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OF MAY 1, 2007

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May 1, 2007

MEETING OF THE BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY

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, May 1, 2007. 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 Athena Adams.

1. CALL TO ORDER

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

2. INVOCATION

Deputy Teddy Floyd of the Indian River County Sheriff's Department, Crime Prevention Unit, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Peter D. O'Bryan led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA /EMERGENCY
ITEMS

Defer Item 13.A.2 - Fellsmere's Appointments to the Treasure Coast Regional Planning Council (at the request of Vice Mayor Sabin Abell).

Board members briefly discussed whether to defer this Item. Commissioner Davis asked that Item H be also deferred, as the two requests for appointments were co-related. Chairman Wheeler suggested they take a vote on whether to pull Item 13.A.2 and deal with Item 7.H when they get to the Consent Agenda.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved to defer Item 13.A.2.

Chairman Wheeler requested that Items 9.B.1, 12.A, 12.B and 13.A.1 (all relating to Charter government and the Interlocal Agreement) be moved up for discussion prior to the Consent Agenda.

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

5. PROCLAMATIONS AND PRESENTATIONS

**A. PRESENTATION OF PROCLAMATION DESIGNATING
MAY 6 – 12, 2007, AS NATIONAL NURSES WEEK**

Commissioner O’Bryan read and presented the Proclamation to a representative of the Nurses Association who accepted the Proclamation on behalf of the Nurses of Indian River County.

**5.B. PRESENTATION OF PROCLAMATION DESIGNATING
MAY 10, 2007, AS WORLD LUPUS DAY**

Commissioner Davis read into the record the Proclamation designating May 10, 2007 as World Lupus Day.

**5.C. PRESENTATION BY GREG BURNS, MARLOWE &
COMPANY, LLC FEDERAL LOBBYIST**

Greg Burns, Marlowe & Company, represents the County in Washington, DC, lobbying for Federal funding for the County in a variety of issues. He provided a brief update on the current projects for which funding is being sought, namely: money for stormwater pollution master plan, Federal short protection project which the County would like to restart, money to purchase buses and bus facilities, and funding for the Gifford Health Center and Pelican Island National Wildlife Refuge. He also worked on the issue of the local beach projects. He hoped he could get more Commissioners to visit Washington.

Mr. Burns responded to questions from Commissioner O'Bryan regarding the National Wildlife project and the current status of that budget process.

6. APPROVAL OF MINUTES

A. REGULAR MEETING OF FEBRUARY 20, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of February 20, 2007. There were none.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Minutes of the regular meeting of February 20, 2007, as written and distributed.

6.B. REGULAR MEETING OF MARCH 6, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of March 6, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the regular meeting of March 6, 2007, as written and distributed

6.C. CHARTER GOVERNMENT WORKSHOP OF MARCH 12, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Public Workshop of March 12, 2007. There were none.

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board unanimously approved the Minutes of the public workshop of March 12, 2007, as written and distributed

Chairman Wheeler announced they would go through the three presentations relating to Charter government, starting with Item 9.B.1 – Mayor Cadden.

7. CONSENT AGENDA

(Clerk's Note: The Consent Agenda was heard after Item 9.B.1)

Commissioner Davis asked to pull, for discussion, Item H.

**7.A REPORT PLACED ON FILE IN THE OFFICE OF THE
CLERK TO THE BOARD: ST. JOHNS WATER CONTROL
DISTRICT SPECIAL DISTRICT PUBLIC FACILITIES
REPORT ANNUAL UPDATE**

**7.B. APPROVAL OF WARRANTS – APRIL 6 2007 – APRIL 12,
2007**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of April 6, 2007 to April 12, 2007 as requested.

7.C. APPROVAL OF WARRANTS - APRIL 13, 2007 – APRIL 19, 2007

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of April 13, 2007 to April 19, 2007 as requested.

7.D. 2007 ELECTION OF HISTORIC RESOURCES ADVISORY COMMITTEE (HRAC) CHAIRMAN AND VICE CHAIRMAN

The Board noted the re-election of Mr. Chris Crawford as Chairman and the election of Ms. Anna Brady as Vice Chairman of the Historic Resources Advisory Committee for the year 2007.

7.E. 2007 ELECTION OF METROPOLITAN PLANNING ORGANIZATION (MPO) VICE CHAIRMAN

The Board noted the election of Ms. Susan Adams as Vice Chairman of the Metropolitan Planning Organization for the year 2007, replacing Mr. Brian Burkeen.

