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COMMISSIONERS OF
APRIL 18, 2006

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April 18, 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 18, 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 JoAnn M. Glenn.

1. CALL TO ORDER

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

2. INVOCATION

Reverend Jim Newsome, First Baptist Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Vice Chairman Gary C. Wheeler led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Additional Item 13.E.1. - Lewis Barton Code Enforcement Issue

Additional Item 11.J.1. - Request to speak by Mark Grossman, President of the Home Owners Association of Vero Lake Estates

ON MOTION by Commissioner Bowden,
SECONDED by Commissioner Davis, the Board
unanimously added the above items to the Agenda.

5. PROCLAMATIONS AND PRESENTATIONS

**5.A. PRESENTATION OF PROCLAMATION DESIGNATING THE WEEK
OF MAY 1 THROUGH MAY 5, 2006 AS LAW WEEK**

County Attorney Collins read the proclamation. It was presented to Adam Chrzan from the State Attorney's office. He thanked the Commission on behalf of the Indian River County Bar Association.

**5.B. PRESENTATION OF PROCLAMATION DESIGNATING APRIL 10
THROUGH APRIL 22, 2006 AS AMARA SHRINE HOSPITAL
CRUSADE DAYS**

Commissioner Lowther, also a Shriner, read the Proclamation. It was presented to John Hooten, who spoke on behalf of the Vero Beach Shriners. Mr. Hooten said 95% of the budget goes to treating children or research. (Shriners may be contacted at 1-800-237-5055 if you know a child needing help.)

6. APPROVAL OF MINUTES - NONE

7. CONSENT AGENDA

County Attorney William Collins requested Item 7.L. be pulled for discussion.

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

**7.A.1. DELTA FARMS WATER CONTROL DISTRICT (DFWCD) – ANNUAL
PUBLIC FACILITIES REPORT**

**7.A.2. FELLSMERE WATER CONTROL DISTRICT (FWCD) – ANNUAL PUBLIC
FACILITIES REPORT**

**7.A.3. INDIAN RIVER FARMS WATER CONTROL DISTRICT (IRFWCD) –
ANNUAL PUBLIC FACILITIES REPORT**

**7.A.4. SEBASTIAN RIVER WATER CONTROL DISTRICT (SRWCD) – ANNUAL
PUBLIC FACILITIES REPORT**

**7.A.5. VERO LAKES WATER CONTROL DISTRICT (VLWCD) – ANNUAL PUBLIC
FACILITIES REPORT**

7.B. APPROVAL OF WARRANTS

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for April 1, 2006 to April 6, 2006, as requested in the memorandum of April 6, 2006.

7.C. PROCLAMATION DESIGNATING APRIL 23 THROUGH 29, 2006 AS CRIME VICTIMS' RIGHTS WEEK IN INDIAN RIVER COUNTY

The Board noted the Proclamation for the record.

7.D. CITY OF FELLSMERE COUNCIL MEMBERS TO COUNTY COMMITTEES AND REGIONAL BOARDS

The Board noted the appointments by the City of Fellsmere of:

Sara Savage - Mayor
John McCants - Vice Mayor
Cheryl Hampton - Mayor Pro-Tem
Francisco Magana - Councilman
Fernando Herrera - Councilman

7.E. ELECTION OF TRANSPORTATION DISADVANTAGED LOCAL COORDINATING BOARD VICE CHAIRMAN

The Board noted the re-election of Ron Tesnow as Vice Chairman for the year 2006.

**7.F. OSLO ROAD/LATERAL "J" CANAL BRIDGE REPLACEMENT
CHANGE ORDER NO 3 – 20" WM LINE STOP**

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously approved Change Order No. 3 with
Lucas Marine Construction, Inc., in the amount of
\$18,265.00, for a line stop to tie into the 8" line, as
recommended in the memorandum of April 4, 2006.

