Moler, Reed & Taylor, Inc., as recommended in the memorandum of March 21, 2006.

T. LOCAL AGENCY PROGRAM AGREEMENT FOR THE INDIAN RIVER DRIVE NORTH SIDEWALK FROM NORTH CITY LIMITS OF SEBASTIAN TO ROSELAND ROAD, INDIAN RIVER COUNTY PROJECT NO. 0202

Commissioner Wheeler requested an update on this project.

Public Works Director Jim Davis said the County had just, this week, received the notice from FDOT to proceed with the LAP Project for the Fellsmere sidewalk. They plan on bidding that in May.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously adopted Resolution 2006-045 authorizing execution of a Local Agency Program Agreement for the Indian River Drive north bike path/sidewalk, between north city limits of Sebastian to Roseland Road, with the State of Florida, Department of Transportation, and providing for an effective date.

U. SUNLAND DEVELOPMENT, INC.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS LEXINGTON PLACE—PHASE II

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously granted final Plat approval for Lexington Place – Phase II, with recordation of the Plat only after the letters of credit have been received, reviewed, approved, and validated by the

County Attorney's office, and the contracts executed by the County Administrator, as recommended in the memorandum of March 23, 2006.

V. RIVERVIEW CAY L.L.C.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS WINGATE SUBDIVISION

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously granted final Plat approval for Wingate Subdivision, as recommended in the memorandum of March 23, 2006.

W. CONSIDERATION OF REVISED INDIAN RIVER COUNTY LOCAL HOUSING ASSISTANCE PLAN FOR FISCAL YEARS 2006-07 THROUGH 2008-09

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously adopted Resolution 2006-046 approving the County's Local Housing Assistance Plan for FY 2006-007, 2007-2008, and 2008-2009; authorized the Chairman to sign the certification page of the Plan, and directed staff to submit two copies of the new Plan to the Florida Housing Finance Corporation for its review and approval, as recommended in the memorandum of March 14, 2006.

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

X. BOARD CONSIDERATION TO APPROVE MITIGATION OF DEAD OAK TREES IN THE JUNGLE TRAIL BUFFER AT ISLAND CLUB RIVERSIDE

Commissioner Bowden noticed that the five (5) dead trees were large trees, and they are being replaced with very small four-inch trees.

Chief of Environmental Planning Roland DeBlois corrected that they were four-inch diameter trees, thirty (30) in all. Some would go in the Jungle Trail buffer the others in the Captain Forester Hammock Preserve along the buffer. The Arborist with whom the County works feels there is a higher survivability with the smaller trees as opposed to trying to transplant the larger ones.

Commissioner Bowden felt larger substantial trees would be prudent since we were trying to get a canopy effect.

Mr. DeBlois offered to seek out larger trees if the Board wishes. The larger trees could go in the buffer and the smaller trees for the Preserve, which is more of a long-term restoration.

Discussion ensued regarding whose obligation it is to maintain the buffer; planting season, and the survival rate of the larger trees.

Commissioner Wheeler recalled the $119, 250 posted Letter of Credit, which is being reduced to $20,000 to pay for 39 live oaks and the five (5) major oak trees. He felt developers are getting off easy and should be required to pay for the trees and give us a package that works rather than shifting the burden to the County.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Lowther to advise developers to pay for the trees and the County would

oversee it, and to look for larger trees and plant them when they should be planted.

Director Bob Keating informed the Board that the Letter of Credit would expire on May 2nd. If they cannot actually do the planting before then, they would have to call the Letter of Credit.

County Attorney William Collins concurred. Adding, that there will inevitably be a dispute because the agreement said that they [developers] would not be liable for replacement in the event that the trees are damaged or destroyed due to acts such as severe weather, etcetera. Also, there was a question as to the condition of trees before the hurricanes whether they were diseased.

County Administrator Joseph Baird said he would need permission to extend the Letter of Credit for a year and pointed out that this should also be added to the motion.

MOTION WAS AMENDED to read Letter of Credit extended for a year.

The Chairman CALLED THE QUESTION and the MOTION, as amended, carried unanimously. The Board approved that the developer (Beazer Homes Corporation) be required to do the planting, with the County overseeing; that the trees in the Jungle Trail buffer be larger than 4" diameter; and extended the Letter of Credit for an additional one-year period.

Y. KIMLEY-HORN AND ASSOCATES, INC.'S REQUEST FOR COUNTY APPROVAL OF A REVISED CONSERVATION EASEMENT FOR OCEAN SANDS DEVELOPMENT (DISNEY FLORIDA BEACH RESORT PARCEL B) CONSISTENT WITH THE APPROVED DEVELOPMENT PLAN

Commissioner Wheeler was not sure where the line was going to be drawn; whether it was the same as in 1994; or, if it had moved back some.

Chief of Environmental Planning Roland DeBlois, by way of an overhead projection, showed and explained the relationship of the previous easement and the proposed new easement.

> ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the Revised Conservation Easement for the Ocean Sands Development PD, as recommended in the memorandum of March 28, 2006.

Z. WOODFIELD P.D., PHASE 1 (PHASE 1-A), 5 YEAR BONDING FOR REQUIRED OFFSITE ROAD AND DRAINAGE IMPROVEMENTS

Commissioner Wheeler questioned and discussion ensued regarding the one (1) inch overlay of asphalt on existing asphalt. Commissioner Wheeler was concerned in that we are specific in what we want on the PD's and developers come in, after the fact, and did not produce as agreed on. This may be setting a precedent and we may be "going down a slippery slope" for readjustment, after the fact, on planned developments.

Public Works Director Jim Davis agreed with Commissioner Wheeler saying this was somewhat a compromise; and, for some reason, they elected to mill off an inch of the existing road instead of building it up.

Discussion continued on whether it saved or was costing the County money.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the Cash Deposit and Escrow Agreement for the 5-year warranty period for offsite improvements, and authorized the Chairman to execute same, as recommended in the memorandum of March 20, 2006.

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

AA. ACCEPTANCE OF THREE NEW PROPOSED ITEMS FOR ADDITIONAL WORK AND CHANGE ORDER #006 FOR THE NEW COUNTY ADMINISTRATION BUILDING

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved Change Order #006 (not to exceed $143,485) with 5 additional calendar days of contract time to be approved, and authorized the County Administrator to execute the approved Change Order. Funding is available in the owner's contingency (Balance after Change Order approval $240,527), as recommended in the memorandum of March 29, 2006.

BB. ABINGTON WOODS SUBDIVISION FINAL PAYMENT FOR DEVELOPER'S AGREEMENT AND RELEASE OF RETAINAGE FOR CONSTRUCTION OF AN OFF-SITE MASTER PLANNED SANITARY SEWER FORCE MAIN

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved the Application for Payment No. 2 for retainage, in the amount of $6,757.16, as recommended in the memorandum of March 27, 2006.

CC. OUT OF COUNTY TRAVEL TO ATTEND THE RESEARCH COAST OUTLOOK CONFERENCE

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously authorized out-of-county travel for Commissioners and staff to attend the Annual Research Coast Outlook Conference hosted by the Florida East Coast CCIM District and Commercial Society of the Research Coast, at Tradition Hall, Port St. Lucie, on April 13, 2006, as requested in the memorandum of March 30, 2006.

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

A. DAVID C. NOLTE, ASA – INDIAN RIVER COUNTY PROPERTY APPRAISER: BUDGET AMENDMENT #3 FOR YEAR ENDING SEPTEMBER 30, 2006

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Budget Amendment #3 for year ending September 30, 2006, as recommended in the letter of March 21, 2006.

B. ROY RAYMOND – INDIAN RIVER COUNTY SHERIFF: BUDGET AMENDMENT FOR FISCAL YEAR 2005-2006 OPERATING BUDGET

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Lowther, the Board to approve the amendment to the fiscal year 2005-2006 Operating Budget as requested in the letter of March 21, 2006.

The Chairman asked Sheriff Roy Raymond to explain the amendment.

Sheriff Raymond explained that the amendment gives them an opportunity, as long as the budget continues growing this year, to purchase some of the capital items that would otherwise be in next year's budget. A lot of times it shows a good savings because they are able to buy, for example, 2006 vehicles this year at a reduced rate of what they would pay in 2007.

THE CHAIRMAN CALLED THE QUESTION and the MOTION carried unanimously.

9. PUBLIC ITEMS

A. PUBLIC HEARINGS

1. CONTINUATION OF PUBLIC HEARING OPENED MARCH 21, 2006 LOCKWOOD LANE DEVELOPMENT GROUP, LLC'S REQUEST TO REZONE APPROXIMATELY 291.11 ACRES OF PROPERTY FROM PD, PLANNED DEVELOPMENT RESIDENTIAL (THE COLONY GOLF COURSE COMMUNITY), TO PD, PLANNED DEVELOPMENT RESIDENTIAL (TURTLE CREEK PRESERVE), AND TO OBTAIN CONCEPTUAL AND PRELIMINARY PD PLAN APPROVAL FOR TURTLE CREEK PRESERVE (LEGISLATIVE)

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

Community Development Director Stan Boling explained that this was a continuation of a PD rezoning request for a project that is located on the south side of Oslo Road. Through a slide presentation he outlined the boundaries east and west. This Project is part of the "South County Initiative" and a request to rezone property that's currently zoned for a PD residential for The Colony development that proposed a perimeter golf course, driving range, and multi-family and single-family lots. He asked the Board to approve the Project subject to the conditions presented in his memorandum of March 28, 2006.

Commissioner Lowther thanked Mr. Boling for a great presentation. He believed it was he and Commissioner Bowden who had voted to create a cul-de-sac between 26th Street and SR 60. Looking back at this concept, Grovenor Estates is actually not a part of the South County Initiative; and, looking at the backside of The Colony felt we needed to go back to pedestrian only and lead the traffic away from Grovenor Estates.

