

INDEX TO MINUTES OF REGULAR MEETING
OF BOARD OF COUNTY COMMISSIONERS
OF FEBRUARY 20, 2007

1. CALL TO ORDER1

2. INVOCATION1

3. PLEDGE OF ALLEGIANCE.....1

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY
ITEMS2

5. PROCLAMATIONS AND PRESENTATIONS2

 5.A. PRESENTATION OF PROCLAMATION DESIGNATING FEBRUARY 24, 2007 AS
 MENTAL HEALTH ASSOCIATION IN INDIAN RIVER COUNTY DAY.....2

 5.B. PRESENTATION OF PROCLAMATION HONORING CAROL BESANCON ON HER
 RETIREMENT FROM INDIAN RIVER COUNTY DEPARTMENT OF UTILITY
 SERVICES.....2

6. APPROVAL OF MINUTES2

 6.A. ALTERNATIVE WATER SUPPLY MASTER PLAN WORKSHOP3

 6.B. CHARTER GOVERNMENT WORKSHOP3

7. CONSENT AGENDA.....3

 7.A. APPROVAL OF WARRANTS – FEBRUARY 2 – FEBRUARY 8, 20074

7.B. OUT OF COUNTY TRAVEL ASSOCIATED WITH THE FLORIDA ASSOCIATION OF COUNTIES 2007 ANNUAL CONFERENCE AND EDUCATIONAL EXPOSITION IN ORANGE COUNTY, FLORIDA	4
7.C. LAND LEASE AGREEMENT FOR VERIZON WIRELESS STEALTH FLAGPOLE AT SEA OAKS WASTEWATER TREATMENT PLANT.....	4
7.D. PROPERTY ACQUISITION – TAX ROLL REMOVAL AND TAX CANCELLATION.....	5
7.E. RESOLUTION SUPPORTING CONTINUED FUNDING OF FLORIDA FOREVER PROGRAM	6
7.F. OUT OF COUNTY TRAVEL FOR THE COUNTY ADMINISTRATOR.....	7
7.G. FINAL PAYMENT WORK ORDER No. 5, CARTER ASSOCIATES, INC., SUPPLEMENTAL SERVICES No. 1	7
7.H. MISCELLANEOUS BUDGET AMENDMENT 011.....	7
7.I. PROPOSAL BY GEOSYNTEC CONSULTANTS, INC. FOR MONITORING WELL INSTALLATION AND SEMI-ANNUAL GROUNDWATER MONITORING AT THE SOUTH COUNTY RO PLANT	8
7.J. AUTHORIZATION FOR RADIO COMMUNICATIONS WORK IN EMERGENCY OPERATIONS CENTER (EOC) BY COMMUNICATIONS INTERNATIONAL, INC.	8
7.K. PROGRESS REPORT – NEW COUNTY ADMINISTRATION BUILDING AND NEW EMERGENCY OPERATIONS CENTER	9
7.L. PROGRESS REPORT – NEW COUNTY ADMINISTRATION BUILDING AND NEW EMERGENCY OPERATIONS CENTER	9
7.M. PERMANENT PART-TIME EMPLOYMENT AGREEMENT WITH PROJECT ENGINEER CLIFFORD J. SUTHARD, P.E.	10
7.N. REQUEST FOR BOARD APPROVAL OF A WORK PLAN MODIFICATION, A BUDGET AMENDMENT AND CLOSEOUT OF THE COUNTY’S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) HOUSING REHABILITATION PROJECT	10
7.O. STATE LOBBYIST AGREEMENT RENEWAL.....	11
7.P. LOCAL AGENCY PROGRAM AGREEMENT FOR THE 12TH STREET SIDEWALK IMPROVEMENTS BETWEEN VERO BEACH ELEMENTARY SCHOOL AND 11TH AVENUE, INDIAN RIVER COUNTY PROJECT No. 0216, FM No. 416083-1-58-01....	11

7.Q.	<i>LOCAL AGENCY PROGRAM AGREEMENT FOR THE 12TH STREET SIDEWALK IMPROVEMENTS BETWEEN 43RD AVENUE AND 27TH AVENUE, INDIAN RIVER COUNTY PROJECT No. 0604, FM No. 416084-1-58-01</i>	12
8.	CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE	12
9.	PUBLIC ITEMS	13
9.A.	<i>PUBLIC HEARING</i>	13
9.A.1.	<i>PUBLIC HEARING FOR ADOPTION OF AN ORDINANCE ESTABLISHING THE WEST WABASSO STREET LIGHTING MUNICIPAL SERVICE BENEFIT UNIT (LEGISLATIVE)</i>	13
9.A.2.	<i>SETTLEMENT OF LAWSUIT, NEXTEL SOUTH CORPORATION V. INDIAN RIVER COUNTY, U.S. DISTRICT COURT, SOUTHERN DISTRICT, CASE No. 06-14274-CIV-GRAHAM (QUASI-JUDICIAL)</i>	14
9.A.3.	<i>PUBLIC HEARING – FEBRUARY 20, 2007 TO AMEND CHAPTER 307, OF THE INDIAN RIVER COUNTY CODE BY CREATING SECTION 307.13 PROHIBITION OF ALL TERRAIN VEHICLE OPERATION ON UNPAVED ROADWAYS (LEGISLATIVE)</i>	18
9.A.4.	<i>REQUEST FOR AUTHORIZATION TO SUBMIT A FY 2006/07 GRANT APPLICATION FOR 49 CH. 53, SECTION 5307 MASS TRANSIT CAPITAL AND OPERATING ASSISTANCE (LEGISLATIVE)</i>	21
9.A.5.	<i>CONSIDERATION OF THE PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS ON SEXTON RANCH UNDER THE COUNTY ENVIRONMENTAL LANDS PROGRAM (CONTINUED FROM THE JANUARY 16, 2007 BOARD MEETING) (ADMINISTRATIVE)</i>	22
9.B.	<i>PUBLIC DISCUSSION ITEMS</i>	28
9.B.1.	<i>REQUEST TO SPEAK FROM KEITH D. HEDIN, VICE CHAIR, CODE ENFORCEMENT BOARD REGARDING APPEAL OF CODE FINE – BOARD OVERTURNED CODE FINE WITH N. COUNTY STAFF INPUT</i>	29
9.C.	<i>PUBLIC NOTICE ITEMS</i>	29
9.C.1.	<i>NOTICE OF SCHEDULED PUBLIC HEARINGS FOR MARCH 6, 2007 MEETING</i>	29

9.C.1.A. DOUBLE R&D INC: REQUEST TO CHANGE THE LAND USE DESIGNATION FOR ±40.23 ACRES LOCATED WEST OF 86TH AVENUE AND SOUTH OF THE CITY OF SEBASTIAN FROM R, RURAL RESIDENTIAL (UP TO 1 UNIT/ACRE), TO L-1, LOW DENSITY RESIDENTIAL-1 (UP TO 3 UNITS/ACRE), AND TO REZONE THOSE 40.23 ACRES FROM A-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT/5 ACRES), TO RS-3, SINGLE FAMILY RESIDENTIAL DISTRICT-1 (UP TO 3 UNITS/ACRE). DOUBLE R&D, OWNER. MBV ENGINEERING, INC., AGENT (LEGISLATIVE)29