CHANGE ORDER NO. 3 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.G. EAST ROSELAND STORMWATER IMPROVEMENTS: FINAL
PAYMENT AND RELEASE OF RETAINAGE FOR LITTORAL ZONE
PLANTING AT THE EAST ROSELAND STORMWATER
DETENTION POND**

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously authorized the Chairman to approve
full payment of Work Order No.1, with G. K.
Environmental, Inc., in the amount of \$15,950.00,
as recommended in the memorandum of April 7,
2006.

**7.H. APPROVAL OF BID AWARD FOR IRC BID # 2006062 SODIUM
HYPOCHLORITE FEED SYSTEM – UTILITIES
DEPARTMENT/WASTE PRODUCTION DIVISION**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously awarded the bid to Odyssey Manufacturing, Co. as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid, in the amount of \$17,200.00, as recommended in the memorandum of March 28, 2006.

7.I. APPROVAL OF BID AWARD FOR IRC BID # 2006066 TRUCK MOUNTED CRANE UTILITIES DEPARTMENT/WATER PRODUCTION DIVISION

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously awarded the bid to World Industrial Equipment, Inc. d/b/a Stamm Manufacturing in the amount of \$11,950.00, as the second lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid, as recommended in the memorandum of March 28, 2006. The low bidder is located in Orlando and we would have to send two people to deliver the truck and two people to pick it up. The difference of \$249.00 between bids would make up for time and manpower lost. The recommended bidder is located in Ft. Pierce, FL.

7.J. APPROVAL OF RENEWAL FOR A CLASS “E1” CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR HEALTH SOUTH TREASURE COAST REHABILITATION HOSPITAL TO PROVIDE WHEELCHAIR AND COMFORT STRETCHER SERVICES

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously approved renewal of the Class “E1”
Certificate of Public Convenience and Necessity for
HealthSouth Treasure Coast Rehabilitation
Hospital, to be effective for a period of two (2)
years from May 16, 2006, to May 16, 2008, as
recommended in the memorandum of March 30,
2006.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS ON FILE IN THE OFFICE OF CLERK TO
THE BOARD

7.K. MISCELLANEOUS BUDGET AMENDMENT 013

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously adopted Resolution 2006-050
amending the fiscal year 2005/06 Budget.

7.L. BEAZER HOMES CORPORATION – LIVE OAK TREES, ISLAND CLUB RIVERSIDE PHASE IV SUBDIVISION/JUNGLE TRAIL BUFFER, REQUEST FOR AUTHORIZATION FOR STAFF TO CALL LETTER OF CREDIT

County Attorney William Collins stated no action was necessary by the Board on this item. He has been in contact with representatives of Beazer Homes, who voluntarily extended their Letter of Credit for an additional year in the same amount of \$119,025.00. Beazer Homes does dispute whether they have any liability.

7.M. CONSULTANT SELECTION – BRIDGE DESIGN SERVICES ON AN ANNUAL CONTRACTUAL BASIS FOR VARIOUS CIVIL ENGINEERING BRIDGE DESIGN PROJECTS IN INDIAN RIVER COUNTY

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously authorized staff to begin contract negotiations with the first ranked firm, Bridge Design Associates, Inc., West Palm Beach, as recommended in the memorandum of April 7, 2006.

7.N. NEW COURTHOUSE TELEPHONE SYSTEM – BELLSOUTH CONTRACT SERVICE AGREEMENT

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously authorized the County Administrator

or his designee to approve the Contract Service Arrangement (CSA) Agreement with BellSouth for a term of 49 months, as recommended in the memorandum of April 10, 2006.

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

7.O. 43RD AVE SUB-COMPLEX – SECURITY SYSTEM ELECTIONS OFFICE

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously waived the requirements for bidding and authorized a Purchase Order not to exceed the amount of \$28,470 to Spectrum Technologies Group of North America, Inc., as recommended in the memorandum of April 10, 2006.