Commissioner Wheeler recalled reading a letter from Brackett & Company regarding the two-storey issue that is another exception to the Planned Development. Looking at what was approved by Planning & Zoning shows that they were not opposed to the conditions that prohibited two-storey structures, yet they are asking now for approval of the Planned Development.

Mr. Boling explained that the letter was not part of the approval. It would be something the applicant may need to address separately.

The Chairman opened public hearing.

Mark Brackett, 1915 34th Avenue, speaking for the Developer (Lockwood Lane Development Group, LLC), had multiple meetings with property owners and of the 350 notices sent out to residents of Shady Oaks and Grovenor Estates, 82% of the people responded saying they did not want vehicular access to 13th Street SW.

The Chairman allowed Mr. Brackett to address the two-storey issue next.

Mr. Brackett understood from one of the Planning & Zoning meetings there was a request that no two-storey houses be built on adjacent lots, either side-by-side, across the street or back-to-back. During those discussions, he had said he did not have a problem with that request. Now Commissioner Wheeler is stating that what he agreed on was not an approval but a recommendation to the Board from Planning & Zoning.

Commissioner Wheeler opined that the discussion and debate for two-storey homes should have taken place at Planning & Zoning and felt they were bypassing Planning & Zoning.

Mr. Brackett understood. It was not his intention because they notified Planning & Zoning they would be coming up to make a request. He felt having no two-storey homes against each other might not be a quick solution. His suggestion is as presented to the Board previously.

Discussion ensued regarding side-yard setbacks, square footage and the drawback of having no three-storey houses. **Mr. Brackett** sees the best solution as having no limit on two-storey houses at all.

Commissioner Wheeler would like to have Planning & Zoning discussion and input.

THE CHAIRMAN CALLED A SHORT RECESS AT 10:29 A.M. FOR CLOSED CAPTIONING PURPOSES.
THE MEETING RESUMED 10:41 A.M. WITH COMMISSIONER LOWTHER ABSENT.
HE REJOINED THE MEETING AT 10:42 A.M.

The public hearing continues.

Faith Freed, 966 34th Avenue SW, does not want to see the value of her neighborhood go down because of heavy traffic and pollution. She strongly opposed the north/south access.

Lori Collins, 1255 34th Avenue SW, opposed the north/south access road. She felt, like water, people would find the path of least resistance.

Ray Scent, 1615 71st Court, gave a brief history of his neighborhood. He thinks no one has the perfect thought on how things should be done for the future and that change was inevitable. We should not just look at today but look to tomorrow before decisions are made.

Jeanne Evans, 4015 12th St SW, Shady Oaks, represented neighbors who could not attend but wanted to preserve the integrity of their neighborhood. He opposed the access road saying this action will turn the community into towns like Palm Beach and Fort Lauderdale.

Bud Barney, 3628 12th Street SW, opposed the access.

Scott Klucinec, 915 34th Avenue SW, opposed vehicular access from Turtle Creek to Grovenor. He supported leaving it as an emergency and/or pedestrian access but not vehicular. He referred to Mr. Brackett's gesture of good faith regarding funding of improvements to 13th Street SW. He was concerned that if Mr. Brackett did not receive significant benefit for Turtle Creek from improvements to 13th Street SW, somehow he could refuse to pay for it and put the burden on the County. He wondered then if the emergency access was not sufficient to warrant Mr. Brackett being liable for the funding for the improvements to 13th Street SW.

Rona Lerman, 1133 38th Avenue SW, Grovenor Estates, opposed the access road. She was not opposed to progress but felt she should have a say in how progress affected her neighborhood.

Nancy Olson, 1340 32nd Avenue SW, opposed the access road and asked the Board to vote against it. She was concerned that the County would open a public road in a deed-restricted community, and questioned who would maintain the road.

The Chairman also wanted to know who would maintain the road. Director Boling said it is a similar arrangement with the roads in Pointe West, in particular neighborhoods design community where the roads are privately owned and maintained and landscaped etc. but they are not gated and are opened to the public.

Emily Domagtoy, 1225 34th Avenue, said she and her husband are adamantly opposed to the north/south access.

Wendy Cowan, 1263 37th Avenue SW, did not see the benefits of the access road and opposed it.

Jeb Hudson, 4015 12th Place SW, Shady Oaks, asked the Board to approve Planning & Zoning's recommendation of no northern access other than emergency and pedestrian.

Mrs. Freed sought to know what would be done to keep Turtle Creek neighborhood from just taking the access themselves if the access is disallowed; and, what would be done to make a closure for the area.

Director Boling assured her that there would be pedestrian access and emergency access only where the design allowed. Emergency access would be gated off and pedestrian access would not be wide enough to allow for vehicles. There would not be a structural way for there to be a connection with 13th Street SW if the Board votes to not have that connection.

Mr. Klucinec forgot to mention one thing. There are many communities in the County that do not have continuity through them. It seems to work and he felt we do not need access to 13th Street SW from Turtle Creek.