**7.F. RESIGNATION OF DISTRICT 4 APPOINTEE TO BOARD
OF ZONING ADJUSTMENTS**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously accepted the resignation of Mr. Ralph J. Lindsay, District 4 Appointee to the Board of Zoning Adjustments, whose term expires in 2008, as submitted in the memorandum of April 16, 2007.

**7.G. TOWN OF ORCHID APPOINTMENTS TO COUNTY
COMMITTEES FOR 2007**

The Board noted for the record the list of Committee appointments (to various County Committees) submitted by the Town of Orchid for the period of March 2007 to March 2008.

**7.H. CITY OF SEBASTIAN APPOINTMENTS TO COUNTY
COMMITTEES AND REGIONAL BOARDS FOR 2007**

Commissioner Davis asked that this item be postponed until the next Board meeting.

ON MOTION by Commissioner Davis, Seconded by Chairman Wheeler, the Board unanimously approved to postpone this Item until the next Board of County Commissioners Meeting.

**7.I. AGREEMENT FOR THE CONTRIBUTION OF FUNDS
FROM BY THE RIVER, INC. FOR ROSELAND ROAD LEFT-
TURN LANE**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Agreement for the Construction of Funds for Roseland Road Left-Turn Lane and authorized the Chairman of the Board of County Commissioners to execute same on behalf of Indian River County, as recommended in the memorandum of April 23, 2007.

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

**7.J. OSLO ROAD WIDENING PHASE I FROM WEST OF OLD
DIXIE HIGHWAY TO 27TH AVENUE, ENGINEERING
SERVICES AMENDMENT NO. 9 – POND SITING**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Amendment No. 9 to the Oslo Road Widening Phase 1 from West of Old Dixie Highway to 27th Avenue Professional Engineering/Land Surveying Services Agreement with Kimley-Horn for the lump sum component of \$9,780.00 and an hourly rate component of \$7,500.00 for a total contract amendment of \$17,280.00, as recommended in the memorandum of April 9, 2007.

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

**7.K. WORK ORDER NO. ME-1, MORGAN & EKLUND, INC.,
PROFESSIONAL SURVEYOR CONSULTANTS FOR
BOUNDARY AND TOPOGRAPHIC SURVEY TO FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
(FDEP) COASTAL CONSTRUCTION CONTROL LINE
(CCCL) SURVEY SPECIFICATIONS AT WABASSO BEACH
PARK**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Work Order ME-1 in the total amount of \$3,490.00, authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute said Work Order, as recommended in the memorandum of April 19, 2007.

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

**7.L. INDIAN RIVER COUNTY BID # 2007041, 84TH AVENUE
ROADWAY IMPROVEMENTS, PUBLIC WORKS
DEPARTMENT**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously **rejected** all

Bids due to the cost exceeding the Engineer's estimated budget, as recommended in the memorandum of April 13, 2007.

7.M. 74TH AVENUE FORCE MAIN LOOP CONNECTION SOUTH OF SR 60, APPROVAL OF FINAL PAYMENT TO SCHULKE, BITTLE & STODDARD, L.L.C. FOR ENGINEERING SERVICES, W.I.P. NO. 472-169000-06512, UCP NO. 2598

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Invoice No. 05-126-15 (Final Invoice) as final payment to Consulting Engineer Schulke, Bittle & Stoddard, LLC, in the amount of \$143.28, as recommended in the memorandum of April 12, 2007.

7.N. WORKERS' COMPENSATION SETTLEMENT

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Settlement of this Claim in the mediated amount of \$230,750.00, plus the \$10,000.00 fee and approximately \$15,000.00 in outstanding bills, as recommended in the memorandum of April 24, 2007. The excess carrier will reimburse the County for all payments above the \$250,000.00 retention level.

7.O. RIGHT-OF-WAY ACQUISITION, JOYCE A. MCGREGOR TRUST, (TREASURE COAST MONTESSORI), 6320 8TH STREET PARCEL I.D. #33-39-08-00001-0140-00003.0

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Alternative 1 – the \$10,850.00 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of April 23, 2007.

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

7.P. PARTIAL RELEASE OF RETAINAGE, COASTAL TECHNOLOGY CORPORATION INC., BEACH PRESERVATION PLAN UPDATE

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the Partial Release of Retainage in the amount of \$19,296.33 under Work Order #2 to the Contract with Coastal Technology Corporation, Inc., as recommended in the memorandum of April 13, 2007.