7.P. DEDICATION OF 15' UTILITY EASEMENT TO CITY OF VERO BEACH ALONG INDIAN RIVER COUNTY UTILITIES OPERATIONS FACILITY SOUTH PROPERTY LINE

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Bowden, the Board unanimously approved the Deed of Easement with the City of Vero Beach (COVB) and authorized the Chairman to execute same, as recommended in the memorandum of April 4, 2006.

**7.Q. CONTINUING PROFESSIONAL SURVEY SERVICES CONTRACT
0390 WORK ORDER NO. 4 (ENGINEERING), CREECH ENGINEERS,
INC.**

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously approved Work Order No. 4
authorizing the project as outlined in the scope of
services, in the amount of \$99,470.00, and
authorized the Chairperson to execute same, as
recommended in the memorandum of April 10,
2006.

WORK ORDER NO. 4 IS ON FILE IN OFFICE OF THE CLERK TO THE BOARD

**7.R. RIGHT-OF-WAY ACQUISITION NEW JERUSALEM IN ITS POWER,
INC. PARCEL I.D. 32-39-27-00000-3000-00014.0 – 3890 41ST STREET –
INTERSECTION IMPROVEMENT 41ST STREET AND 43RD AVENUE**

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously approved the \$55,000.00 purchase and
authorized the Chairman to execute the Agreement
to Purchase and Sell Real Estate, as recommended
in the memorandum of April 7, 2006.

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

**7.S. CHILDREN'S SERVICE ADVISORY COMMITTEE'S REQUEST
FOR PROPOSAL #2006061**

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Bowden, the Board
unanimously approved Request for Proposal
#2006061 and authorized staff to advertise the
Request for Proposal accordingly, as recommended
in the memorandum of April 11, 2006.

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS

9.A. PUBLIC HEARINGS

9.A.1. BOARD CONSIDERATION TO APPROVE PURCHASE OF THE CAPT'N

**BUTCHER, INC. PARCELS OF THE "ARCHIE SMITH/JOHNNY MAYS FISH
HOUSE" ENVIRONMENTAL LAND ACQUISITION PROJECT**

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

Roland DeBlois, Chief of Environmental Planning, explained with a PowerPoint presentation, the location of the property and its size of 2.78 acres. The Archie Smith Fish House is part of the parcel and is on the National Historic Register. A hurricane destroyed the Johnny Mays Fish House; all that remains is the dock. Some envision that the property could be restored to a working waterfront. The Conservation Fund (TCF) negotiated a purchase price of \$8,000,000. The two independent appraisals from Armfield-Wagner Appraisal & Research, Inc.

and W. H. Benson & Company valued the parcels at \$8,300,000 and \$7,000,000 respectively. The negotiated purchase price for the Capt'n Butcher parcels was higher than the average of the two appraisals so the purchase required a "super-majority" (4 out of 5) vote of approval by the Board of County Commissioners.

Chief DeBlois showed various pictures of the dock and structures. The existing structure has been rebuilt, has a 2-story structure, a marina in use, and a hotel with efficiencies. The shell building is incomplete. The clam house located on one side technically is not a structure. There are two vacant out parcels also. He showed a copy of the approved site plan of the Capt'n Butcher property. Mr. DeBlois stated this property must be acquired with the Archie Smith Fish House for it to be a solid project. He believed there could be a museum, store, offices, etc. The County had been working closely with the Bond Counsel. There were contingencies with this purchase that included the seller terminating the restaurant lease before closing.

Commissioner Lowther believed the LAAC Committee had done its job.

Commissioner Wheeler asked how much cost was anticipated in this project and if there were matching funds from other organizations. Mr. DeBlois said the amount was hard to predict.

Commissioner Wheeler also stated he felt the concept was excellent and asked if this property could have been used for commercial ventures, like a restaurant or tackle shop.

County Administrator Joseph Baird said the allowable use of the property upon acquisition would be the County could not privately use the property without a qualified management agreement. Fees are restricted as to amount and timing. Any use of the property must be opened to the general public. The legal opinion is from the Bond council.