Phillip Northup, 4155 12th Place SW, Shady Oaks, opposed the access road.

Patricia Ross, 1263 37th Avenue SW, opposed the Turtle Creek opening, as it would cause more congestion.

Donna Keys, Chairman, Planning & Zoning Commission, felt one of the reasons people in Grovenor Estates do not want access is because they do not want traffic. Also, not doing 13th St. SW may not solve the problem, and it will continue to exacerbate the problem they have now. She recalled that Attorney Collins indicated that since Mr. Brackett does not get the benefit of the north/south access to 13th Street SW, he should not be forced to pave 13th Street SW and we probably will not be able to make him pave 13th Street SW.

Attorney Collins confirmed that recollection and stated that there is a concern that if you are opposed to conditions there has to be an impact that is roughly proportional to the benefit you must provide. If there are no trips going on to 13th Street the exaction of improving the roads becomes problematic.

Ms. Keys inquired if the suggestion is, we could tighten up the legalities of this; take out the north/south access; pave 13th St. SW from 27th to 43rd Avenues and solve problems not only for Turtle Creek and Grovenor Estates. That would be an option she would like the Board to possibly consider and have Attorney Collins come up with a way to tighten up, so that 13th Street SW could be paved solving the problem for the north and south communities.

Ms. Keys addressed the matter of **two-storey homes**. She stated that Mr. Brackett had indicated that he had a problem with the restriction on two-storey homes and he understands why Planning & Zoning has requested a restriction on two-storey homes. She felt it was unfair for Mr. Brackett to be asking for a change now.

Mr. Brackett, in response to Ms. Keys' comments, said he had agreed with the recommendations, which were not approval or denial, but for her to infer that there was a conversion where he agreed to a tradeoff was incorrect.

Ms. Keys recanted her inference stating Mr. Brackett is right and there was no give and take on this. There was only an agreement on a 40% build-out.

George Christopher, Planning & Zoning member, sees the **two-storey issue** as just the tip of an iceberg, as there are no design criteria or guidelines. He suggested that if it is approved the way it is being proposed, as a minimum, input should be required from staff. Also Mr. Brackett should be required to come back before staff with the design of these houses, how they are going to be laid out, where the setbacks are going to be and get staff to approve it. Further,

the Board should direct staff to come up with guidelines on second storey issues and beyond it. He had asked Planning & Zoning for a workshop on these issues and had not gotten a response. He felt the Board might want to consider that.

Joseph Paladin, 6450 Tropical Way, on the issue of inter-connectivity, understands that staff is trying to meet concurrency issues and solving traffic problems as well. However, he opposed access through old neighborhoods.

Mr. Paladin, on the **two-storey homes**, stated that Craig Fletcher and other Planning & Zoning members had asked him to define a two-storey home. His definition will be submitted, in writing, to Planning & Zoning for approval. He felt the Board should consider passing an overall law as developers needed to have pride in what they do and they should also be required to submit design and criteria that are pleasing to the eye.

Ms. Collins wanted to clarify that the north/south access and the two-storey houses are two separate issues. She asked the Chairman to deal with the north/south access first.

Chairman Neuberger explained that although they were two separate issues they would be dealt with as one and would be voted on as such.

Al Sholan, 4045 12th Place, Shady Oaks, thought it would be wonderful if the access road is set south.

Frank Britt, 1136 34th Avenue SW, Grovenor Estates, opposed the access road and thought they should do it on the other side of the canal or down 17th Street.

Ms. Cowan sought confirmation on whether or not, in the year 2000, 13th Street SW was already in the plans to get paved in 2004.

Public Works Director Jim Davis commented that there was a plan, as well as an approved project, to pave 13th Street SW from the existing pavement in, just west of Ainsley Park to 35th Avenue SW but not further west to 43rd Avenue; but this particular project with Turtle Creek will pave it all the way in to 43rd Avenue.

The Chairman closed the public hearing.

> MOTION WAS MADE by Commissioner Lowther, SECONDED by Commissioner Davis, to go with Planning & Zoning's recommendation to do away with the north/south access and go with the pedestrian/emergency access on 13th Street SW, and also to make sure construction traffic stays off 13th Street SW.
> He wanted the two-storey issue sent back to Planning & Zoning for discussion and input.

Under discussion, Commissioner Bowden asked for clarification on: (1) whether the school site property has been deeded over to the School Board; and, (2) how many acres does the elementary school have. Director Boling responded in the negative to question one but that the property would be deeded soon. There are twenty (20) acres gross for the elementary school.

Commissioner Wheeler opposed the Motion as stated but favored moving the two-storey issue back to Planning & Zoning.

Mr. Boling sought clarity on whether the Motion should be: to eliminate conditions 1(i) and 4(d); and, condition 7 would be changed to restrict 2 storey homes within the project as determined by Planning & Zoning.