**7.Q. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT
FOR IRC BID #2007048, 65TH STREET FORCE MAIN FROM
LATERAL G CANAL TO OLD DIXIE HIGHWAY, UTILITIES
DEPARTMENT**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously awarded the Bid to S.P.S. Contracting, Inc., as the second lowest, most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid. The Board also approved the Sample Agreement and authorized the Chairman to execute said agreement when required performance and payment Bonds have been submitted along with appropriate certificate of insurance and the County Attorney has approved the agreement as to form and legal sufficiency, all as recommended in the memorandum of April 23, 2007.

**7.R. APPROVAL OF BID AWARD FOR IRC BID #2007049 CREW
CAB MULTI-POWER TRUCK, UTILITIES DEPARTMENT**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously awarded the Bid to Rechten International Trucks, Inc., in the amount of \$157,992.00, with the reduced tool package, as the lowest most responsive and responsible bidder meeting the

specifications as set forth in the Invitation to Bid, as recommended in the memorandum of April 23, 2007.

7.S. ACCEPTANCE CHANGE ORDER NO. 28, FOR THE NEW COUNTY ADMINISTRATION BUILDINGS

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously authorized the County Administrator to execute Change Order No. 28, which will then result in a decrease to the GMP of \$28,652.00 and an increase to the Owner's Contingency in the amount of \$1,769.00, as recommended in the memorandum of April 25, 2007.

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

7.T. OPERATING LEASE RENEWAL ON MODULAR BUILDING FORMERLY OCCUPIED BY THE SUPERVISOR OF ELECTIONS

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the month-to-month renewal of the lease in anticipation of either purchasing the modular or removing the structure, as recommended in the memorandum of April 25, 2007.

**7.U. DECLARE EXCESS EQUIPMENT SURPLUS FOR SALE OR
DISPOSAL**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously declared the items on the Excess Equipment List as surplus and authorized its sale and/or proper disposal. The Board also granted authority to have the surplus equipment delivered to the Indian River County Fairgrounds where it will be sold at public auction on May 19, 2007, as recommended in the memorandum of April 20, 2007.

**7.V. CONTINUING CONTRACTS FOR PROFESSIONAL
SERVICES 2007-UCP-2947**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the First Amendment for an additional three (3) years, and authorized the Chairman to execute same as presented. The Board also approved the Selection Committee's recommendations for Continuing Contracts with the five Engineering Firms selected (Carollo Engineers, Carter Associates, Malcolm Pirnie, Hazen and Sawyer, Stanley Consultants) and approved Continuing Contracts for Professional Services for these firms for a three year period, renewable for an additional three years, and

authorized the Chairman to execute same, as recommended in the memorandum of March 26, 2007.

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

7.W. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT
FOR IRC BID # 2007038, WEST REGIONAL WASTEWATER
TREATMENT PLANT EXPANSION, UTILITIES
DEPARTMENT

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously awarded the Bid to Wharton-Smith, Inc., as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid; approved the Sample Agreement; and authorized the Chairman to execute said Agreement when required performance and payment bonds have been submitted along with appropriate certificate of insurance and the County Attorney has approved the Agreement as to form and legal sufficiency, all as recommended in the memorandum of April 24, 2007.

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

7.X. PACE PROJECT DEMOLITION OF STRUCTURES

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously authorized up to \$6,000.00 be donated to the PACE Project from the General Fund for the sole purpose of paying associated landfill fees, as recommended in the memorandum of April 24, 2007.

7.Y. WOODSIDE TRILLIUM, L.L.C.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS TRILLIUM WEST

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously granted final plat approval for Trillium West Subdivision, as recommended in the memorandum of March 13, 2007.

7.Z. REQUEST PERMISSION TO ADVERTISE FOR PUBLIC HEARING – FLORIDA POWER & LIGHT FRANCHISE AGREEMENT

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously authorized staff to advertise a public hearing on June 5, 2007 to consider the adoption of an ordinance containing a new

franchise agreement with Florida Power & Light, as recommended in the memorandum of April 25, 2007.