9.C.1.B. COUNTY INITIATED: REQUEST TO CHANGE THE LAND USE DESIGNATION FOR 3,088 ACRES LOCATED SOUTH OF THE CITY OF FELLSMERE IN TOWNSHIP 32 SOUTH, RANGE 37 EAST AND PART OF SECTIONS 7, 8, 9, AND 18, TOWNSHIP 32 SOUTH, RANGE 38 EAST FROM C-1, CONSERVATION-1 (ZERO DENSITY), TO AG-2, AGRICULTURAL-2 (UP TO 1 UNIT/10 ACRES), AND TO REZONE THOSE 3,088 ACRES FROM CON-1, CONSERVATION-1 (ZERO DENSITY), TO A-2, AGRICULTURAL-2 DISTRICT (UP TO 1 UNIT/10 ACRES). ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT, OWNER (LEGISLATIVE).....30

9.C.1.C. QUAIL RIDGE OF VERO BEACH, LLC: REQUEST TO AMEND THE COMPREHENSIVE PLAN'S FUTURE LAND USE ELEMENT POLICY 5.8. (LEGISLATIVE)30

9.C.1.D. COUNTY INITIATED: REQUEST TO CHANGE THE LAND USE DESIGNATION FOR 12.46 ACRES LOCATED 650 FEET NORTH OF 49TH STREET AND WEST OF LATERAL "H" CANAL AND 34.05 ACRES LOCATED 265 FEET NORTH OF 49TH STREET AND EAST OF LATERAL "H" CANAL FROM L-2, LOW DENSITY RESIDENTIAL-2 (UP TO 6 UNITS/ACRE), TO PUB, PUBLIC. BOARD OF COUNTY COMMISSIONERS, OWNER (LEGISLATIVE)30

10. COUNTY ADMINISTRATOR'S MATTERS - NONE.....31

11. DEPARTMENTAL MATTERS.....31

11.A. COMMUNITY DEVELOPMENT.....31

11.A.1. DEMOLITION OF VARIOUS STRUCTURES LOCATED AT 5900 5TH STREET SW.....31

11.B. EMERGENCY SERVICES - NONE.....35

	<i>11.C. GENERAL SERVICES - NONE</i>	35
	<i>11.D. HUMAN RESOURCES - NONE</i>	35
	<i>11.E. HUMAN SERVICES -NONE</i>	35
	<i>11.F. LEISURE SERVICES - NONE</i>	35
	<i>11.G. OFFICE OF MANAGEMENT AND BUDGET - NONE</i>	35
	<i>11.H. RECREATION - NONE</i>	35
	<i>11.I. PUBLIC WORKS</i>	35
	<i>11.I.1. RIGHT-OF-WAY ACQUISITION, 74TH AVENUE SOUTH OF STATE RD. 60 AND SOUTH OF 12TH STREET, CAPITAL TRUST COMPANY OF DELAWARE, AS TRUSTEE OF THE IRVIN BASIL KELLER INDIVIDUAL RETIREMENT TRUST U/A/D OCTOBER 4, 2003</i>	35
	<i>11.I.2. CR 512, PHASE III, CR 510 – PROJECT #9611 & 0001, BID NUMBER 2006065, CHANGE ORDER NO. 7</i>	36
	<i>11.J. UTILITIES SERVICES - ADDITION</i>	37
	<i>11.J.1. CHANGE ORDER NO. 1 TO IRC CONTRACT 2006025 WITH TLC, INC. FOR MEMBRANE RESTORATION WORK AT THE SOUTH RO PLANT</i>	37
	<i>11.J.2. NORTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANT, WATER QUALITY SAMPLING BY CAMP DRESSER & MCKEE, INC. (CDM), AMENDMENT NO. 1 TO WORK ORDER NO. 6</i>	38
	<i>11.J.3. REHABILITATION OF LIFT STATIONS # 164, 167, 168 AND THE SOUTH REGIONAL WASTE WATER TREATMENT FACILITY LIFT STATION #1 – UCP- 2898</i>	39
12.	COUNTY ATTORNEY MATTERS - NONE	39
13.	COMMISSIONER ITEMS	39
	<i>13.A. COMMISSIONER GARY C. WHEELER, CHAIRMAN - NONE</i>	<i>39</i>
	<i>13.B. COMMISSIONER SANDRA L. BOWDEN. VICE CHAIR - NONE</i>	<i>39</i>
	<i>13.C. COMMISSIONER WESLEY S. DAVIS - NONE</i>	<i>39</i>
	<i>13.D. COMMISSIONER JOSEPH E. FLESCHER - NONE</i>	<i>39</i>
	<i>13.E. COMMISSIONER PETER D. O'BRYAN - NONE</i>	<i>39</i>

14.	SPECIAL DISTRICTS AND BOARDS.....	39
	<i>14.A. EMERGENCY SERVICES DISTRICT – NONE.....</i>	<i>39</i>
	<i>14.B. SOLID WASTE DISPOSAL DISTRICT</i>	<i>40</i>
	<i>14.B.1. APPROVAL OF MINUTES:</i>	<i>40</i>
	<i>A. MEETING OF DECEMBER 5, 2006.....</i>	<i>40</i>
	<i>B. MEETING OF DECEMBER 12, 2006.....</i>	<i>40</i>
	<i>C. MEETING OF DECEMBER 19, 2006.....</i>	<i>40</i>
	<i>D. MEETING OF JANUARY 9, 2007.....</i>	<i>40</i>
	<i>14.B.2. SOUTH COUNTY REVERSE OSMOSIS PLANT, GEOSYNTEC CONSULTANTS, INC., WORK AUTHORIZATION NO. FR0737C.....</i>	<i>40</i>
	<i>14.B.3. ENGINEERING SERVICES FOR DESIGN, PERMITTING AND CONSTRUCTION FOR THE CLOSURE OF SEGMENT 1 SIDE SLOPE OF THE CLASS I LANDFILL.....</i>	<i>40</i>
	<i>14.B.4. THREE-YEAR TERM CONTINUATION OF GROUNDWATER MONITORING AT SOUTH GIFFORD LANDFILL SITE.....</i>	<i>40</i>
	<i>14.C. ENVIRONMENTAL CONTROL BOARD - NONE</i>	<i>41</i>
15.	ADJOURNMENT	41

February 20, 2007

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, February 20, 2007, at 9:00 a.m. Present were Chairman Gary C. Wheeler, Vice Chair Sandra L. Bowden, Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Leona Adair Allen.

1. CALL TO ORDER

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

2. INVOCATION

Pastor Ray Scent of the Gathering of Devoted Servants ~~Rabbi Michael Birnholz,~~
~~Temple Beth Shalom~~ delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

William G. Collins II, County Attorney, led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman Wheeler requested breaking for lunch at 12:00 Noon and resuming the meeting at 1:30 p.m. at which time Public Hearing 9.A.5. would be heard.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the above change to the Agenda.

Clerk's Note: Item 11.J. was added later in the meeting, following Item 11.I.2.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION DESIGNATING FEBRUARY 24, 2007 AS MENTAL HEALTH ASSOCIATION IN INDIAN RIVER COUNTY DAY

Vice Chair Bowden read and presented the Proclamation to Kristine Sarkauskas from the Mental Health Department.

