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July 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 25<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, July 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 Glenn.

**1. CALL TO ORDER**

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

**2. INVOCATION**

Planning Director Stan Boling delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

County Administrator Joseph A. Baird led the Pledge of Allegiance to the Flag.

## **4. ADDITIONS/DELETIONS TO THE AGENDA/ EMERGENCY ITEMS**

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

- Addition: 5.C. Presentation by Kathy Wegel
- Addition: 13.B.2. Budget Workshop Discussion
- Addition: 13.C.1. Lewis Barton Property Update
- Deletion: 12.A. Pulled from Agenda
- Item 7.J. Replacement Page
- Item 7.K. Replacement Page
- Item 7.S. Additional Backup

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

## **5. PROCLAMATIONS AND PRESENTATIONS**

### **5.A. PROCLAMATION DESIGNATING AUGUST 7 – 11, 2006 AS FLORIDA WATER, WASTEWATER AND SYSTEMS OPERATORS WEEK**

Chairman Neuberger read and presented the Proclamation to Terry Southard and Harold Seeley, Indian River County Utilities.

**5.B. THE HONORABLE RALPH POPPELL, STATE REPRESENTATIVE, DISTRICT 29, LEGISLATIVE UPDATE FOR THE 2006 SESSION OF THE FLORIDA HOUSE OF REPRESENTATIVES**

**Representative Poppell** discussed various items from the 2006 session of the Florida House of Representatives, including the Badcock Ranch and the State budget. The Representative thanked the people that he serves.

**5.C. PRESENTATION BY KATHERINE WEGEL, PRESIDENT OF THE INDIAN RIVER COUNTY MASTER GARDENERS**

**Kathy Wegel**, 8060 142<sup>nd</sup> St., Sebastian, discussed the need for an Environmental Horticulture Agent for Indian River County. She declared population growth and urbanization have further increased the need for horticultural services.

County Administrator Joseph A. Baird said the budget would have to be increased to add this position. He felt the message he received from the Commissioners was to keep the millage down.

All the Commissioners felt this was a good program and discussed changing the budget.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board approved, by a 4-1 vote, (Commissioner Bowden opposed) to add \$26,000 to the 2006/2007 FY budget for an Environmental Horticulture Agent.

## **6. APPROVAL OF MINUTES**

### **6.A. MEETING OF JUNE 6, 2006**

The Chairman asked if there were any corrections or additions to the Minutes. There were none.

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Wheeler, the Board unanimously approved the Minutes of the Regular Meeting of June 6, 2006, as written and distributed.

### **6.B. MEETING OF JUNE 13, 2006**

The Chairman asked if there were any corrections or additions to the Minutes. There were none.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Wheeler, the Board unanimously approved the Minutes of the Regular Meeting of June 13, 2006, as written and distributed.

### **6.C. MEETING OF JUNE 20, 2006**

The Chairman asked if there were any corrections or additions to the Minutes. There were none.

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

Minutes of the Regular Meeting of June 20, 2006, as written and distributed.

## **7. CONSENT AGENDA**

Commissioner Lowther requested Item 7.G. be pulled for discussion.

### **7.A. REPORT PLACED ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD: AUDITOR GENERAL--INDIAN RIVER COUNTY DISTRICT SCHOOL BOARD—FLORIDA EDUCATION FINANCE PROGRAM (FEFP), FULL-TIME EQUIVALENT (FTE) STUDENTS AND STUDENT TRANSPORTATION—FY END JUNE 30, 2005**

### **7.B. APPROVAL OF WARRANTS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the period June 30, 2006 - July ~~26~~ 6, 2006, as requested in the memorandum of June 29, 2006.

**7.C. PROCLAMATION DESIGNATING JULY 28 AND 29, 2006  
AS DAN K. RICHARDSON WEEKEND**

The Proclamation was noted for the record.