8.A. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

9. PUBLIC ITEMS -

A. PUBLIC HEARINGS

1. INDIAN RIVER COUNTY'S REQUEST FOR SPECIAL EXCEPTION USE APPROVAL FOR A LIMITED PUBLIC UTILITIES USE TO BE KNOWN AS ROCKRIDGE PUMPING FACILITY "RESIDENCE". (QUASI-JUDICIAL)

(Clerk's Note: This item was heard following the break at 5:19 – 5:39 p.m. and after Item 13.A.1.)

Planning Director Stan Boling presented this item to the Board by recapping his memorandum of April 18, 2007. He outlined that this is a proposal for a pumping facility in a residential zoning district, which constitutes limited utility use and special exception use. He asked the Board to approve staff's recommendation with conditions as outlined on page 241 of the backup.

The Chairman opened the public hearing. There were no speakers and the Chairman closed the public hearing.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously found that, in conjunction with the recommended condition:

(A) it is empowered under the provisions of Chapter 971 to review the special exception applied for; (B) the granting of the special exception approval will not adversely affect the public interest; (C) the application satisfies the general and specific criteria required for special exception approval; and (D) the condition stated below is adequate to ensure compatibility between the special exception use and surrounding land uses.

The Board also granted special exception use approval for the limited utilities use with condition that the facility must be maintained with the appearance of a “residence” as shown on the approved site plan, all as recommended in the memorandum of April 18, 2007.

9.B. PUBLIC DISCUSSION ITEMS

1. REQUEST TO SPEAK FROM MAYOR TOM CADDEN, TOWN OF INDIAN RIVER SHORES, REGARDING CHARTER GOVERNMENT

(Clerk’s Note: this Item was heard prior to Item 7 – Consent Agenda - **9:20 a.m.**)

Mayor Cadden, believed the County should have a good plan for maintaining its good character and to control growth but not through Charter government. He requested that the County Commission vote to stop the Charter process now, to pay all the incurred expenses, and not fund with taxpayers’ money, any future expenses relating to Charter government.

Mayor Cadden believed the Board should move forward with the Special Act, Charter government and the ILA at the same time. He thought it was time to bring in the land

use planners to establish a plan for the County not unlike the Paladin's plan. He thought it was imprudent to set a referendum in the middle of hurricane season (August).

Chairman Wheeler gave his perspective on the density and land use that could occur within the City limits if Fellsmere followed through on its proposal to annex new lands. He disagreed with talk about "rushing" the Charter, and was opposed to urban sprawl.

No Board action taken or required.

**9.B.2. REQUEST TO SPEAK FROM HENRY RODRIQUES
REGARDING BEING HARASSED BY CODE
ENFORCEMENT BUT NEIGHBORS NOT CITED**

Henry Rodrigues was not present.

**9.B.3. REQUEST TO SPEAK FROM JOSEPH PALADIN,
CHAIRMAN, GROWTH AWARENESS COMMITTEE,
REGARDING COMMERCIAL IMPACT FEES**

Mr. Joseph Paladin requested that his item be tabled until May 15, 2005, at which time his request would be brought back under Item 5 - "Proclamations and Presentations".

9.C. PUBLIC NOTICE ITEMS

**1. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR MAY
8, 2007:**

- A. COUNTY INITIATED: REQUEST TO AMEND THE COMPREHENSIVE PLAN BY REVISING FUTURE LAND USE ELEMENT POLICIES 1.2 AND 1.14; AND BY CREATING NEW FUTURE LAND USE ELEMENT POLICIES 1.14.1 AND 1.14.2 FOR ESTABLISHING THE MHRP, MOBILE HOME RENTAL PARK (UP TO 8 UNITS/ACRE), LAND USE DESIGNATION (LEGISLATIVE)**
- B. COUNTY INITIATED: REQUEST TO CHANGE THE LAND USE DESIGNATION FROM M-1, MEDIUM DENSITY RESIDENTIAL-1 (UP TO 8 UNITS/ACRE); L-2, LOW DENSITY RESIDENTIAL-2 (UP TO 6 UNITS/ACRE); AND C/I, COMMERCIAL INDUSTRIAL, TO MHRP, MOBILE HOME RENTAL PARK (UP TO 8 UNITS/ACRE), FOR ±806.23 ACRES OF MOBILE HOME RENTAL PARKS THAT ARE ON PARCELS 10 ACRES IN SIZE OR GREATER AND ARE LOCATED WITHIN THE UNINCORPORATED PORTIONS OF THE COUNTY. PARKS ARE UNDER MULTIPLE OWNERSHIPS (LEGISLATIVE)**
- C. COUNTY INITIATED: REQUEST TO AMEND THE COMPREHENSIVE PLAN'S FUTURE LAND USE ELEMENT BY ELIMINATING POLICIES 1.34 AND 1.35 FOR NEW TOWNS (LEGISLATIVE)**