The Chairman opened the public hearing.

Frank Wagel, 8060 142 Street, Sebastian, supported the purchase of the Archie Smith Fish House, but opposed the Capt'n Butcher purchase.

Tim Adams, 426 SW Maple Street, Sebastian, a 5th generation commercial fisherman, initially thought the purchase was an excellent idea, but felt it had become a contentious item. He said this project was intended not to be a tourist attraction, but rather a historical working waterfront project. He felt it was inappropriate to use tourist tax money.

Fred Mensing, 7580 129th Street, Sebastian, absolutely favored the project. He can remember fish houses from a long time ago. The heritage is still there but waterfront access is disappearing. He wanted two (2) homes near this property bought as well.

Mike Baker, President of the Port Salerno Commercial Fisherman's Dock Authority, lives in Stuart. He wanted the committee to understand sustainable commercial fisheries. He felt the project would benefit the community.

Ital Veron, 280 Pepper Tree Drive, thought the asking price was for waterfront property, but 80% of it is not waterfront. He said the entire property needed to be raised. Mr. Veron also stated the hurricanes destroyed the original property, and this is not historic property. He declared it would be a theme development and he did not want government involved in private enterprise. He wanted current issues resolved first such as the overcrowded jail, etc.

Michael Fitzpatrick, S. Easy Street, Sebastian, owns On the Hook Restaurant and would lose it if the County bought the property. He will stand on the lease, although he liked the idea of a working waterfront. He felt it was amiss that no one approached him to let him know he would lose his lease.

The Chairman called a recess at 10:28 a.m. for closed captioning purpose and reconvened the meeting at 10:38 a.m.

Louis Schacht, 2260 Vero Beach Avenue, serves as the Agricultural Interest on the Land Acquisition Advisory Committee. He opposed the purchase of the Capt'n Butcher parcel only but favored the purchase of Smith Fish House.

Guy Barber, Highlands Drive S.W., Vero Beach, thought there was liability with the purchase of the Capt'n Butcher parcels because of the restaurant. He had no problem purchasing Smith House because at least we would have the land.

Win Robinson, 17 Marine Drive, Vero Beach, protested the use of the money to be used for buying a problem property with no environmental worth. He read a statement from his wife, Mrs. Robinson, who did not want Capt'n Butcher's bought because it is not a historical property.

Kathy Wiggle, 8060 142nd Street, Sebastian, opposed using the Land Acquisition Bond to purchase this property. She believed there was no historical property left after the hurricanes.

Mayor of Sebastian, **Nathan McCollum**, representing the City Council, said they unanimously endorsed this project. They wanted to keep our heritage with fishing.

Betina Budrow, 1302 Indian River Drive, Sebastian, would have preferred to see an educational property rather than a tourist attraction.

Sumner Sharman, Gray's Landing, Sebastian, wanted the site preserved as a working museum.

Chris Penson, 106th Avenue, Vero Beach, wanted everyone to drive down there to look and see that it is a historical site. He believed the number one goal should be public access to the water.

Maureen Cummings, former member of the Growth Task Force, stated this purchase would be way too expensive and a waste of money. She would have liked to see the Archie Smith Fish House saved.

Mason Bowen, 365 Orange Avenue, Sebastian, a commercial fisherman would have liked Archie Smith Fish House bought, but said it could not be a working dock because it is too small to unload fish. He felt this was the only opportunity to purchase the Capt'n Butcher parcels, where larger boats can unload fish.

Bill Menzies wanted the land preserved, but said that's not why the County was given the money.

Captain Dan Kane, a/k/a Hurricane Dan, a commercial fisherman, needs a place to unload his fish...and a little respect.

Angela Weathersby, Sebastian was against using the bond money. She thought there were a lot of unknowns.

Alfred Knuff grew up in Sebastian and believed the purchase of this property would be good in the long run.

Richard Thomas, 13845 North Indian River Drive, felt the property is a treasure and wanted it to be saved.