**7.D. PROPERTY ACQUISITION—TAX ROLL REMOVAL AND  
TAX CANCELLATION**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-098** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W - Jenkins - 41<sup>st</sup> St at 58<sup>th</sup> Ave).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-099** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W - Walters - 66<sup>th</sup> Ave South of SR-60).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-100** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (Mitigation Parcel - Falcon Trace Indian River Associates II).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-101** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W - 66<sup>th</sup> Ave - Roddenberry).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-102** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W - CR 510 - 510 Group-Blue Water Bay).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-103** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W - Oslo Road-9<sup>th</sup> Street, SW - Ball Groves & Schwey).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-104** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W - Oslo Road - 9<sup>th</sup> Street, SW - Diamond Tropic Realty).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-105** canceling taxes upon publicly owned

lands, pursuant to Section 196.28, Florida Statutes (R/W - Oslo Road, 9<sup>th</sup> Street, SW - McDougald).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-106** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W-Oslo Road, 9<sup>th</sup> Street, SW - Woodhouse).

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-107** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W - 66<sup>th</sup> Avenue - Colvin).

**7.E. DIVOSTA HOMES L.P.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS WATERWAY VILLAGE P.D.—PHASE 1A**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for Waterway Village P.D.— Phase 1A, with recordation of the plat only after 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 July 6, 2006.

**7.F. DIVOSTA HOMES L.P.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS WATERWAY VILLAGE P.D.—PHASE 1B**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for Waterway Village P.D.—Phase 1B, with recordation of the plat only after 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 July 6, 2006.

**7.G. POINTE WEST OF VERO BEACH LTD'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS POINTE WEST CENTRAL VILLAGE PHASE V**

Larry Echelberger, West Lake Estates, 7435 S. 16<sup>th</sup> Manor, did not want the plat approved because he claimed the developer had not taken care of 16<sup>th</sup> Street which leads directly to his house. He recounted the prior Board of Commissioners had stated they did not want his neighborhood impacted by Pointe West.

Community Development Director Bob Keating remarked 16<sup>th</sup> Street is a major road in the County's thoroughfare plan. It collects traffic and brings it to the arterial road. The developer is putting in the road in conjunction with the County.

Director Stan Boling pointed to an overhead presentation where the various areas under discussion are on the plat. He claimed the overall PD for this area always included multi-family units and some commercial areas. Director Boling revealed there was discussion back in 1999 to abandon the road, but the Board recognized this was part of a thoroughfare-planned network.

**Steve Melcorey**, Pointe West, stated the Commission wanted a 6' wall from the original plans and approved the original design in 1999.

Jim Davis, Public Works Director, said there was no room in the County's right of way to landscape. He stated the County did come back before the Board to create the developer's agreement.

Director Keating expressed there was an issue discussed in 1999 at a workshop with the residents and the developer to work out the design of 16<sup>th</sup> Street, where the wall, the sidewalk and the canal was going to be. Director Keating mentioned there might not have been a 100% agreement from the residents, but there was a general consensus at that time.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously granted final plat approval for Pointe West Central Village Phase V, as recommended in the memorandum of July 7, 2006.

**7.H. INDIAN RIVER ASSOCIATES II L.L.L.P.'S REQUEST FOR FINAL PLAT APPROVAL FOR REVISED PLAT OF FALCON TRACE PLAT 5**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously granted approval

of the revised Falcon Trace Plat 5, as recommended in the memorandum of July 6, 2006.

**7.I. INDIAN RIVER ASSOCIATES II L.L.L.P.'S REQUEST FOR FINAL PLAT APPROVAL FOR REVISED PLAT OF FALCON TRACE PLAT 6**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously granted approval of the revised Falcon Trace Plat 6, as recommended in the memorandum of July 6, 2006.

**7.J. IRC JAIL EXPANSION PROJECT DEDUCTIVE CHANGE ORDER NUMBER 2**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved deductive Change Order #2 in the deductive amount of (\$1,300,652.76) and authorized the Chairman to execute the document, as recommended in the memorandum of July 10, 2006. After approval of Change Order No. 2, the adjusted amount of the GMP for the Jail Expansion Project will be \$18,806,525.24.