D. COUNTY INITIATED: REQUEST TO CREATE A PUBLIC SCHOOL FACILITIES ELEMENT AND AMEND PORTIONS OF THE INTERGOVERNMENTAL COORDINATION ELEMENT AND THE CAPITAL IMPROVEMENTS ELEMENT OF THE COMPREHENSIVE PLAN AS RELATED TO PUBLIC SCHOOL FACILITIES ELEMENT (LEGISLATIVE)

E. COUNTY INITIATED: REQUEST TO AMEND THE COMPREHENSIVE PLAN'S TRANSPORTATION ELEMENT (LEGISLATIVE)

10. COUNTY ADMINISTRATOR'S MATTERS

A. MARINE RESOURCES COUNCIL GRANT APPLICATION

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved **Resolution 2007-040** in support of the Marine Resources Council's application for a Grant to purchase property along the St. Sebastian River.

10.B. JOINT WORKSHOP WITH THE CITY OF FELLSMERE

Administrator Baird presented the dates (May 23 or 24, 2007) the City of Fellsmere would be available to have a joint meeting with the County. He requested that the Board approve May 23, 2007 to ensure County staff's attendance at the Workshop.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously directed staff to schedule a Joint Workshop with the City of Fellsmere for May 23, 2007 at 7:00 p.m. in the City of Fellsmere Council Chambers.

11.A COMMUNITY DEVELOPMENT

1. REQUEST FOR AUTHORIZATION TO ENTER INTO A STATE FUNDED SUBGRANT AGREEMENT FOR DEVELOPMENT OF A MODEL DATABASE TRACKING SYSTEM FOR SCHOOL CONCURRENCY IMPLEMENTATION

Community Development Director Bob Keating asked the Board to defer this item because staff was working with the School Board staff on the issue.

ON MOTION by Commissioner Davis, SECONDED by Chairman Wheeler, the Board unanimously approved to table this item for a future date.

11.B. EMERGENCY SERVICES - NONE

11.C. GENERAL SERVICES - NONE

11.D. HUMAN RESOURCES

1. BOCC – ORGANIZATIONAL STRUCTURE

This item was tabled at the Request of Administrator Baird.

On Motion by Commissioner O’Bryan, SECONDED by Commissioner Davis, the Board unanimously approved to table Item 11.D.1, “BOCC – Organizational Structure” to allow sufficient time for review, as recommended by County Administrator Baird.

11.E. HUMAN SERVICES - NONE

11.F. LEISURE SERVICES – NONE

11.G. OFFICE OF MANAGEMENT AND BUDGET - NONE

11.H. RECREATION - NONE

11.I.1 PUBLIC WORKS – CR 512, PHASE III, CR 510 – PROJECT #9611 & 0001, BID NUMBER 2006065, CHANGE ORDER NO. 8

ON MOTION by Commissioner Davis, SECONDED by Commissioner O’Bryan, the Board unanimously approved Change Order No. 8 increasing the contract amount by

\$25,522.10 and the new contract amount will now be \$13,935,167.60. \$3,617.60 will be reimbursed by the City of Sebastian for modifications to the Blossom Ditch Diversion, all as recommended in the memorandum of April 23, 2007.

**11.I.2 PROPERTY ACQUISITION, 6580/6860 85TH STREET, CR 510
WIDENING AND IMPROVEMENTS COUNTY PROJECT NO.
0610 CHESTER & LYNN WILCOX, OWNER**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Option 1, the \$117,000.00 purchase, and authorized the Chairman to execute the Agreement to Purchase and Sell Real Estate, as recommended in the memorandum of April 16, 2007.

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

**11.I.3 LAND PURCHASE FOR BARBER STREET RIGHT-OF-WAY,
SEBASTIAN HIGHLANDS LOT – MARONDA HOMES, INC.,
SELLER**

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the \$75,500.00 purchase, and authorized the Chairman to

execute the Agreement, as recommended in the memorandum of April 17, 2007.