Ruth Sullivan, Indian River Drive, Sebastian, declared the Butcher parcel is not historical and is not on the historical list. She felt the Archie Smith property would have cost a lot less bond money and is on the Historical Register.

Ms. Cummings added to her previous comments and called attention to the fact that seven members of the Land Acquisition Committee voted against this proposal.

Grant Withers, 67 Cascade Drive, Vero Beach, was opposed to using bond money to purchase the commercial part of the property, but he believed the Judah property was ok to purchase.

Frank Cap, 756 Holden Avenue, Sebastian, wanted both properties secured.

Bea Gardner, 4480 25th Lane, Vero Beach, wanted this issue tabled until we could get the Archie Smith property purchased.

Joel Tyson felt the purchase would have been a good use of the bond money.

Lisanne Monier, 1125 US Hwy 1, Sebastian, owner of the Old Town Hall built in 1913, declared the fishing industry is a culture and you don't need a building to have historic value. She wanted all buildings bought.

Honey Minuse, 27 Starfish Drive, Vero Beach, wanted the issues tabled because this project did not have codes and ordinances in place.

The Chairman called a recess at 12:13 p.m. and reconvened the meeting at 12:23 p.m.

John Oakes from Sebastian believed this purchase should be made with the Land Acquisition Bond.

George Christopher, Vero Beach, wanted the discussion tabled.

Doug King, Sebastian, thought the property still looks the way it did years ago. He said he would volunteer his time to do clean up if this proposition was approved.

John Williams, 1535 Smugglers Cove, wanted alternative funds used for the commercial property, and bond money for the fish house.

Donna Keys, Sebastian, a member of the Indian River County Planning and Zoning Commission, displayed a layout of the property on the overhead projector and discussed each building with regard to its location and size. Ms. Keys also explained why this matter could not be tabled. She wanted this purchase approved.

Ruth Stanbridge, 4835 66th Avenue, Vero Beach, a former commissioner and County Historian since 1996, felt this purchase would enhance the waterfront and would have excellent educational opportunities. She would eventually like to see a ferry over to the island.

Mr. Knuff returned to the podium because he wanted the Chairman to call for a vote.

John Higgs wanted this venture to be run by commercial property owners.

County Administrator Baird clarified the Industrial revenue bonds are for the public for housing and manufacturing.

George Blythe, 825 90th Avenue, Vero Beach, explained what a day in the life of a fisherman was like years ago. He felt present day fishing would not reflect that history.

Joseph Paladin, developer, wanted the Board to think about preserving our past and overlook the dollar and cents of the matter.

Lynne Larkin, Vero Beach, former member of the Land Advisory Acquisition Committee, said an unknown quantity of money would be spent on this project. She wanted the bond funds used for another purpose.

County Administrator Baird said we could not use land acquisition bonds and turn this into a business. We cannot make money off this piece of property.

Chairman Neuberger explained the ranking system.

Richard Baker, Pelican Island Audubon Society President, said the commercial property was never discussed. He wanted the Board to get control of the bottomlands at the marina. Dr. Baker wanted to use bond funds to buy historic sights.

Chris Pense advised the lease is automatically renewable, so we need to act now.

Damien Gilliams, 1623 U.S. 1, Sebastian, thought we were losing sight of the issue of deadline.

Shawn Sexton, 7880 37th Street, emphatically stated this is a historical site.

Jens Tripson, 2525 14th Street, Vero Beach, had problems with the purchase of the Butcher property. He thought it would be difficult to finance this piece of property.

City of Fellsmere Vice Mayor John McCants, a member of LAAC, responded to comments by Dr. Baker, and said he was not intimidated by any of the County Commissioners.

Sal Neglia, Sebastian City Council member, asked about the taxes on the restaurant located on the property.

Bob Johnson, Coral Wind Subdivision, asked about taxes on the property. County Administrator Baird said it would be the same as any other environmentally sensitive property that the County has purchased.