CHANGE ORDER NO.2 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.K. IRC JAIL EXPANSION PROJECT DEDUCTIVE CHANGE  
ORDER NUMBER 3**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved deductive Change Order #3 in the deductive amount of \$81,120 and authorized the Chairman to execute the document, as recommended in the memorandum of July 10, 2006. After approval of Change Order #3 (deduct of \$81,120.00), the amount of the GMP for the Jail Expansion Project will be \$18,725,405.24.

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

**7.L. ACCEPTANCE CHANGE ORDER NO. 12, FOR THE NEW  
COUNTY ADMINISTRATION BUILDINGS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Change Order #12, which will increase the Owner's Contingency in the amount of \$16,563, and authorized the County Administrator to execute Change Order #12 which will then result in a decrease to the GMP by \$273,559, as recommended in the memorandum of July 12, 2006.

CHANGE ORDER NO. 12 IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.M. ACCEPTANCE OF CHANGE ORDER NOS. 13 AND 14 FOR  
THE NEW COUNTY ADMINISTRATION BUILDINGS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Change Order #13 and Change Order #14 (with Turner Construction) which will change the Owner's Contingency to \$316,749, and authorized the County Administrator to execute Change Orders #13 & #14 which will have no effect on the GMP, as recommended in the memorandum of July 12, 2006.

CHANGE ORDER NOS. 13 AND 14 ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.N. REQUEST FOR AUTHORIZATION TO WAIVE THE BID  
PROCESS, PUBLIC WORKS DEPARTMENT/ROAD AND BRIDGE  
DIVISION**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously authorized waiving of the bid process and allowed the purchase of the T190 Compact Track Loader from Bobcat of the Treasure Coast, Ft. Pierce, FL at a cost of \$56,711.17, which is less than the "piggyback" GSA cost by \$1,743.52, as recommended in the memorandum of July 10, 2006.

**7.O. MISCELLANEOUS BUDGET AMENDMENT 019**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution No. 2006-108** amending the Fiscal Year 2005-2006 Budget.

**7.P. CR512, PHASE III, CR 510—PROJECT #9611 & 0001, GEOTECHNICAL SERVICES WORK ORDER #1, DUNKELBERGER ENGINEERING & TESTING, INC.**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Work Order #1 to Dunkelberger Engineering & Testing Inc. and authorized the Chairman to execute a Work Order on their behalf for a not-to-exceed fee of \$90,680.00, as recommended in the memorandum of July 10, 2006.

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

**7.Q. OSLO BOAT RAMP, PROJECT #0381, GIFFORD PARK, PROJECT #0624, FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM GRANT AGREEMENTS**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the two

FRDAP agreements between Indian River County, Florida and the Florida Department of Environmental Protection, Florida Recreation Development Assistance Program to provide funds for the Oslo Boat Ramp and Gifford Park Improvements and authorized the Chairman of the Board of County Commissioners to execute the Project Agreements, as recommended in the memorandum of July 10, 2006.

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

**7.R. ADDENDUM NO. 3, NICK MILLER, INC. AND INDIAN RIVER COUNTY MURPHY ACT RESERVATION/RELEASE GIS MAPPING PROJECT**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved to retain Nick Miller, Inc. on the mapping project to include the missing release documents and approved addendum No. 3 and scope of services for a Lump Sum of \$1,800, as recommended in the memorandum of July 18, 2006.

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

**7.S. TRAFFIC CONTROL DEVICE LEDGER**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously adopted **Resolution 2006-109** approving Traffic Control Devices authorized by the Director of Public Works.

**7.T. CR 512, PHASE III, CR 510—PROJECT #9611 & 0001, CHANGE ORDER #2**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Change Order #2 decreasing the contract amount by \$745,111.00, as recommended in the memorandum of July 10, 2006.

**7.U. LAND PURCHASE FOR BARBER STREET RIGHT-OF-WAY MERCEDES HOMES, INC., 129 BRISTOL STREET, SEBASTIAN HIGHLANDS SUB. BLK 568 LOT 10**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the \$85,000.00 purchase and authorized the Chairman to execute the Agreement, as recommended in the memorandum of July 6, 2006.