5.B. PRESENTATION OF PROCLAMATION HONORING CAROL BESANCON ON HER RETIREMENT FROM INDIAN RIVER COUNTY DEPARTMENT OF UTILITY SERVICES

Chairman Wheeler read and presented the Proclamation to Carol Besancon.

6. APPROVAL OF MINUTES

6.A. ALTERNATIVE WATER SUPPLY MASTER PLAN WORKSHOP

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Alternative Water Supply Master Plan Workshop held on December 6, 2006. There were none.

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Alternative Water Supply Master Plan Workshop of December 6, 2006, as written and distributed.

6.B. CHARTER GOVERNMENT WORKSHOP

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Alternative Water Supply Master Plan Workshop held on January 17, 2007. There were none.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Minutes of the Charter Government Workshop of January 17, 2007, as written and distributed.

7. CONSENT AGENDA

The following items were pulled for discussion:

Vice Chair Bowden requested Item 7.K. be pulled for discussion.

Chairman Wheeler requested Items 7.H. and 7.O. be pulled for discussion.

Commissioner O'Bryan requested Item 7.E. be pulled for discussion.

7.A. APPROVAL OF WARRANTS – FEBRUARY 2 – FEBRUARY 8, 2007

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for February 2-8, 2007.

7.B. OUT OF COUNTY TRAVEL ASSOCIATED WITH THE FLORIDA ASSOCIATION OF COUNTIES 2007 ANNUAL CONFERENCE AND EDUCATIONAL EXPOSITION IN ORANGE COUNTY, FLORIDA

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously authorized out of county travel for Commissioners and staff to attend the Florida Association of Counties (FAC) 2007 Annual Conference held June 12-15, 2007, in Orlando, Florida, as recommended in the memorandum of February 8, 2007.

7.C. LAND LEASE AGREEMENT FOR VERIZON WIRELESS STEALTH FLAGPOLE AT SEA OAKS WASTEWATER TREATMENT PLANT

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the lease with Verizon Wireless Personal Communications LP d/b/a Verizon Wireless and authorized the Chairman to

execute the Lease and the Memorandum of Land Lease Agreement, as recommended in the memorandum of February 14, 2007.

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

7.D. PROPERTY ACQUISITION – TAX ROLL REMOVAL AND TAX CANCELLATION

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously adopted **Resolution No. 2007-009** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – Oslo Road – Dot C Properties).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously adopted **Resolution No. 2007-010** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W 89th Street – CR 510 - Slabvsef).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously adopted **Resolution No. 2007-011** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 45th Street – N. Gifford Road – Harbor Trade Centre).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously adopted **Resolution No. 2007-012** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (LAAC – Judah, Lloyd and Upton).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously adopted **Resolution No. 2007-013** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (Barber Street – Mercedes Homes).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously adopted **Resolution No. 2007-014** canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – Adams – 66th Ave. (S. of SR-60)).

7.E. RESOLUTION SUPPORTING CONTINUED FUNDING OF FLORIDA FOREVER PROGRAM

Commissioner O'Bryan said that he supported the program and felt that it was important to urge the State to come up with an extension of the Florida Forever Program or create a new program to purchase the lands and preserve them for future generations.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously adopted

Resolution No. 2007-015 supporting additional funding for Florida Forever and the creation of a successor program.

7.F. OUT OF COUNTY TRAVEL FOR THE COUNTY ADMINISTRATOR

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved the County Administrator's request to attend the FGFOA 2007 Annual Conference May 20-23, 2007, in Orlando, Florida, as requested in the memorandum of September 21, 2006.

**7.G. FINAL PAYMENT WORK ORDER NO. 5, CARTER ASSOCIATES, INC.,
SUPPLEMENTAL SERVICES NO. 1**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved payment in the amount of \$1,485.00 for final and full payment for Supplemental No. 1, as recommended in the memorandum of February 13, 2007.

7.H. MISCELLANEOUS BUDGET AMENDMENT 011

Chairman Wheeler voiced concern over the trees that will be moved from 37th Street to the Sandridge Golf Club, at a cost of \$10,500.00. He thought it would be more cost effective for the County to purchase the required equipment to move the trees and then be able to use it on future projects. Administrator Baird advised that more equipment was currently being

considered due to the increase of projects. He informed the Board that Item No.2 of the Budget Amendment (copy on file) was no longer required because the Contractor would remove the trees.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved, **Resolution No. 2007-016**, amending the fiscal year 2006-2007 budget.

7.I. PROPOSAL BY GEOSYNTEC CONSULTANTS, INC. FOR MONITORING WELL INSTALLATION AND SEMI-ANNUAL GROUNDWATER MONITORING AT THE SOUTH COUNTY RO PLANT

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved the SWDD Board to enter into a work authorization with GeoSyntec Consultants, Inc. in the amount not to exceed \$12,447.00 for monitoring well installation and semi-annual groundwater monitoring at the South County RO plant, as recommended in the memorandum of February 12, 2007.

7.J. AUTHORIZATION FOR RADIO COMMUNICATIONS WORK IN EMERGENCY OPERATIONS CENTER (EOC) BY COMMUNICATIONS INTERNATIONAL, INC.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved Communications International, Inc., be designated as the Sole Source provider for radio communication equipment enhancements and installations and waive the standard bid procedures authorizing the County Administrator to approve the issuance of necessary purchase orders to Communications International, Inc. as recommended in the memorandum of February 14, 2007.

**7.K. PROGRESS REPORT – NEW COUNTY ADMINISTRATION BUILDING AND
NEW EMERGENCY OPERATIONS CENTER**

Vice Chair Bowden requested a move-in date and Administrator Baird confirmed that it would be June.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously accepted staff's Progress Report, as recommended in the memorandum of February 14, 2007.

**7.L. PROGRESS REPORT – NEW COUNTY ADMINISTRATION BUILDING AND
NEW EMERGENCY OPERATIONS CENTER**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously authorized the County Administrator to execute Change Order No. 5, which will result in a decrease to the GMP of

\$48,348.00 and an increase to the Owner's Contingency in the amount of \$2,998.00, as recommended in the memorandum of February 14, 2007.

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

7.M. PERMANENT PART-TIME EMPLOYMENT AGREEMENT WITH PROJECT ENGINEER CLIFFORD J. SUTHARD, P.E.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved Alternative No. 1 authorizing the Chairman to execute the Permanent Part-Time Employment Agreement with Project Engineer Clifford J. Suthard, P.E., for a term of not to exceed two years at a rate of \$45.00/hour, as recommended in the memorandum of February 14, 2007.

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

7.N. REQUEST FOR BOARD APPROVAL OF A WORK PLAN MODIFICATION, A BUDGET AMENDMENT AND CLOSEOUT OF THE COUNTY'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) HOUSING REHABILITATION PROJECT

ON MOTION by Vice Chair Bowden , SECONDED by Commissioner O'Bryan, the Board unanimously approved the revised project work plan and budget amendment, and

authorized the Chairman to sign the modification form, as recommended in the memorandum of February 12, 2007.