Attorney Collins asserted that Planning & Zoning's recommendation is not to have two-storey homes next to each other. If they wanted to modify that they would have to go back to Planning and Zoning for a change

Commissioner Davis recalled that in the past he had agreed with Commissioner Wheeler on interconnectivity and looking at it now on a case-by-case basis it makes a big difference. He felt they owed it to residents to try to protect their quality of life as they give developers the opportunity with their rights to develop.

Commissioner Bowden agreed with Mr. Paladin that to change the ambience and flavor of old neighborhoods is almost unconscionable. She suggested spreading the traffic out without having it be a burden to everyone.

The Chairman CALLED THE QUESTION and the MOTION carried 4-1 (Commissioner Wheeler opposed). The Board approved the adoption of Ordinance 2006-008 amending the Zoning ordinance and the accompanying Zoning map for approximately 291.00 acres of land generally located between 13th Street SW on the north and 17th Street SW on the south, and between 27th Avenue on the East and 43rd Avenue on the west; from PD residential (The Colony PD) to PD residential (Turtle Creek Preserve PD); providing for severability and effective date.
Items 1(i), 1.j.(1), 1.j.(2), and 4.d to be removed from staff's recommendations on pages 354-356 (in the backup). Item 7 regarding two-storey homes is to be sent back to Planning & Zoning. Construction traffic is to stay off 13th Street SW.

Director Keating asked for clarity on whether the Board was delegating the two- storey issue to Planning & Zoning and that it does not need to be a PD amendment.

Attorney Collins explained that it does not need to be a public hearing. They have a condition now that says as part of the PD rezoning no two-storey homes may be built on adjacent lots. They could either go with that or go back to Planning & Zoning to work something out that they can recommend to the Board.

> MOTION WAS MADE by Vice Chairman Wheeler, SECONDED for discussion by Commissioner Davis and Chairman Neuberger, to direct staff to come back with the pros and cons of creating an Architectural Review Committee for PD's.

Under discussion, Chairman Neuberger suggested the Motion be defeated and that the matter be put on a future Agenda and ask staff to look at and report on the pros and cons of creating an architectural review board for PD's. Commissioner Bowden agreed.

> Vice Chairman Wheeler WITHDREW the Motion and AGREED to put the matter on next week's Agenda.

THE CHAIRMAN CALLED A SHORT RECESS AT 11:53 A.M. FOR CLOSED CAPTIONING PURPOSES.
THE MEETING RECONVENED AT 12 NOON WITH ALL MEMBERS PRESENT.

2. LAKEWOOD TERRACE WATER SERVICE, WEST SIDE OF 27TH AVE, NORTH OF THE ST. LUCIE CO. LINE, INDIAN RIVER COUNTY PROJECT NO. UCP-2317, RESOLUTION III (ADMINISTRATIVE)

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

Manager of Assessment Projects Dan Chastain related that on February 14, 2006 County Attorney Collins brought to their attention that due to a scrivener's error in the advertisement they needed to re-advertise, hence the matter being back before the Board. He has had calls from residents questioning why the need for another public hearing and why they were not going out to bid. He assured them nothing has changed since they last came to the Board (2/14/06), and that the estimated cost remains the same ($372,000). He requested approval of the third resolution; and, through a slide presentation, pointed out the southern-most section of the County that still lacks County water.

Chairman Neuberger inquired whether or not Lakewood Park (in St. Lucie County) has public water. Mr. Chastain was not aware.

The Chairman opened the public hearing.

Ila Kane, 2345 30th Avenue SW, is in the process of selling her house and has heard talk that there will be a lien on her house. She did not want to have to pay for something from which she would not benefit.

During discussion it was suggested that she could consider adding the cost to the sale price of her home.

Ms. Kane, using a map, pointed out the water line and her house, which is situated in the middle of two lots and noted that she will be charged for two.

Mr. Chastain promised to eliminate the unnecessary service charge

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

> ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Resolution 2006-047 confirming the special assessments in connection with water main expansion to Lakewood Terrace Subdivision (west side of 27th Avenue, north of St. Lucie County line) in Indian River County, Florida; and providing for special assessment liens to be made of record.

9.B. PUBLIC DISCUSSION ITEMS

1. REQUEST TO SPEAK FROM GLENN W. LEGWEN REGARDING COUNTY'S USE OF SELECTIVE CODE ENFORCEMENT

Request deferred to April 11, 2006.

2 REQUEST TO SPEAK FROM BRUCE T. GENEREUX REGARDING DRIVERS WHO VIOLATE FLORIDA STATUTES 316.293 AND 316.3045 ON INDIAN RIVER COUNTY ROADWAYS

Bruce Genereux, 4406 6th Street SW, complained about the volume of traffic, pollution, and the level of noise from "boomers" in his community. He offered the Board three (3) options:

(1) Do nothing; (2) compensate residents by lowering taxes; or, (3) direct the Sheriff's Department to start enforcing these laws - maybe four hours a week. He sought to get a commitment from the Board that they would speak with the Sheriff's Department.