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

**7.V. RECLAIMED WATER USE AGREEMENT WITH DIVOSTA HOMES, L.P. FOR WATERWAY VILLAGE SUBDIVISION**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the Agreement For The Delivery of Reclaimed Water and authorized the Chairman to execute same, as recommended in the memorandum of July 10, 2006.

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

**7.W. FINAL PAYMENT & RELEASE OF RETAINAGE TO CHRIS MAZZARELLA AS DEVELOPER FOR CONSTRUCTION OF A REGIONAL SEWER SYSTEM AND MASTER-PLANNED FORCE MAIN**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved Application for Payment No. 2 Final for \$12,928.80 to release the Retainage and complete the County's obligation to the Developer, as recommended in the memorandum of July 5, 2006.

**7.X. LICENSE AGREEMENT WITH NEXTEL  
COMMUNICATIONS, INC., AND INDIAN RIVER COUNTY**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to execute the First Amendment to Elevated Water Tank Space License Agreement between Indian River County, a political subdivision of the State of Florida, and Nextel Communications, Inc., as recommended in the memorandum of July 5, 2006.

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

**7.Y. BOULEVARD VILLAGE INC.'S REQUEST FOR FINAL  
PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS  
BOULEVARD VILLAGE AND TENNIS CLUB**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously granted final plat approval for Boulevard Village and Tennis Club Subdivision, as recommended in the memorandum of July 7, 2006.

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

The Chairman called a recess at 10:11a.m. for closed captioning purposes and reconvened the meeting at 10:19 a.m.

## **9. PUBLIC ITEMS**

### **9.A. PUBLIC HEARINGS**

#### **9.A.1. WAL-MART STORES EAST LTD'S REQUEST TO REZONE APPROXIMATELY 1.51 ACRES FROM CG TO PD (COMMERCIAL), MODIFY THE EXISTING SAM'S/WAL-MART PD COMMERCIAL DISTRICT AND MODIFY THE SAM'S/WAL-MART PD PLAN/PLAT**

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

Planning Director Stan Boling demonstrated on an overhead projector, and discussed at great length, the location of the site with its existing buildings. The purpose of this request is to expand the Sam's Building, add an automotive fuel sales facility, and add the 1.51-acre parcel for additional parking. He declared there will be no changes to the existing Sam's/Wal-Mart building. The site is being improved by replacing dead or declining trees with new trees. He explained there has to be a three-party agreement between Sam's and Walgreen's and the County for this project to succeed.

Commissioner Thomas S. Lowther felt the intersection improvements (SR 60 and 58<sup>th</sup> Avenue) need to be completed before this rezoning request is granted.

Chris Mora, Assistant Public Works Director, explained the impact to the increase in traffic would be minimal because customers will already be going to Sam's and will make use of the fueling facility.

The Chairman opened the public hearing.

**Attorney Eugene O'Neill**, on his own behalf and with neighbors from 55<sup>th</sup> Avenue, opposed rezoning. They all believed the traffic impact would be a disaster. He submitted a petition (copy on file in the backup) signed by 29 residents of the area asking that the plat not be approved.

Director Jim Davis provided explanation of the difference in the number of daily trips especially during prime traffic time.

The Commissioners held a lengthy discussion regarding the traffic on SR 60 and 58<sup>th</sup> Avenue.

**Susan Motley**, Attorney for Sam's (office in Ft. Lauderdale), felt it was unfair to not give a CO until the construction on the intersection is completed, particularly since they have a vested concurrency agreement. She also felt Walgreen's would be impacted because they would not gain the parking spaces as planned.

Commissioner Gary C. Wheeler felt this project would provide more jobs, and possibly produce lower gas prices.

**Joseph Paladin**, Chairman of the Growth Awareness Committee, had hoped a representative from Walgreen's would have been present to get their input. He wanted to know if there had been any interaction between Walgreen's and Wal-Mart.