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

7.O. STATE LOBBYIST AGREEMENT RENEWAL

Chairman Wheeler wanted to know what State Lobbyist (Ronald L. Book) accomplished for the County in 2006. Administrator Baird informed the Board that the Lobbyist helped the County obtain: (1) \$2.5 million in beach re-nourishment on Sector 7; (2) \$2.5 million funding for the Emergency Operation Center (EOC); (3) authorization to move forward on SR60; (4) \$2 million for the surface Water Improvement Initiative; and (5) \$500,000.00 for the widening project of SR60 and Royal Palm (which the Governor vetoed).

Commissioner Davis voiced his satisfaction with Mr. Book and the guidance he had provided in the past.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Professional Services Agreement, and authorized the Chairman to sign on behalf of the County, as recommended in the memorandum of January 22, 2007.

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

**7.P. LOCAL AGENCY PROGRAM AGREEMENT FOR THE 12TH STREET
SIDEWALK IMPROVEMENTS BETWEEN VERO BEACH ELEMENTARY**

SCHOOL AND 11TH AVENUE, INDIAN RIVER COUNTY PROJECT No. 0216, FM No. 416083-1-58-01

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved **Resolution No. 2007-017**, authorizing execution of a local agency agreement for the 12th Street sidewalk improvements, between Vero Beach Elementary School and 11th Avenue, with the State of Florida, Department of Transportation, and providing for an effective date.

7.Q. LOCAL AGENCY PROGRAM AGREEMENT FOR THE 12TH STREET SIDEWALK IMPROVEMENTS BETWEEN 43RD AVENUE AND 27TH AVENUE, INDIAN RIVER COUNTY PROJECT No. 0604, FM No. 416084-1-58-01

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously approved **Resolution No. 2007-018**, and authorizing execution of a local agency agreement for the 12th Street sidewalk improvements, between 43rd Avenue and 27th Avenue, with the State of Florida.

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS

9.A. PUBLIC HEARING

**9.A.1. PUBLIC HEARING FOR ADOPTION OF AN ORDINANCE ESTABLISHING
THE WEST WABASSO STREET LIGHTING MUNICIPAL SERVICE
BENEFIT UNIT (LEGISLATIVE)**

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

Assistant County Attorney William Debraal informed the Board that this was the third and final step that the Board needed to take in establishing the West Wabasso Street Lighting Municipal Service Benefit Unit (MSBU). He requested the Board open the Public Hearing for comments and approve the Benefit Unit.

Chairman Wheeler opened the Public Hearing. There were no speakers and the Chairman closed the Public Hearing.

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board unanimously adopted **Ordinance No. 2007-007**, creating the West Wabasso Area Street Lighting Municipal Service Benefit Unit; purpose; levy of assessment, adoption of budget; disposition of proceeds from the levy of assessment; and amending Chapter 200.07 of the Indian River County Code of Ordinances providing for codification; providing for severability; and providing for an effective date.

**9.A.2. SETTLEMENT OF LAWSUIT, NEXTEL SOUTH CORPORATION V. INDIAN
RIVER COUNTY, U.S. DISTRICT COURT, SOUTHERN DISTRICT, CASE
No. 06-14274-CIV-GRAHAM (QUASI-JUDICIAL)**

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

The speakers were sworn-in by the Clerk.

County Attorney Collins informed the Board that the tower was the subject of a public hearing at the September 12, 2006 meeting. The Board voted 3-2 and denied the special exception for the 100-foot monopole tower where it was determined that there were more appropriate locations that were further away from residential areas that would support the tower up to 150-feet in height. Nextell then filed suit against the County in Federal Court claiming the Board's denial violated the Federal Communications Act of 1996, which provides the local government the authority to approve the location of towers, but a denial has to be in writing, supported by substantial competent evidence of written record. The Chairman wanted this to be brought back for the "new" Board to consider.

Michael Burke, Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A. represents Indian River County in the suit. He informed the Board that the case is pending in the Federal District Court and said the case is scheduled for an August 2007 trial. The assigned Judge has permitted the parties to file dispositive motions and ordered the parties to attempt resolution before the trial. The proposal to the Board (should approval be granted) is that Nextell would waive any costs, attorney fees or other relief in the litigation. They also agreed that upon the issuance of the building permit, the paperwork for the dismissal of the case would be filed. He said County staff had reviewed the Ordinance and determined that the requirements, regarding the location, had been satisfied and recommended approval of the application subject to several conditions which staff had made of record and which Nextel had agreed to comply

with. Subsequently, he pointed out the litigation process that would take place if there were no resolutions made between the parties. Mr. Burke indicated that the Judge would not consider hearing any testimony at the hearing from concerned individuals regarding radio frequency emissions. It was his recommendation that the Board approve the proposed settlement.

Commissioner O'Bryan asked Mr. Burke if he or his firm specialized in telecommunication cases and if he had done telecommunication work.

Mr. Burke informed the Board that he had handled Indian River County's earlier case (before the ordinance that is currently in affect) as well as similar cases for governmental agencies in Broward County.

The Chairman opened the Public Hearing.

Father John Crowley, Pastor of St. John of the Cross Catholic Church, indicated that the church property is contiguous with Bob Cook's property, where the pole would be erected. He voiced concerns over the health affects it would have on his people.

Chairman Wheeler explained that the Board has no jurisdiction over this and suggested seeking assistance from Congress.

Dr. Cynthia Concilio, retired Director of Nursing at Bellview and Mount Sinai and Health and Science Consultant for a television station in New York, felt the residents of Indian River Estates were suffering from numerous ailments because of the electromagnetic emissions from the nearby tower.

Bob Cook, owner of the property that is in dispute, wanted the Board to know that he signed the contract with Nextel many years ago and he said that he cannot break it, even if he wanted to.

Ray Scent, 1615 71st Court, Pastor, felt there was nothing that could be done to change the location of the tower and suggested that those who want to make changes need to go to their elected officials.

Bob Johnson, Coral Wind Subdivision, suggested Nextell withdraw their contract with Mr. Cook and relocate the tower to another location. He voiced health concerns and said there was no requirement for Nextel to have a tower at this location. Mr. Johnson thought Nextell should provide statistics showing the need for this tower.

Planning Director Stan Boling acknowledged that the required technical justification for the tower was provided and reviewed by staff.

Chairman Wheeler commented that he would consider sending a synopsis of the past couple meetings to Representative Weldon and Senators Nelson and Martinez, letting them know the people's concerns. He explained that this was where concerns need to be addressed because the Board is powerless.

Fred Mensing, 129th Street, told a story of his son having served seven months in Iraq operating sophisticated electronic equipment. He said that after returning, his son was tested for radiation and was told there was none. He favored Nextel increasing the number of towers.

There were no additional speakers, and the Chairman closed the Public Hearing.

Commissioner Davis expressed that the Board's "hands are tied", acknowledging that they are limited as to what they can do.

MOTION WAS MADE by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board authorized the County's outside Counsel to execute the necessary settlement documents, as recommended in the memorandum of February 13, 2007.

Under discussion, Vice Chair Bowden acknowledged that the Board had no option, financially or legally and thought that sending a synopsis to Representative Weldon and Senators Nelson and Martinez would be a good idea.