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

11.I.4 DEVELOPER'S AGREEMENT BETWEEN INDIAN RIVER COUNTY, FLORIDA, AND TABERNACLE BAPTIST CHURCH OF VERO BEACH, INC.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the \$103,000.00 purchase, plus the appraisal fee of \$1,750.00 for a total expenditure of \$104,750.00, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of April 13, 2007.

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

11.I.5 CHANGE ORDER #3 FOR 41ST STREET IMPROVEMENTS AND INTERSECTION IMPROVEMENTS 43RD AVENUE AND KINGS HIGHWAY, INDIAN RIVER COUNTY PROJECT 0016 & 0236, BID #7074

MOTION WAS MADE by Vice Chair Bowden, SECONDED by Commissioner Davis, to approve Change Order No. 3 increasing the contract amount by \$182,261.61 and extending the contract time by 131 days,

as recommended in the memorandum of April 24, 2007.

The project would be completed by August 12, 2007.

Public Works Director Jim Davis briefly updated the Board on this issue.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

11.J. UTILITIES SERVICES –

1. 27TH DRIVE PETITION WATER SERVICE (NORTH OF 4TH STREET), INDIAN RIVER COUNTY PROJECT NO. UCP – 2906, PRELIMINARY ASSESSMENT RESOLUTIONS I AND II

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

County Attorney Collins advised that these were Utility Resolutions I and II that had already been brought before the Board, and this Resolution needs to be modified to reflect that it is a “Corrective Resolution” because new parcels are being added.

MOTION WAS AMENDED by Commissioner O’Bryan, SECONDED by Commissioner Davis, to include Attorney Collins comments.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved **Corrective Resolution 2007-042** providing for water main expansion along 27th Drive north of 4th Street in Indian River County, Florida; providing the total estimated cost, method of payment of assessments, number of annual installments, and description of the area to be served.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Commissioner Davis, the Board unanimously approved **Corrective Resolution 2007-043** setting a time and place at which the owners of properties located along 27th Drive north of 4th Street in Indian River County, Florida, and other interested persons, may appear before the Board of County Commissioners of Indian River County and be heard as to the propriety and advisability of constructing the water main extension, as to the cost thereof, as to the manner of payment therefore, and as to the amount thereof to be specially assessed against each property benefited thereby.

11.J.2. WORK ORDER NO. 4 WITH SCHULKE, BITTLE & STODDARD, LLC FOR DESIGN OF MASTER PLAN WATER MAIN, VERO LAKE ESTATES, UCP - 2958

Commissioner Davis acknowledged the help of Susan Thomas and briefly described the Project. He proposed a new approach that would put all residents within 1000 feet of a fire hydrant.

Utilities Director Erik Olson said staff was looking into that process.

ON MOTION by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board unanimously approved Work Order No. 4 with Schulke, Bittle & Stoddard, LLC, in the amount of \$154,300.00 to provide surveying, design, permitting and construction services for the subject project, and authorized the Chairman to execute same, as recommended in the memorandum of April 18, 2007.

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

11.J.3 CONSTRUCTION OF THE ROCKRIDGE SEWER SYSTEM

- UCP #2521

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously awarded the Bid to Gianetti Contracting of Florida, Inc., as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid. The Board also approved the Sample Agreement and authorized the Chairman to execute said Agreement when required performance and payment bonds have been submitted along with appropriate certificate of performance and payment bonds have been submitted along with appropriate certificate of insurance and the County Attorney has approved the Agreement as to form

and legal sufficiency, as recommended in the memorandum of April 10, 2007.

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

12. COUNTY ATTORNEY

A. FELLSMERE RESOLUTION 07-H INITIATING RESOLUTION UNDER CHAPTER 171, PART II, FLORIDA STATUTES, KNOWN AS “THE INTERLOCAL SERVICE BOUNDARY AGREEMENT ACT”.

(Clerk’s Note: This Item was heard after Item 9.B.1 and prior to the Consent Agenda)

Assistant County Attorney Marian Fell presented this item to the Board explaining that this summarizes the Interlocal Service Boundary Agreement Act, which provides a collaborative tool for local governments to work together in the areas of planning, land use and annexation. She explained the purposes and intent of the Resolution and asked the Board to direct staff to come back with a responding Resolution with any and all issues the County would like to include.