Commissioner Wesley S. Davis thought the County required pitched roofs on buildings such as the new fueling station, but Director Boling advised this was not correct.

William K. DeBraal, Assistant County Attorney, said negotiations to move forward with this project were ongoing with Walgreen's. Walgreen's has not said yes, but no one has said no so far.

**Ms. Motley** explained that Walgreen's must cooperate with Wal-Mart or no one can move forward.

Administrator Joe Baird felt this is the first step toward getting the intersection completed.

**Peter O'Bryan**, 2255 11<sup>th</sup> Lane, Vero Beach, candidate for County Commission District 4, felt part of Wal-Mart's plan is to increase their membership with having a fueling facility. He was appalled that an endangered fern was allowed to die off because some other contractor was responsible for it. He believed Wal-Mart should replace the foliage in that area. Mr. O'Bryan wanted the landscape ordinance beefed up to include if any landscape dies, Sam's will step up and replace it.

**Danny Delisle**, Vero Beach, felt that Wal-Mart's is going to remove a lot of trees and should be responsible for replacing them. He would also like to see a turn lane by the power station for traffic to go southbound on 58<sup>th</sup> Avenue and explained there is already a light there.

**Ann Schaffer**, 2145 55<sup>th</sup> Ave., could not believe that Wal-Mart was not going to take over the customers from Walgreen's.

**Priscilla Bryan**, 55<sup>th</sup> Avenue, has a problem getting off 55<sup>th</sup> Avenue now, and wondered what would happen when Sam's has expanded. She wanted the Commissioners to make a safe ingress and egress from 55<sup>th</sup> Avenue.

**Bob Swift**, 6450 Glendale Road, was also concerned because there are too many unknowns going forth with this project.

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

There was more discussion among the Commissioners and staff for clarification of tree replacement and the possibility of making a turn lane across from College Lane.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Neuberger, the Board, on a 3-2 vote (Commissioners Bowden and Lowther opposed) adopted **Ordinance 2006-021** amending the Zoning Ordinance and the

accompanying zoning map from CG, General Commercial, to PD, Planned Development Commercial, for approximately 1.51 acres and modifying the existing PD commercial zoning district, generally located at the southeast corner of 58<sup>th</sup> Avenue and S.R. 60; providing for severability and effective date, and:

1. Approved the conceptual PD plan and the rezoning to PD commercial, with the following conditions:
  - a. That all “trade off” benefits shall be provided.
  - b. That prior to site plan release
    - (1) The applicant shall obtain planning staff approval of a sign package that complies with SR60 Corridor regulations and a wall design that meets the pending ordinance provisions for wall variation;
    - (2) The applicant shall place in escrow with the County a deed for the property (approximately .20 acres) adjacent to the Walgreen’s site to facilitate relocation of the Walgreen’s parking spaces. This shall be done without compensation and in a manner acceptable to the County Attorney;
    - (3) The applicant shall provide County staff authorization (such as through a temporary construction easement) from Walgreen’s allowing Sam’s to perform the work required on the Walgreen’s site as depicted on the Sam’s PD plan. Said authorization shall be in a form acceptable to the County Attorney.
  - c. That prior to or via the final plat, the applicant shall:
    - (1) Establish a public access easement, as depicted on the preliminary PD plat, for the driveway that Sam’s will

- construct down the common property line between Sam's and Walgreen's;
  - (2) Dedicate without compensation an addition 35' of right-of-way for 58<sup>th</sup> Avenue;
  - (3) Establish a reciprocal access easement between the Sam's Club site and the Walgreen's site;
  - (4) Escrow funds for the right turn lane on 58<sup>th</sup> Avenue at the project entrance.
- d. That prior to issuance of a C.O. for the fueling facility:
    - (1) The facility shall be equipped with a generator
    - (2) The applicant shall construct the parking on the Walgreen's site, as depicted on the Sam's PD plan. These improvements shall be made without compensation to Sam's
  - e. That Sam's fueling facility shall be open to the public during any disaster recovery period.
  - f. That Fuel sales shall be limited to Sam's Club members only, except that fuel sales shall be open to the public (non-members) during any disaster recovery period.
- 2. Authorize staff to release the .20-acre conservation easement on the Sam's site subject to suitable mitigation being provided.
  - 3. Terminate this PD zoning district on July 18, 2009, if all conditions of this approval are not satisfied by that date. In such case, the zoning of the subject property shall revert to the PD zoning district in place prior to July 18, 2006, as recommended in the memorandum of July 12, 2006.