MOTION WAS AMENDED by Commissioner Davis, SECONDED by Vice Chair Bowden, to direct staff to send a synopsis of the past couple meetings to Representative Weldon and Senators Nelson and Martinez.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board authorized the County's outside Counsel to execute the necessary settlement documents and directed staff to send a synopsis of the past couple meetings to Representative Weldon and Senators Nelson and Martinez.

The Chairman called a recess at 9:56 a.m. and reconvened the meeting at 10:09 a.m. with all members present.

**9.A.3. PUBLIC HEARING – FEBRUARY 20, 2007 TO AMEND CHAPTER 307, OF
THE INDIAN RIVER COUNTY CODE BY CREATING SECTION 307.13
PROHIBITION OF ALL TERRAIN VEHICLE OPERATION ON UNPAVED
ROADWAYS (LEGISLATIVE)**

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

Assistant County Attorney Marian Fell informed the Board that effective October, 1, 2006, the Florida Legislature enacted a Statute that would allow the operation of all-terrain vehicles (ATV) on certain unpaved roads within counties unless the county opted out of the provision. The Indian River County Sheriff, on behalf of all law enforcement within the County, requested the County enact an Ordinance to opt out of the new statutory section.

The Chairman opened the Public Hearing.

Sheriff Roy Raymond explained how the original Ordinance prohibited ATVs on paved and unpaved roads. He felt there was a place for ATVs but he didn't think it was on the roadways. For the safety of the community and serenity of the residents, he encouraged the Board to opt out of the State Statute, as most counties within the State have already done.

Tony McKenna, 683 30th Ave. SW, expressed his concern with ATVs cutting through his neighborhood at all hours of the night and wanted to thank the County Attorney and the Sheriff for everything they have done to enforce the laws pertaining to ATVs.

Fred Mensing, 129th Street, felt this needed to come to an end and suggested the County look at areas where four-wheel, low-speed, vehicles could be permitted. He also wanted

the Board to look into expanding certain areas so senior citizens could use golf carts or ATVs as local transportation, not just for sporting.

Gary Comes, 1030 Ruby Avenue, informed the Board that he and his family travel 35-miles to ride their ATVs because there was no place to ride in the County. He supported riding ATVs on the outside of the urban service line and he wanted the Board to rethink the issue.

Mark Besancon wanted the County to designate a place for ATV riders to ride.

Tony McKenna, 683 30th Ave. SW, said that the issue at hand was to deal with the Statute as it was amended, because he felt it to be “unenforceable”. He hoped the Board would address trying to work out a way for ATVs to operate within the County.

Glen Besancon insisted that the law is enforceable and felt that the individuals breaking the law should be taken in. He did not think it was fair to hurt the people who were “doing it right”.

Roy Raymond, Sheriff, said he supported what the people were saying and that his staff did everything they could to work with the “legitimate people”. He provided numbers as to how many calls for service were received (regarding illegal operations) and revealed how many specialized operations were conducted. He urged the Board to pass the Ordinance to keep ATVs off the road.

Fred Mensing, 129th Street, reemphasized the requirements for operating slow speed vehicles.

Don Dappan, Chief of Police, reported that public safety was their main concern. He believed mixing ATVs with licensed vehicles (automobiles and pick-up trucks) on paved or unpaved roads would surely allow for injuries and deaths. He urged the Board to consider the public's safety.

There were no additional speakers and the Chairman closed the Public Hearing.

Commissioner Flescher thought the County was fortunate to be able to fine-tune, opt out, and review the needs of the citizens. He supported the adoption of the Ordinance.

MOTION WAS MADE by Commissioner Flescher,
SECONDED by Commissioner O'Bryan, to adopt Staff's
recommendation.

Commissioner Davis said there was no middle ground pertaining to this issue and did not feel that "all one way" was the answer. He voiced that an ATV is not a recreation vehicle for everyone, for some it is considered farm machinery and he thought there needed to be balance. Commissioner Davis explained that even though he did not particularly like the amended Ordinance he would support it. He announced that he had started working with Legislatures to craft something that will work for most people. He believed the law should be in black and white and he looked forward to the opportunity of input to the modification of the Ordinance as well as implementing it.

The Chairman CALLED THE QUESTION. The Board unanimously adopted **Ordinance No. 2007-008** amending Chapter 307 of the Code of Indian River County, Florida, by creating Section 307.13, all terrain vehicle operation on unpaved roadways; providing findings; providing for

prohibition on daytime operation of all terrain vehicles on unpaved roads within Indian River County; providing for repeal of other conflicting ordinances; providing for severability; providing for inclusion in the code of Indian River County; providing for filing with the Department of State; and providing for an effective date.

9.A.4. REQUEST FOR AUTHORIZATION TO SUBMIT A FY 2006/07 GRANT
APPLICATION FOR 49 CH. 53, SECTION 5307 MASS TRANSIT CAPITAL
AND OPERATING ASSISTANCE (LEGISLATIVE)

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

Phillip Matson, Metropolitan Planning Organization (MPO) Staff Director, explained the benefits of Indian River County being an urbanized area. He said the biggest benefit fell under operating expenses, which required a 50% non-federal match and capital expenses that required a 20% non-federal match. He provided the Board with the total proposed budget amounts and requested the Board provide approval to submit the grant application. Mr. Matson responded to questions from the Board.

The Chairman opened the Public Hearing. There were no additional speakers and the Chairman closed the Public Hearing.

ON MOTION by Vice Chair Bowden, SECONDED by
Commissioner Flescher, the Board unanimously approved
Resolution No. 2007-019, authorizing the filing of a FY

2006/07 Grant Application for 49 USC CH. 53, Section
5307 Mass Transit Capital and Operating Assistance.

**9.A.5. CONSIDERATION OF THE PURCHASE OF AGRICULTURAL
CONSERVATION EASEMENTS ON SEXTON RANCH UNDER THE COUNTY
ENVIRONMENTAL LANDS PROGRAM (CONTINUED FROM THE JANUARY
16, 2007 BOARD MEETING) (ADMINISTRATIVE)**

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

Clerk's Note: This Item was heard at 1:30 p.m. following Item 14.B.4. and is placed here for continuity.

Roland M. DeBlois, Chief of Environmental Planning, reminded the Board that this item was tabled at the January 16, 2007 meeting because the new appraisals had not been received prior to that meeting. He provided a PowerPoint presentation (copy on file) depicting the location and acreage of the Sexton Ranch, and summarized the agricultural conservation easements and the easement restrictions that applied. Chief DeBlois reviewed the appraisals and reported that the contract had not changed, the purchase price remained at \$12 million (\$25,970.00 per acre). Chief DeBlois clarified the new information since the January 16, 2007 meeting: (1) Mr. Sexton had applied for official historic designation of the structures; (2) he gave attorney clarification that “in perpetuity” means “forever”; (3) “fee-simple” purchase and “lease back” would jeopardize the tax-exempt status of bonds; and (4) the County could not transfer development rights acquired with bond proceeds. He noted the minuses and pluses when comparing easement purchase versus fee simple purchase. Chief DeBlois acknowledged that the Land Acquisition Advisory Committee (LAAC) recommended, by a 10-4 vote, to purchase the agricultural conservation easement at the \$12 million negotiated price. He

concluded by recommending approval of the option agreement, authorize staff to amend the agreement to allow a tax-free exchange, authorize staff to amend language in the easement to account for the historic designation of structures, and to authorize staff to proceed with due diligence activities and close the purchase.