Chairman Neuberger informed him that the County does not direct the Sheriff on how to do his job.

Commissioner Wheeler joined in that the County has no such authority but that the City Council may direct the Sheriff's Office. He understood Mr. Genereux's frustration about the noise from boom boxes and recommended he contact the Sheriff directly and not bypass the bureaucracy.

NO ACTION REQUIRED OR TAKEN

9.C. PUBLIC NOTICE ITEMS

1. NOTICE OF SCHEDULED PUBLIC HEARINGS APRIL 11, 2006:

A. CONSIDERATION OF PROPOSED LAND DEVELOPMENT REGULATIONS (LDR) AMENDMENTS TO CHAPTER 913 AND 914: POSTED SIGN NOTICE FOR CONVENTIONAL DEVELOPMENT PROJECTS (LEGISLATIVE)

B. TREVISO LLC REZONING: REQUEST TO REZONE +/-19.48 ACRES LOCATED AT THE NORTHEAST INTERSECTION OF 16TH STREET AND 74TH AVENUE, FROM A-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT/5 ACRES), TO RM-8 MULTI-FAMILY RESIDENTIAL DISTRICT (UP TO 8

UNITS/ACRE). TREVISO LLC, OWNER, SIEMON & LARSON, AGENT. (QUASI-JUDICIAL)

2. NOTICE OF SCHEDULED PUBLIC HEARING APRIL 11, 2006: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, EXTENDING THE TEMPORARY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR ADMINISTRATIVE PERMITS AND THE ISSUANCE OF ADMINISTRATIVE PERMIT APPROVALS FOR "SMALL LOT SINGLE-FAMILY SUBDIVISIONS"; PROVIDING FOR PROHIBITION; PROVIDING FOR EXCEPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; SETTING FORTH EXPIRATION AND EFFECTIVE DATES (LEGISLATIVE)

Executive Aide to the Board Kimberly Massung, read the notices into the record.

10. COUNTY ADMINISTRATORS MATTERS

A. STATE LOBBYIST

County Administrator Joseph Baird stated that on March 7, 2006 the Board directed him to begin negotiations for a State lobbyist to represent Indian River County, and he currently has a Professional Services Agreement with Ronald Book for $75,000.00. He talked with many people at the State level (State representatives, people in the Senate, and Legislators) and most recommended Mr. Book.

MOTION WAS MADE by Commissioner Bowden, SECONDED by Commissioner Davis, to approve staff's recommendation.

Discussion ensued among Commissioners regarding the length of the current session; whether to wait until next session; and, Mr. Book not being a newcomer to the business.

The Chairman CALLED THE QUESTION and the motion carried unanimously. The Board approved the Professional Services Agreement with Ronald L. Book in the amount of Seventy-five Thousand Dollars ($75,000.00) for the 2006 Legislative session as well as any Special Sessions this year, and authorized the Chairman to execute same, as recommended in the memorandum of March 29, 2006.

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

11. DEPARTMENTAL MATTERS

A. COMMUNITY DEVELOPMENT – NONE

B. EMERGENCY SERVICES-NONE

C. GENERAL SERVICES-NONE

D. HUMAN RESOURCES-NONE

E. HUMAN SERVICES-NONE

F. LEISURE SERVICES-NONE

G. OFFICE OF MANAGEMENT AND BUDGET-NONE

H. RECREATION-NONE

I. PUBLIC WORKS

1. RIGHT-OF-WAY ACQUISITION, 13TH STREET SW & 20TH AVENUE SW, WINDING CREEK SUBDIVISION PROJECT, BELL CONSTRUCTION & DEVELOPMENT LLC, OWNER

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the $60,270.66 right-of-way acquisition and authorized the Chairman to execute the Agreement to Purchase and Sell Real Estate, as recommended in the memorandum of March 20, 2006.

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

2. CONTRACT EXECUTION FOR IRC BID NO. 7057, RAISING ELEVATION OF THE FOOTBRIDGE AT ROUND ISLAND PARK

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to sign the Contract document. In accordance with the Settlement Agreement, Ms. Nicholson will pay 50% of the cost of raising and altering the footbridge and the County shall pay the remaining 50%.

NOTICE OF AWARD ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

J. UTILITIES SERVICES

1. UTILITIES DEPARTMENT OPERATIONS CENTER, APPROVAL OF CHANGE ORDER NO. 5 FOR EXTENSION OF CONTRACT—INDIAN RIVER COUNTY PROJECT NO. UCP 2229

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 5 providing for an additional 80 days to the contract with Summit Construction Management, Inc. (SCM), and authorized the Chairman to execute same, as recommended in the memorandum of March 8, 2006.

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

2. NORTH COUNTY REVERSE OSMOSIS PLANT, CAMP DRESSER MCKEE (CDM) AMENDMENT NO. 2 TO WORK ORDER NO. 1 FOR ADDITIONAL PROFESSIONAL SERVICES IN PERMITTING AND BIDDING DOCUMENTS

ON MOTION by Commissioner Davis, SECONDED by Commissioner Wheeler, the Board unanimously approved Amendment No. 2 to Work Order No. 1 to CDM Inc., in the amount of $19,590.00 for additional permitting and bidding services, and authorized the Chairman to execute Amendment No. 2 to Work Order No. 1, as recommended in the memorandum of March 27, 2006.