The Board also added the requirement that the fueling station have a mansard roof.

The Chairman called a recess at 12:13 p.m. for closed captioning purposes and reconvened the meeting at 12:24 p.m. with all members present.

**AT THIS TIME, THE BOARD AGREED TO MOVE ON TO ITEM 13.D.1.**

**9.B. PUBLIC DISCUSSION ITEMS-NONE**

**9.C. PUBLIC NOTICE ITEMS-NONE**

**10. COUNTY ADMINISTRATOR'S MATTERS-NONE**

**11. DEPARTMENTAL MATTERS**

**11.A. COMMUNITY DEVELOPMENT**

**11.A.1. REVIEW OF SCOPE OF SERVICES FOR IMPACT FEE UPDATE**

Director Bob Keating updated the Board of Commissioners on the proposed Scope of Services for Impact Fees.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Scope of Services for the Impact Fee Update, and authorized the Community Development Director to initiate the consultant selection process for the project, as recommended in the memorandum of June 20, 2006.

## **11.B. EMERGENCY SERVICES-NONE**

## **11.C. GENERAL SERVICES-NONE**

## **11.D. HUMAN RESOURCES**

### **11.D.1. INSURANCE RENEWALS FOR FISCAL YEAR 10/01/06 - 09/30/07**

Director of Human Resources Jim Sexton discussed the proposed changes in the County Health Insurance Plan, including a \$100 increase in deductibles, an increase of \$10 for a specialist office visit and an increase in prescription co-pays. Director Sexton explained if changes were not made to the Plan, employee contributions for dependent coverage would change from \$202.50 to \$237.50 per month.

Commissioner Sandra L. Bowden explained she would vote against this, because she felt generic drugs are not always equal to brand drugs, and she did not want to put the employees in the position to have to make a cost choice.

Firefighters' Representative **Bruce Anderson**, 1818 Commerce Avenue, wanted confirmation the only changes would be for major medical deductible, specialist office visits and prescription co-pay.

County Administrator Joseph A. Baird stated there is overutilization of brand prescriptions. The National average shows 30% of a plan is prescription use. The County's use is at 41%.

Company representative **Mackie Branham**, Crown Consulting Group, Orlando, explained further how single-family members or those with dependants would be impacted. A brand-name prescription costs the County twice as much on the average as a generic one.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board by a 4-1 vote (Commissioner Bowden opposed) approved the plan changes and authorized the County Administrator to execute the contract for plan year

10/01/06 – 09/30/07 consistent with the plan changes set forth, as recommended in the memorandum of July 10, 2006.

NOTIFICATION OF RENEWAL (SMETRA FINANCIAL) AND EMPLOYER APPLICATIONS FOR BCC AND CONSTITUTIONAL OFFICERS (BLUE CROSS BLUE SHIELD OF FLORIDA) ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**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. BID AWARD AND CONTRACT AGREEMENT FOR IRC Bid No. 2006079 PROJECT NO. 9701, ROADWAY IMPROVEMENTS TO SR A1A AND CR 510**

ON MOTION by Commissioner Lowther, SECONDED by Commissioner Davis, the Board unanimously awarded the bid to Timothy Rose Contracting; and authorized the Chairman to sign the Contract Agreement after it has been executed by the Contractor, with all the required insurance and recorded bonds and upon review and approval as to form by the County Attorney, as recommended in the memorandum of July 7, 2006.

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

The County reserves the right to divide the project into one (1) or more phases.