Chief DeBlois introduced appraisers George Goodman from George Goodwin Consulting, Inc. and Craig Clayton from Clayton, Roper and Marshall, who responded to questions from the Board regarding the appraisals.

There was a brief question and answer period between Commissioner O'Bryan and Appraisers Goodman and Clayton regarding their appraisal process.

Vice Chair Bowden asked questions of the appraisers regarding easements purchased by conservation groups and county governments.

Chairman Wheeler wanted clarification as to what the County would be buying and Mr. Goodman explained that the County would be purchasing 90-units.

The Chairman opened the Public Hearing.

Joe Collins, Attorney for the Sexton family, introduced the Sexton family and gave a brief history of the property and the process that brought the Sextons to the present place of settlement. He emphasized that the Sextons were selling the property for 65% of the appraised value. Attorney Collins pointed out that this was not a new concept, there were over one million acres of agricultural properties under easements. He said that buying the Sexton property and preserving the conservation easements and rights would preserve a part of the County, protect the wetlands, promote agriculture and the continuation of cattle ranching, provide open space, water resources, habitat and wild life forever. He concluded by announcing

to the Board that this item comes to them with the recommendation from staff and the Land Acquisition Advisory Committee.

Sean Sexton gave a PowerPoint presentation (copy on file) reflecting the history of the Sexton Family at the Treasure Hammock Ranch.

Bill Becker, Chairman of the Finance Committee for the City of Vero Beach, did not like the idea of using the funds (which were set aside for purchasing agricultural and conservation land) for the purchase of the Sexton property. He pointed out that land values had dropped and thought the money should be used to “buy” the land, not lease it. He felt that the Bond Referendum intent was the “option” to buy development rights, not the “requirement” to buy them.

There was a brief discussion regarding the qualifications of matching funds and the possibility of purchasing the property then leasing it back to the Sextons.

Marian Fell, Assistant County Attorney, said that the Bond Council informed her that purchasing the property, then leasing it back to them so they could continue ranching to obtain the profits, would jeopardize the tax-exempt status of the bonds. She related that there could not be a transfer of development rights with bond proceeds and that there could not be a purchase and fee simple of this land, to be leased back to the Sextons, in order for them to make a living.

Mary Clark remarked that the property was an endangered ranch that needed immediate protection.

Jens Tripson, 2525 14th Street, thought this was a win-win situation and urged the Board to vote for it.

George Blythe, 825 90th Avenue, member of the LAAC, wanted to see the Sexton property in conservation easement but suggested implementing a life estate for four generations, then after that time it would be returned to the County.

John Williams, 1535 Smugglers Cove, urged the Board to move forward with what he considered a bargain.

Toni Robinson, 1111 Indian Mount Trail, wanted the Board to proceed with the conservation easement.

The Chairman called a recess at 3:02 p.m. and reconvened the meeting at 3:14 p.m. with all members present.

Louis Schacht, Agricultural Representative of the LAAC, thought this was a bargain for the county and wanted the Board to buy the development rights and begin a new trend of preserving the County's agriculture.

Al Suarez, 1240 Olde Doubloon Drive, a cattle farmer, spoke against the purchase of the Sexton property, saying \$12 million dollars was too much money.

Richard Norman, 3395 2nd Street, wanted the Board to support the purchase of the Sexton property.

Janice Roda, 12396 N. A1A, supported the purchase of the conservation easement.

Bob Adair, Vice Chairman of the Indian River Swell and Water Conservation District Board and Chairman of the Agriculture Advisory Committee, said both advisory Boards, in addition to the LAAC, support the purchase of the Sexton property.

Suzon Franzke said her property abuts the Sexton Ranch and she supported the purchase of the conservation easement.

Ken Gruidins, 931 Starflower, Executive Director of the Indian River Land Trust, informed the Board that both he and the Indian River Land Trust, fully supported and encouraged the Board to purchase the agricultural easement.

Susie Karen, 8500 Indrio Road, Ft. Pierce, urged the Board to recommend a unanimous approval for the conservation easement.

Joe Paladin, Chairman of the Growth Awareness Committee, gave suggestions for creative financing and urged the Board to purchase the property.

Assistant County Attorney Fell informed the Board that the County could not purchase the development rights with bond proceeds then transfer them to another parcel.

Doctor Richard Baker spoke on behalf of Hilary Swain, Executive Director of the Archibald Station in Highlands County, who could not attend the meeting. He spoke on the Florida ranchlands and explained the ecosystem services. Ms. Swain and Doctor Baker both wanted the Board to move forward.

Mr. Ramsey, member of the LAAC, expressed favor that the Sextons should maintain the property and felt the Board should purchase the property.

Brenda Parvis 6965 49th Street, thought this was an opportunity to keep the ranch as it has been and supported the purchase of the conservation easement.

Bob Bruce, 12396 N. A1A, wanted the Board to supported the purchase of the conservation easement.

Robert Kerins, 8500 Indrio Road, contractor and cattle farmer, requested the Board support the purchase of the property.

Ruth Stanbridge, 4835 66th Avenue, supported the purchase of the conservation easements and historical properties and echoed the positive feelings of the Indian River Historical Society.

Rick Baker urged the Board to be committed to the process and vote yes.

Hilary Kloska, 8512 S.E. Quail Ridge Way, Hobe Sound, wanted the Board to vote for the Easement.

After the public spoke, the Chairman and each of the Commissioners voiced their feelings and viewpoints regarding the purchase of the agricultural conservation easements of the Sexton Ranch.

Joe Collins informed the Board that the ranch is owned by two ownerships: Ranch Management, Inc, which is made-up of the Sexton Family, and Ralph Sexton, Trustee, with his own revocable Trust. He speculated that if for some reason it would not be agricultural in fifty to one hundred years from now, the County would have the right to buy the remaining interest.

Sean Sexton informed the Board that the documents were crafted to protect agriculture and he felt this should justify a comfort level.

Chris Sexton said the members of Ranch Management, Inc. met with Ralph Sexton and unanimously agreed that they would accept whatever decision the Board made.

Ralph Sexton said, “we still have to pay the taxes, you’ll get your tax money and the ranch if we do not pay it.”

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Wheeler, the Board by a 4-1 vote (Commissioner Flescher opposed) approved to exercise the Sexton Ranch option agreement for purchase of agricultural conservation easements; authorized staff to amend the Option Agreement to add language relating to the sellers’ opportunity for a tax free exchange (as reported to the Board on January 16, 2007); authorized staff to amend language in the easements to account for historic designation of structures; delegated authority to the County Administrator to sign the amendments in coordination with County Attorney staff; authorized staff to proceed with due diligence activities; and authorized staff to close the purchase, as recommended in the memorandum of February 13, 2007.