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

12. COUNTY ATTORNEY

A. REQUEST FOR REVIEW BY PROFESSIONAL SERVICES ADVISORY COMMITTEE TO CONSIDER BONDING OF FINAL LIFT OF ASPHALT ON DEVELOPMENT PROJECTS

County Attorney William Collins reviewed his memorandum of March 28, 2006 (copy on file – page 514 of backup) and requested permission to take forward the proposal from some developers that when they have met the County code with the desired graded thickness of roadway, they would like to delay the final lift until most of their homes are in, which is about the time they turn it over to the homeowners association. Further, that the proposal be sent forward to Professional Services Advisory Committee, Planning & Zoning, and ultimately to the Board.

Attorney Collins took the opportunity to highlight the complaints of some Citrus Springs representatives that there were gates that were not installed showing on their land development permits. He felt this was the type of thing we could perhaps incorporate into bonding requirements for matters shown on approved plans that exceeded our County codes and have some mechanism to loop back in after the required improvements have been installed.

Commissioner Davis questioned whether the comment "bonding in cash" meant the Irrevocable Letter of Credit made payable to the County. Attorney Collins said it meant cash escrow in the County's escrow fund.

> MOTION WAS MADE by Commissioner Bowden, SECONDED by Commissioner Davis to approve the County Attorney's request as presented.

Under discussion, Chairman Neuberger commented that by mentioning the final lift indicated that there was an initial lift; and, questioned whether most of the subdivisions were not 1" total. If so, what were they considering?

Attorney Collins thinks most are more than one (1) inch.

Director Davis provided that our County standards are fairly old and over the years they have only required an inch of asphalt. That is usually adequate in smaller subdivisions, but some of the larger subdivisions we are seeing with several hundred homes, that carry a lot more traffic, probably needed to be designed beefier than some of the old regulations require. Many do put in two (2) lifts then come in later with a final inch and a half. It would have to be put in prior to Certificate of Completion and cannot bond off.

> The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board authorized staff

to present this matter to the Professional Services Advisory Committee for a recommendation to the Board of County Commissioners, as requested in the memorandum of March 28, 2006.

13. COMMISSIONER ITEMS

A. COMMISSIONER ARTHUR R. NEUBERGER, CHAIRMAN - NONE

B. COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN

1. STRAW BALLOT – NONBINDING REFERENDUM REQUEST FOR NOVEMBER 2006 GENERAL ELECTION

Vice Chairman Wheeler explained his proposal for a non-binding Straw Ballot asking voters' opinion by posing the question "Do you favor the adoption of a Special Act for Indian River County by the Florida Legislature to require voter approval of any amendment to the Indian River County Comprehensive Plan which expands the urban service area boundary?"
He attended five (5) Council meetings and three (3) approved his proposal. The City of Vero Beach did not take a position and Fellsmere, with a 4-0 vote, opposed it. The only County expense would be advertisement.

Chairman Neuberger felt they already knew the outcome and thus did not need a referendum.

Commissioner Lowther strongly opposed the proposal and discussed the matter at length. He questioned the wisdom of the matter coming back for discussion. The majority of the people with whom he spoke did not know where the urban service line was. If we move forward

with the urban service boundary issue, he would do everything in his power to promote a property tax cap associated with it.

Chairman Neuberger explained that Commissioner Wheeler was entitled to bring the matter back for discussion, but he thought the Legislature says if you bring it up once in a session you cannot come back again for another year. He felt the Board needed to discuss the matter otherwise this would keep coming up and soon become a political football with no end.

Commissioner Wheeler felt the tax cap was a good idea. He was only seeking voters' opinion and failed to understand the fear in putting this on the ballot.

Discussion ensued on whether the public knew anything about the urban service line; and, whether or not this should be looked at as an educational tool.

Commissioner Wheeler related the objective of his campaign, which is to educate people.

Commissioner Bowden felt it was good to have the community speak loud and clear. As far as educating the public, she suggested staff giving a presentation on exactly where the urban service line is explaining what is inside and outside of it.

Discussion ensued and centered on tax implications and what Commissioner Wheeler was trying to accomplish.

Although not a public hearing, the Chairman invited the public to speak.

Mr. Ital Veron, 280 Pepper Tree, member of the Indian River Neighborhood Association (IRNA), supported strongly Commissioner Wheeler's proposed referendum. He encouraged Commissioners to support the cause saying he did not believe that people have to know the course of the urban service line, but people will participate if you give them a chance.

Chairman Neuberger and Mr. Veron engaged in discussion regarding the low percentage of voters and whether it reflected good government.

Commissioner Wheeler addressed the Chairman regarding voter turnout and his desire to protect the urban service boundary against future pressures to expand it.