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

Commissioner Davis commented that if the bond cannot be used, the bond council will tell us and we will have an out.

Commissioner Bowden had some questions about the appraisals and the timeline. She wondered if we would be able to close as required by the 30th of June.

Assistant County Administrator Michael Zito stated if we add any contingencies, the agreement would be modified, and Mr. Adams could cancel the deal.

Matt Sexton, V.P. with The Conservation Fund, advised if the Board approved the contract, he could go back and negotiate contingencies and additional time.

Commissioner Bowden wondered where the money would come from for this project.

County Administrator Baird said staff had not decided exactly what kind of agreement they were going to have. He said it was a complicated structure and he did not have the total figure.

Commissioner Bowden declared we were going into this blind, with an open pocketbook.

County Administrator Baird said we had to handle this purchase in this fashion to obtain this piece of property.

The Chairman called for a recess at 2:19 p.m. and reconvened at 2:26 p.m.

Commissioner Bowden asked if there was anything else that was a gray area. The attorneys thought there was not. County Attorney Collins said a lot of thoughtful, intelligent information was put on the record that would support the historic nature of this property based on the testimony of scores of people, and that was a good thing.

Commissioner Wheeler said the input from the audience was fantastic. He thought this property has historical and tourist values and wanted \$500,000 added from the tourist tax money.

Commissioner Bowden wanted to know if that \$500,000 would come out of any other project. Commissioner Wheeler said it would have to come out of the budget.

Discussion ensued between the Commissioners and County Administrator Baird on where to find additional funding.

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board
voted 3–2 (Commissioners Bowden and Wheeler
opposed), to purchase the Capt'n Butcher parcels
for \$8 million.

MOTION FAILED passage for lack of super majority vote.

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Lowther, the Board,
in a 3–2 vote, (Commissioners Bowden and
Wheeler opposed), approved to enter into a contract

to purchase the Capt'n Butcher parcels for \$7.65 million with the following contingencies put forward by staff:

1. That purchase of the Capt'n Butcher, Inc. parcels be contingent upon County purchase of Judah (Archie Smith) parcels; and
2. That purchase of the Capt'n Butcher, Inc. parcels be contingent upon seller termination of an existing restaurant lease prior to closing; and
3. That expenditure of bond funds for the purchase is subject to bond counsel review and concurrence.

**9.A.2. PUBLIC HEARING REGARDING AN APPLICATION FOR A FRANCHISE
LICENSE TO OPERATE A CABLE TV FRANCHISE BY LITESTREAM
HOLDINGS, LLC**

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

Tom Frame, General Services Director, reviewed the Memorandum of April 10, 2006, and discussed the application for the granting of a cable TV franchise in an unincorporated area of Indian River County, called Sebastian Park.

The Chairman opened the public hearing.

Clayton Fennell, V.P. of Governmental Affairs for Comcast, with a local office on 12th Street in Vero Beach, had concerns about granting Litestream a license. He declared Litestream's application was deficient under Section 4C7 of the Cable Ordinance by not providing a copy the contract. Also, Litestream failed to provide a master construction plan. Section 24 of the Cable Ordinance requires that the applicant provide reasonable assurance they can build out the entire service area. They did not provide a timetable to do so. **Mr. Fennell** also asked the Board to look at Litestream's financials. It would cost Comcast \$178,000 to service 400 homes but Litestream only has \$117,000 cash. Comcast, therefore, asked the Board to deny the application.

Alan Goldie, 501 Shores Dr., Indian River Shores, has had a cost increase of 129% from Comcast. He wanted competition encouraged.

Joni Kinsley, V.P. of Comcast on the Treasure Coast, says Litestream will go only into the new construction area and, therefore, it will not be competition for Comcast. She stated that Comcast now provides advanced services and has doubled the channel line up.

Mr. Goldie added Comcast took his programs and replaced them with Spanish programs. Comcast has never surveyed him or anyone he knows to see what channels they would like.