## **11.J. UTILITIES SERVICES**

### **11.J.1. APPROVAL OF UTILITY CONFLICTS RESOLUTION BY UTILITIES DEPARTMENT LABOR CONTRACTOR FOR CR 512 PHASE III IMPROVEMENTS BY PUBLIC WORKS DEPARTMENT**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously approved the project in the total amount of \$408,637.24 for labor and materials and authorized the Chairman to execute Work Authorization No. 2005-029 in the amount of \$221,864.32 to The Danella Companies, Inc., as recommended in the memorandum of July 3, 2006.

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

### **11.J.2. INSTALL TWO 16" LINE STOPS ON 16" WATER MAIN ON US1 FOR ANTILLES SUBDIVISION WATER SERVICE APPROVAL OF LABOR CONTRACT WORK AUTHORIZATION NO. 2005-028 (THE DANELLA COMPANIES, INC.)**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Davis, the Board unanimously approved the line stop installation project for an estimated cost of \$22,966.32,

approved Work Authorization No. 2005-028 for labor in the amount of \$17,094.62 to the Utilities Department Labor Contractor and authorized the Chairman to execute same, as recommended in the memorandum of June 15, 2006.

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

## **12. COUNTY ATTORNEY**

### **12.A. REQUEST FROM ADRIAN REAL ESTATE INVESTMENTS II, LLC FOR MODIFICATION TO NOTE AND MORTGAGE FOR INFRASTRUCTURE FOR THE INDIAN RIVER PARK OF COMMERCE**

This item was pulled at the request of the County Attorney's office.

### **12.B. 3% CAP ON ALL REAL PROPERTY ASSESSMENTS—NOVEMBER, 2006 REFERENDUM QUESTION**

Administrator Joseph A. Baird recalled Commissioner Lowther's request for staff to draft ballot language that could go on the November 11 General Election to cap tax increases on non-homestead property.

Commissioner Wheeler thought the language should be clearer and should state "non-homestead property".

Director of Management and Budget Jason Brown presented information on the 3% Property Value Cap. He used some hypothetical averages to illustrate his point. Homesteaded property owners

pay 36% of the total tax that the County levies. The non-homesteaded owners, including commercial property, seasonal residents and vacant lots, pay 64%. If this cap had been enacted in 2002, the homesteaded owners would have paid 42% of the tax bill and the non-homesteaded would have paid 58%.

County Administrator Baird stated he is totally opposed to a millage cap and believed it would hurt the community.

Commissioner Davis debated with the Administrator about the 3% cap.

The possibility of adding a second question to the General Election regarding limiting the annual millage increases at 3% was also discussed.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board, by a vote of 2 – 3 (Commissioners Neuberger, Bowden and Wheeler opposed), FAILED to pass adding the following question on the November ballot: “Do you favor a Joint Resolution of the Florida legislature proposing to amend the Florida Constitution to cap annual assessment increases on ALL taxable real property at 3% or the increase in the Consumer Price Index, whichever is less?”

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board, by a vote of 2 – 3 (Commissioners Neuberger, Bowden and Wheeler opposed), FAILED to pass adding the following question on the November ballot: “Do you favor a 3% annual increase in the millage rate of the Board of County Commissioner s’ Budget?”

## **13. COMMISSIONERS ITEMS**

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

### **13.B. COMMISSIONER GARY C. WHEELER, VICE CHAIRMAN**

#### **13.B.1. AUGUST BOARD OF COUNTY COMMISSION MEETING DATES**

Commissioner Wheeler did not think it was good business to reinstate the August meetings. Members of the staff and Commissioner Wheeler made plans to take time off from work based on how the Commission voted on June 6.

**Jeff Thompson**, 2307 Seville Avenue, thought it was good to have discussion, so he wanted to have the meetings. He felt one meeting was not sufficient.

County Attorney William G. Collins II explained that there were Resolutions authorizing County Administrator Joseph A. Baird to execute all documents necessary to the proper functioning of government during that time.

**Joseph Paladin**, Chairman of the Growth Awareness Committee, stated there was a lot of concern regarding getting plats approved in the Commissioners' absence.