9.B. PUBLIC DISCUSSION ITEMS

9.B.1. REQUEST TO SPEAK FROM KEITH D. HEDIN, VICE CHAIR, CODE ENFORCEMENT BOARD REGARDING APPEAL OF CODE FINE – BOARD OVERTURNED CODE FINE WITH N. COUNTY STAFF INPUT

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

Keith Hedin, Vice Chair of Code Enforcement, spoke to the Board regarding their action taken from a prior meeting. He said a member of the public had gone before them wanting to appeal a fine that was imposed upon him. Mr. Hedin expressed disappointment because the Board had not received input from staff on the matter. He acknowledged that the Board overturned the decision because the information regarding the person's case was not heard. His concern was that precedence was set, allowing this to happen again.

Administrator Baird announced that the miscommunication was his fault. He apologized, then explained that Mr. DeBlois gave him the information pertaining to the case but because the meeting moved so quickly he did not have a chance to communicate the information to the Board. He said that it was brought up after the meeting and staff was equally upset that he had not address it earlier.

Mr. Hedin accepted his apology and voiced concern that this would not set precedence for the future, which would undo the hard work that his Board accomplished.

9.C. PUBLIC NOTICE ITEMS

9.C.1. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR MARCH 6, 2007

MEETING

9.C.1.A. DOUBLE R&D INC: REQUEST TO CHANGE THE LAND USE

DESIGNATION FOR ±40.23 ACRES LOCATED WEST OF 86TH AVENUE AND

SOUTH OF THE CITY OF SEBASTIAN FROM R, RURAL RESIDENTIAL (UP TO 1 UNIT/ACRE), TO L-1, LOW DENSITY RESIDENTIAL-1 (UP TO 3 UNITS/ACRE), AND TO REZONE THOSE 40.23 ACRES FROM A-1, AGRICULTURAL-1 DISTRICT (UP TO 1 UNIT/5 ACRES), TO RS-3, SINGLE FAMILY RESIDENTIAL DISTRICT-1 (UP TO 3 UNITS/ACRE). DOUBLE R&D, OWNER. MBV ENGINEERING, INC., AGENT (LEGISLATIVE)

9.C.1.B. COUNTY INITIATED: REQUEST TO CHANGE THE LAND USE

DESIGNATION FOR 3,088 ACRES LOCATED SOUTH OF THE CITY OF FELLSMERE IN TOWNSHIP 32 SOUTH, RANGE 37 EAST AND PART OF SECTIONS 7, 8, 9, AND 18, TOWNSHIP 32 SOUTH, RANGE 38 EAST FROM C-1, CONSERVATION-1 (ZERO DENSITY), TO AG-2, AGRICULTURAL-2 (UP TO 1 UNIT/10 ACRES), AND TO REZONE THOSE 3,088 ACRES FROM CON-1, CONSERVATION-1 (ZERO DENSITY), TO A-2, AGRICULTURAL-2 DISTRICT (UP TO 1 UNIT/10 ACRES). ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT, OWNER (LEGISLATIVE)

9.C.1.C. QUAIL RIDGE OF VERO BEACH, LLC: REQUEST TO AMEND THE COMPREHENSIVE PLAN'S FUTURE LAND USE ELEMENT POLICY 5.8. (LEGISLATIVE)

9.C.1.D. COUNTY INITIATED: REQUEST TO CHANGE THE LAND USE

DESIGNATION FOR 12.46 ACRES LOCATED 650 FEET NORTH OF 49TH STREET AND WEST OF LATERAL "H" CANAL AND 34.05 ACRES

**LOCATED 265 FEET NORTH OF 49TH STREET AND EAST OF LATERAL
"H" CANAL FROM L-2, LOW DENSITY RESIDENTIAL-2 (UP TO 6
UNITS/ACRE), TO PUB, PUBLIC. BOARD OF COUNTY COMMISSIONERS,
OWNER (LEGISLATIVE)**

The Chairman read the notices into the record.

10. COUNTY ADMINISTRATOR'S MATTERS - NONE

11. DEPARTMENTAL MATTERS

11.A. COMMUNITY DEVELOPMENT

**11.A.1. DEMOLITION OF VARIOUS STRUCTURES LOCATED AT 5900 5TH STREET
SW**

Bob Keating, Community Development Director, reminded the Board that the property (owned by Glenn Legwen) had been brought to them in September for demolition but the Board had requested giving the property owner more time to demolish the structures or make the necessary renovations to bring them up to code. Director Keating informed the Board that staff had been monitoring the property and that Mr. Legwen had not received permits to make the necessary improvements to the structures; even though he had cleaned-up the property, the structures are still in a condition that warrants removal. He said that Mr. Legwen posted "no trespassing" signs on his property, therefore staff had been directed not to enter. Since the signs were posed, the County will require a court order to demolish the buildings. Director Keating recommended the Board authorize demolition.

The Chairman called a recess at 10:58 a.m. and reconvened the meeting at 11:05 a.m. with all members present.

Buddy Akins, Building Division, used a PowerPoint (copy on file) to depict the poor condition of the property and structures. He recommended the Board continue with the condemnation and demolition of the structures.

Glenn Legwen, 5900 5th St. SW, owner of the property, expressed concern over the possible demolition of his buildings. He informed the Board that he was trying to get the buildings into shape so he could reopen the nursery but he felt the County was harassing him. Mr. Legwen wanted the Board to know that he never received the paperwork that the County had sent him, therefore he could not respond nor appeal. He said when he finally was notified; he spoke with an engineering company that informed him that a permit for agricultural property was not required. He did not feel that he received an accurate answer when he spoke with Mr. Akins. He informed the Board that he never received a demolition order stating which buildings would be demolished. He found it unorthodox that even with the “no trespassing” signs, people were entering his property without his knowledge. Mr. Legwen thought the decision to demolish or retain the buildings should be his. He wanted the Board to give him consideration because of the efforts he had made.

There was a lengthy question and answer period so the Board could learn more about what had transpired, which buildings were repaired or still needed building permits and which ones were scheduled for demolition.

Mr. Akins highlighted portions of the correspondence that Mr. Legwen’s engineer had provided. The Engineer disclosed that the 12 x 50 foot building must meet the structural requirements of the 2006 Amendments of the 2004 Florida building code; the same held true for the shade cloth-covered wood frame structure for growing plants, as long as the public would not

be permitted entry. The engineer also stated that because of the agriculture zoning, structures which are used primarily for agriculture, do not require a building permit. Mr. Akins announced that the information was not correct, and felt the only exemptions from building permits and building codes would be “farm buildings on farm property”.

Discussion ensued regarding repairs, improvements and how much money would be required to repair the buildings and bring them up to the required codes.

County Attorney Collins briefed the Board that Mr. Legwen would not be exempt from requiring a permit.

Mr. Akins reminded the Board that the problem with staff issuing the permit is whether the structure could even be brought into compliance with the building code requirements.

Chairman Wheeler showed concern about Mr. Legwen’s situation and informed the Board that he did not want anyone put out of business because of a natural disaster or the lack of resources to do it as fast as a large business would.

Commissioner Davis commented that Code Enforcement had reviewed this, they recommended the structures be demolished, bids for demolition were obtained, and out of integrity for the system he did not see closure to the situation. He wanted to know if and when Mr. Legwen would be in compliance. Mr. Legwen responded that he was making every effort to achieve compliance.