John Williams, Smugglers Cove, urged the Commission to approve the application. He is desperate for other potential franchises and competition.

Tom Frame, General Services Director, did not see this as a competitive issue. He felt the application was complete.

Commissioner Lowther asked if Litestream would have to begin to offer government channels. Tom Frame replied they would, and they must open a local office.

Joann Pochron, 830 Lake Orchid Circle, #203, Vero Beach, a dissatisfied Comcast customer, supported any kind of competition. She wanted any new cable company to be required to survey customers as to what they want. **Ms. Pochron** questioned the Board as to receipt of a petition with approximately 400 signatures she had presented in their office requesting WPBT-Channel 2 PBS be restored to their channel options.

Ms. Kinsley added she welcomes competition.

Dave Reid, Governmental Affairs Director of Litestream, said Litestream wants to talk with other developers in other areas so Litestream can make arrangements to serve other areas after Sebastian Park. Litestream's service agreements are monthly with the Home Owners' Association. Mr. Reid says the needed money is there and the owner of the company is worth \$60 million.

ON MOTION by Commissioner Davis,
SECONDED by Commissioner Wheeler, the Board
unanimously granted the franchise as requested and
authorized the Chairman to execute the license upon
submittal of the required performance bond,
occupational license and certified financial
statements which support the financial statements
submitted within the application, as recommended
in the memorandum of April 10, 2006.

CABLE TELEVISION FRANCHISE/LICENSE IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

9.B. PUBLIC DISCUSSION ITEMS - NONE

9.C. PUBLIC NOTICE ITEMS

**9.C.1. SCHEDULED FOR PUBLIC HEARING ON MAY 2, 2006: STEVE
HENDERSON'S PD SPECIAL EXCEPTION USE REQUEST TO MODIFY
CERTAIN SETBACKS WITHIN THE ISLAND CLUB PD**

The Chairman read the Notice into the record.

10. COUNTY ADMINISTRATORS MATTERS

**10.A. REQUEST FOR EXECUTIVE SESSION MEETING WITH THE
BOARD OF COUNTY COMMISSIONERS**

ON MOTION by Commissioner Lowther,
SECONDED by Commissioner Davis, the Board
unanimously agreed to hold the Executive Session
meeting (Fire-EMS Consolidation) at the
conclusion of the regular Board meeting, as
recommended in the memorandum of April 11,
2006.

11. DEPARTMENTAL MATTERS

11.A. COMMUNITY DEVELOPMENT - NONE

11.B. EMERGENCY SERVICES - NONE

11.C. GENERAL SERVICES - NONE

11.D. HUMAN RESOURCES - NONE

11.E. HUMAN SERVICES - NONE

11.F. LEISURE SERVICES - NONE

11.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

11.H. RECREATION - NONE

11.I. PUBLIC WORKS

**11.I.1. CHANGE ORDER No. 1 – LUCAS MARINE CONSTRUCTION JUNGLE
TRAIL SHORELINE STABILIZATION PROJECT**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 1, and authorized the Chairman to execute both copies of the Lucas Marine Construction agreement and Change Order No. 1 at the same time, as recommended in the memorandum of April 11, 2006. The required performance and payment bonds have been submitted, approved, and recorded along with appropriate certificate of insurance. The

County Attorney has approved the agreement as to form and legal sufficiency.

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

11.I.2. AWARD OF BID #2006065, CR512, PHASE III AND CR510 ROADWAY IMPROVEMENTS

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously awarded Bid #2006065 to J. W. Cheatham, LLC, the low bidder, in the amount of \$14,908,297.38, as recommended in the memorandum of April 10, 2006.

11.J. UTILITIES SERVICES

11.J.1. VERO LAKE ESTATES AND PINE LAKE ESTATES RESIDENT FEEDBACK FROM MARCH 20, 2006 PUBLIC MEETING & REQUEST FOR A COMMUNITY SURVEY

Erik Olson, Director of Utilities Services, provided feedback from approximately 700 residents for final direction from the Board.