Attorney Collins explained on the final plat where it requests the Chairman's signature, the County Administrator would sign on his behalf and put a notation "per Resolution 2006-089" to answer any questions on authority.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board approved, by a 3-2 vote (Commissioners Lowther and Davis opposed) to not hold the BCC meetings of August 1, 8 and 15, 2006.

### **13.B.2. BUDGET WORKSHOP DISCUSSION**

Commissioner Wheeler confirmed with Administrator Baird that the 12% raise discussed at the Budget Workshop for the Deputy Sheriffs was given across the board to all Sheriff employees.

## **13.C. COMMISSIONER SANDRA L. BOWDEN**

### **13.C.1. LEWIS BARTON PROPERTY UPDATE**

Bob Keating, Community Development Director, reminded the Commission that Mr. Barton's demolition permit has expired. An inspection was performed on the site regarding the debris. He stated Mr. Barton has made some progress in cleaning up the site.

Buddy Akins, Director, Building Division, displayed pictures of the current state of the Barton Property, showing weed growth and a remaining structure, which is not up to code.

Chief of Environmental Planning & Code Enforcement Roland DeBlois confirmed that steps had already been taken to demolish the property.

County Attorney William G. Collins II wanted to make sure that the checklist of the Property Maintenance Code has been completed, to make sure all the bases have been covered.

William DeBrall, Assistant County Attorney, thought the hold up in completing the checklist would be getting a competitive bid to demolish.

ON MOTION by Commissioner Bowden, SECONDED by Commissioner Wheeler, the Board unanimously agreed to proceed with the process to demolish said property.

## **13.D. COMMISSIONER WESLEY S. DAVIS**

### **13.D.1. HISTORIC DISTRICT FOR ROSELAND**

**Pat Hedman**, President of The Friends of Historic Roseland, 12920 82<sup>nd</sup> Court, would like to move forward and complete their goal of having Roseland declared a historic district.

Community Development Director Bob Keating explained the County does not have a historic preservation staff. There are two components of a historic district. First, establishing a district and having it listed on the National Register. That would give certain advantages to property owners in the district who wanted to make improvements and they could get some tax benefits from that. Next, make the district regulatory in nature; that is, regulating what owners of historic properties in the district could do, such as what kind of materials they could use in renovating or restoring their house, or painting their house or demolishing their house.

Roland DeBlois, Chief of Environmental Planning and Code Enforcement, believed a proclamation making Roseland a historic district was not a problem.

More discussion amongst the Commissioners and Director Keating followed.

The Board reached a CONSENSUS to have the Friends of Historic Roseland meet with the Indian River County Historic Resource Advisory Committee.

### **13.D.2. PROPOSED LEASE FOR DOCK AUTHORITY**

Commissioner Wesley S. Davis wanted to form a management team from a committee of individuals who have been involved in the Archie Smith Fish House project from the start.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Lowther, the Board unanimously agreed to instruct Legal and Administrative staff to move forward

establishing a nonprofit organization to be the managing group of the Archie Smith Fish House.

**13.D.3. 3% CAP ON BUDGET**

Discussed in conjunction with item 12.B.

**13.E. COMMISSIONER THOMAS S. LOWTHER-NONE**

**14. SPECIAL DISTRICTS AND BOARDS**

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

**14.A. EMERGENCY SERVICES DISTRICT**

**14.A.1. APPROVAL OF MINUTES MEETING OF MAY 16, 2006**

**14.A.2. APPROVAL OF MINUTES MEETING OF MAY 23, 2006**

**14.A.3. EMERGENCY SERVICES STATION 3 DEDUCTIVE CHANGE ORDER**

**No.1**

**14.A.4. EMERGENCY SERVICES STATION 5 DEDUCTIVE CHANGE ORDER**

**No.1**

**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 2:12 p.m.

ATTEST:

\_\_\_\_\_  
Jeffrey K. Barton, Clerk

\_\_\_\_\_  
Arthur R. Neuberger, Chairman

Minutes Approved: \_\_\_\_\_

ˆBCC/MIS/2006Minutes