Bill Menzies, 1943 Tamara Trail, hoped the Board would support the proposal and give the people a chance to vote. No harm will arise in having voters give a clear message.

Nicholas Schaus, 137 Anchor Drive, recounted how a group in Florida that had been trying to get a constitutional amendment that would provide that any change or amendment to the Comprehensive Plan would be done by vote of the people and not by commissioners. He thought voters were qualified to make a decision and hoped the Board would support the proposal.

Chairman Neuberger, to highlight his concern, drew reference to the "bullet train, class size amendment and pregnant pig" issues and how people, in the past, voted without having any idea how much it was going to cost, but that it seemed like a good idea.

During discussion, Commissioner Davis indicated his opposition to putting this question to the electorate for a straw ballot. He has made clear his position of "holding the line" on expansion of the urban service area and if he violates that he expected the voters to hold him accountable. There are merits for putting questions to the electorate, but we have a representative form of government and he believed that was what our forefathers wanted when they formed it.

Honey Minuse, 27 Starfish Drive, suggested that the proposal has potential for impact to the entire community and would like to see voters have their say on this.

Karl Zimmermann, 1786 Coral Way North, encouraged the Board to defeat Commissioner Wheeler's motion. He believes it is an affront to representative government, and starting to have referendums is the first step towards dissolving the responsibility of everyone including Commissioners.

Joseph Flescher, 279 Joy Haven Drive, Sebastian commended Commissioners Bowden and Wheeler for their positions on this issue. He believed education and awareness would widen the voters understanding of the matter.

George Hamner, Jr., 995 Sandfly Lane, Rio Mar, had no doubt the Indian River Neighborhood Association (IRNA) supported the proposal. He agreed with Mr. Zimmermann that you could not have good government with referendums like this; there are too many issues. He thought the urban service line has become a taxing and emotional issue. He asked Commissioner Davis to clarify his position on never moving the urban service line and hoped he meant for residential purposes.

Mr. Higgs, a county resident, stated that IRNA is not against non-residential expansion and thought the issue here is not government by referendum. There are certain fundamental issues in which the public does have an interest; and, what better way to educate the public than to have a straw ballot.

Gene Waddell, 8155 25th Street, felt referendums are voted from the heart and hopes the Board votes from the head. He suggested Messrs. Christopher and Bass (Growth Awareness Committee), who had previously offered to provide feedback from the community on other matters, be appointed to seek feedback on this issue.

Debra Daige, Vero Beach, wished more people would take more interest in how their government works. She sees this more as an educational issue; felt it could go either way; and, voters should be given the opportunity so we would know how they feel about this issue.

Penny Chandler, Indian River County Chamber of Commerce, agreed that this is about education. She urged the Board to deal with the matter of "Sustainable Treasure Coast" first and wait until those issues are discussed in public and among the counties before a vote is given on Commissioner Wheeler's proposal.

Dr. Richard Baker, Pelican Island Audubon Society, and member of Sustainable Treasure Coast, noted that there was a workshop in July regarding the Sustainable Treasure Coast issue. He thought a straw ballot referendum is a good way to educate the public.

Douglas Bournique, Executive Vice President, Indian River County Citrus League, representing citrus growers, had no position on the urban service boundary. He opposed a referendum, and felt that government by referendum is not good government.

> ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board approved (3-2 Commissioners Davis and Lowther opposed) to place a Question on the November 2006 General Elections, in the form of a Straw Ballot – Non-binding Referendum, worded as follows: "Do you favor the adoption of a special act for Indian River County by the Florida Legislature to require voter approval of any amendment to the Indian River County Comprehensive Plan which expands the urban service area boundary?", YES, for special act and NO, against the special act.

BALLOT QUESTION ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

THE CHAIRMAN CALLED A SHORT RECESS AT 1:37 P.M. FOR CLOSED CAPTIONING PURPOSES. THE MEETING RECONVENED AT 1:43 P.M. WITH COMMISSIONER BOWDEN ABSENT.

C. COMMISSIONER SANDRA L. BOWDEN - NONE

D. COMMISSIONER WESLEY S. DAVIS - NONE

E. COMMISSIONER THOMAS S. LOWTHER - NONE

14. SPECIAL DISTRICTS AND BOARDS

A. EMERGENCY SERVICES DISTRICT - NONE

B. SOLID WASTE DISPOSAL DISTRICT

1. SWDD LAND ACQUISITION

2. LANDFILL SITE PLAN UPDATE

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

C. ENVIRONMENTAL CONTROL BOARD

1. APPROVAL OF MINUTES OF MEETING OF DECEMBER 6, 2005

2. REPORT OF ACTIVITIES DURING FOURTH QUARTER (OCTOBER – DECEMBER, 2005)

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

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

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 01:43 p.m.

ATTEST:

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Jeffrey K. Barton, Clerk Arthur R. Neuberger, Chairman

Minutes Approved: _____

BCC/AA/2006Minutes