Commissioner Davis wanted the estimated assessment costs listed on the front page of the survey, next to the yes or no box.

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

unanimously approved and authorized the distribution of a Community Survey and Informational Sheet to the residents of Vero Lake Estates and Pine Lake Estates, as recommended in the memorandum of April 10, 2006.

Mark Grossman, President of the Home Owners Association of Vero Lake Estates, spoke on potable water and possible savings regarding the assessments.

**11.J.2. CONTINUING CONSULTING SERVICES WORK ORDER NO. 12 WITH
KIMLEY-HORN AND ASSOCIATES, INC. FOR DESIGN AND
CONSTRUCTION SERVICES OF MASTER PLANNED REGIONAL LIFT
STATION AT SOUTH COUNTY R.O. PLANT AND FORCE MAIN TO WEST
REGIONAL WWTF**

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 12 with Kimley-Horn and Associates, Inc., in the amount of \$441,300, for survey, design, permitting and construction services to complete the West WW transmission system; authorized the Department of Utility Services to advertise for bids through the Purchasing Division, and authorized the Chairman to execute Work Order No. 12, with Kimley-Horn & Associates, as recommended in the memorandum of March 31, 2006.

WORK ORDER NUMBER 12 IS ON FILE IN THE OFFICE OF CLERK TO THE BOARD

**11.J.3. NORTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANT –
WATER QUALITY SAMPLING BY CAMP DRESSER & MCKEE, INC. –
WORK ORDER NO. 6**

ON MOTION by Commissioner Bowden,
SECONDED by Commissioner Davis, the Board
unanimously approved Work Order No. 6 to CDM
Inc. in the amount of \$59,150 – Upper Limit, for
Water Quality Sampling during North RO Plant
Expansion and authorized the Chairman to execute
Work Order No. 6, as recommended in the
memorandum of April 10, 2006.

WORK ORDER NUMBER 6 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

11.J.4. WORK ORDER NO. 8 PBS&J/ROCKRIDGE SEWER MITIGATION

ON MOTION by Commissioner Bowden,
SECONDED by Commissioner Davis, the Board
unanimously approved Work Order #8 to PBS&J
for an amount not to exceed \$5,000, for needed
assistance for the Rockridge sewer mitigation
project, as recommended in the memorandum of
April 10, 2006.

WORK ORDER NUMBER 8 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

12. COUNTY ATTORNEY - NONE

13. COMMISSIONER ITEMS

13.A. COMMISSIONER ARTHUR R. NEUBERGER, CHAIRMAN - NONE

13.B. COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN - NONE

13.C. COMMISSIONER SANDRA L. BOWDEN

13.C.1. MAY MEETINGS

The Board reached a CONSENSUS to not meet on May 9, 2006 due to the Governor's Hurricane Conference being held in Fort Lauderdale that week.

13.D. COMMISSIONER WESLEY S. DAVIS - NONE

13.E. COMMISSIONER THOMAS S. LOWTHER

13.E.1. LEWIS BARTON CODE ENFORCEMENT ISSUE

There was discussion regarding the Lewis Barton Code Enforcement issue.

Commissioner Lowther said the neighbors are concerned and wanted a status report on Mr. Barton and his code enforcement issues. County Administrator Baird advised we did not have any code enforcement issues.

There was discussion regarding a picture of a column with a crack running through it. Buddy Akins, Director, Building Division, said he had determined the column in the picture was safe.

14. SPECIAL DISTRICT AND BOARD

14.A. EMERGENCY SERVICES DISTRICT - NONE

14.B. SOLID WASTE DISPOSAL DISTRICT - NONE

14.C. ENVIRONMENTAL CONTROL BOARD – NONE

15. ADJOURNMENT

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

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 3:54 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Arthur R. Neuberger, Chairman

Minutes Approved: _____

BCC/JG/2006Minutes