Discussion ensued as to whether Mr. Legwen would require a building permit, if he would be able to obtain one, and what the property would be used for.

Chairman Wheeler wanted to table the decision until March. Commissioner Davis told Mr. Legwen that he needed to decide if he was going to open his business to the public, and if so, he would need to comply with the Building Codes.

Commissioner Flescher asked Mr. Legwen if he had applied for or received financial assistance and he replied that after the storm he went to SBA and FEMA to request financial assistance but they informed him that because the property was agriculturally zoned, he was not able to receive assistance. He informed the Board that he did not have insurance on his buildings before the storm.

The Board asked Mr. Akins if there was anything else that they could do for Mr. Legwen, other than move forward with demolition, and he said there was not.

Chairman Wheeler asked Mr. Legwen if he could return to the Board on March 6th with a firm plan and he said he would.

Commissioner O'Bryan pointed out that since the engineer had said it would take three weeks to complete the drawings that the Board should wait until March 20 to meet with Mr. Legwen. He indicated that upon returning to the Board Mr. Legwen should provide a structural design from his engineer, a schedule of completion, and financial documentation showing he could proceed with the design and plan.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously tabled this item until March 20, 2007, when Mr. Legwen will provide a structural design from his engineer, a schedule of completion and financial documentation showing he can proceed with the design and plan.

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. RIGHT-OF-WAY ACQUISITION, 74TH AVENUE SOUTH OF STATE RD. 60
AND SOUTH OF 12TH STREET, CAPITAL TRUST COMPANY OF
DELAWARE, AS TRUSTEE OF THE IRVIN BASIL KELLER INDIVIDUAL
RETIREMENT TRUST U/A/D OCTOBER 4, 2003**

ON MOTION by Commissioner Davis, SECONDED by
Vice Chair Bowden, the Board unanimously approved
Alternative No.1 (the \$108,702.00 Purchase agreement),
authorized the Chairman to execute the Agreement to

Purchase and Sell Real Estate with The Capital Trust Company of Delaware, as Trustee of the Irvin Basil Keller Individual Retirement Trust u/a/d October 4, 2003, as recommended in the memorandum of February 9, 2007.

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

11.I.2. CR 512, PHASE III, CR 510 – PROJECT #9611 & 0001, BID NUMBER 2006065, CHANGE ORDER No. 7

Commissioner Davis asked for location clarification of the pond landscaping improvements.

Jim Davis, Public Works Director, verified the projects and their locations.

Chris Kafer, County Engineer, informed the Board that landscaping was not included in the Change Order because the plans were being redesigned. He acknowledged that the plans would be introduced to the Board at a later time.

Commissioner O'Bryan asked Director Kafer to contact the local environmental groups so they could review the proposed changes and he agreed to do so.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Change Order #7, increasing the contract amount by \$31,506.00. The new contract amount will now be \$13,909,645.50, as recommended in the memorandum of February 13, 2007.

11.J. UTILITIES SERVICES - ADDITION

Update from staff regarding Grand Harbor Easement from Spoonbill Marsh Project.

Clerk's Note: This was an added item to the agenda.

Erik Olson, Utilities Director, reminded the Board that two weeks ago staff presented to the Board an additional 7.89 acres from Grand Harbor Easement for the Spoonbill Marsh project at which time the Board approved the project subject to final signature by Grand Harbor. He said staff had received the signed easement agreements and were ready to finalize the project.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously acknowledged the update of staff having received the signed Easement Agreements.

**11.J.1. CHANGE ORDER NO. 1 TO IRC CONTRACT 2006025 WITH TLC, INC.
FOR MEMBRANE RESTORATION WORK AT THE SOUTH RO PLANT**

Chairman Wheeler read the notice into the record.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously (a.) approved Change Order No. 1 to IRC Contract 2006025 with TLC Diversified, Inc. in the amount not to exceed \$596,469.00

to provide construction services for the Membrane Restoration Work at the South RO Plant; (b.) authorized the Chairman to execute Approve Change Order No.1 to IRC Contract 2006025; and (c.) authorized the Purchasing Manager to direct purchase a maximum of 1,152 membranes at a cost of \$525.00/membrane from DOW/FilmTec in the total amount of \$604,800.00, as recommended in the memorandum of February 12, 2007.

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

**11.J.2. NORTH COUNTY REVERSE OSMOSIS WATER TREATMENT PLANT,
WATER QUALITY SAMPLING BY CAMP DRESSER & MCKEE, INC.
(CDM), AMENDMENT NO. 1 TO WORK ORDER NO. 6**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Addendum No. 1, to Work Order No. 6 to CDM Inc. in the amount of \$46,510.00 – Not to Exceed, for Professional Services related to Water Quality Sampling; and authorized the Chairman to execute Addendum No.1 to Work Order No. 6, as recommended in the memorandum of January 26, 2007.

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

**11.J.3. REHABILITATION OF LIFT STATIONS # 164, 167, 168 AND THE SOUTH
REGIONAL WASTE WATER TREATMENT FACILITY LIFT STATION #1 –
UCP-2898**

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board unanimously approved the solicitation of bids for the Rehabilitation of Lift Stations 1, 164, 167 and 168, as recommended in the memorandum of January 12, 2007.

12. COUNTY ATTORNEY MATTERS - NONE

13. COMMISSIONER ITEMS

13.A. COMMISSIONER GARY C. WHEELER, CHAIRMAN - NONE

13.B. COMMISSIONER SANDRA L. BOWDEN. VICE CHAIR - NONE

13.C. COMMISSIONER WESLEY S. DAVIS - NONE

13.D. COMMISSIONER JOSEPH E. FLESCHER - NONE

13.E. COMMISSIONER PETER D. O'BRYAN - NONE

14. SPECIAL DISTRICTS AND BOARDS

14.A. EMERGENCY SERVICES DISTRICT – NONE

14.B. SOLID WASTE DISPOSAL DISTRICT

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

14.B.1. APPROVAL OF MINUTES:

- A. MEETING OF DECEMBER 5, 2006**
- B. MEETING OF DECEMBER 12, 2006**
- C. MEETING OF DECEMBER 19, 2006**
- D. MEETING OF JANUARY 9, 2007**

**14.B.2. SOUTH COUNTY REVERSE OSMOSIS PLANT, GEOSYNTEC
CONSULTANTS, INC., WORK AUTHORIZATION NO. FR0737C**

**14.B.3. ENGINEERING SERVICES FOR DESIGN, PERMITTING AND
CONSTRUCTION FOR THE CLOSURE OF SEGMENT I SIDE SLOPE OF
THE CLASS I LANDFILL**

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

**14.B.4. THREE-YEAR TERM CONTINUATION OF GROUNDWATER MONITORING
AT SOUTH GIFFORD LANDFILL SITE**

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

14.C. ENVIRONMENTAL CONTROL BOARD - NONE

Clerk's Note: The Chairman called for a recess at 11:56 a.m. and reconvened the meeting at 1:30 p.m. with all members present, to hear Item No. 9.A.5.

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 4:48 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____
BCC/LAA/2007Minutes