Attorneys Collins and Fell responded to questions from Commissioner O’Bryan regarding the area on the map that refers to the potential future annexations and whether it was in the County’s interest, or should they expand that and look at a bigger window. Commissioner O’Bryan’s preference was to include all the unincorporated lands in the response.

Commissioner Davis agreed with Commissioner O'Bryan and thought they ought to look at the inclusion of the transfer of development rights as well. Vice Chair Bowden agreed. Chairman Wheeler thought we could move forward with a response to the Resolution.

Vice Chair Bowden talked about Fellsmere Farms and the water issue and thought the County needed to have representation on the Water Management District Board.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Flescher, under discussion, to direct staff to draft a Responding Resolution that expands the area of negotiation to include all unincorporated land in the County, and to open the discussion to all aspects of future land use including density, height, land use, and water services.

Commissioner Flescher believed the Interlocal Agreement (ILA) is where they needed to put more energy. He talked about a meeting he attended in Sebastian and asked staff to give an account of those proceedings.

Assistant County Administrator Mike Zito attended the Meeting in Sebastian and learned that they were discussing the framework under which we could discuss the important issues of an Interlocal Service Boundary Agreement. They also discussed issues regarding development near the I-95 interchange, the Hanson Property, and Fellsmere Joint Venture properties. The meeting was informational in nature and no actions were taken.

Commissioner Flescher's intent was to show that all the municipalities were looking at the ILA seriously. He saw the need to call an open general meeting with all municipalities, so we could have an open free agreement and to move forward as soon as possible.

Chairman Wheeler reiterated his support for the ILA and moving forward with all three processes together. He thought it would be a huge mistake not to continue with Charter and the ILA at the same time. Commissioner Davis disagreed.

Attorney Collins repeated the Motion to direct staff to draft a responding resolution to include all unincorporated areas (including the 18,000 to 20,000 under the annexation application) and land use issues, with direction to bring this back in sixty (60) days.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board directed staff to draft a Responding Resolution that expands the area of negotiation to include all unincorporated land in the County, including the 18,000 acres under annexation application, and to open the discussion to all aspects of future land use including density, height, land use, and water services. The Board also directed staff to bring this back before the Board in sixty (60) days.

**12.B. PRESENTATION OF DRAFT CHARTER ORDINANCE BY
C. ALLEN WATTS, ESQ., AND REQUEST FOR BOARD
DIRECTION ON DRAFT CHARTER ORDINANCE TO
CONSULTANTS AND STAFF**

(Clerk's Note: this Item was heard after Item 12.A. and prior to the Consent Agenda)

C. Allen Watts, Esquire, briefly summarized how county government evolved over the years. He also talked about duties of the Clerk of the Court and responsibilities of county government in the early years before growth became an issue.

Attorney Watts talked briefly about Charter government in Florida, pointing out that about 80-85% of Florida's population is under Charter government. He felt the one thing pertinent to today's discussion was that under the Local Government Comprehensive Planning Act of 1985 every city and county has to have a Comprehensive Plan. He advised that the Board of County Commissioners could not adopt a Charter they could only propose one. He said the Constitution is very specific that only by a vote of the people could they adopt, amend or repeal a Charter. A Charter can be proposed by the Legislature, by Charter Commission or an Ordinance of the Board of County Commissioners.

Attorney Watts stated that the Draft Charter for review is being presented in the form of a proposed ordinance complete with a ballot summary and questions. He pointed out that the main rule for the Ballot Question is, it needs to be clear, not misleading, and has to be 75 words or less.

Attorney Watts presented the Draft Charter providing detailed explanations of all additions and deletions to the draft document.

The Chairman called a break at 10:39 a.m. and reconvened the meeting at 10:56 a.m. with all members present.

(Clerk's Note: Chairman Wheeler announced that they would approve the Consent Agenda, move to Item 13.A.1 discuss whether or not there would be a public hearing for Charter government and come back to this item).

On Motion by Commissioner Davis, **SECONDED** by Commissioner O'Bryan, the Board unanimously approved for the Chairman to delay discussions on this Item, approve the Consent Agenda, then move to Item 13.A.1, thereafter returning to this Item.

(Clerk's Note: After returning from a break at 3:38 p.m. the Chairman announced that they would resume discussions on this Item).

Chairman Wheeler invited Attorney Watts to resume his presentation.

Attorney Watts requested instructions from the Board on whether to include a Preamble in the Draft Charter.

Board members briefly discussed the importance of including a Preamble.

ON MOTION by Commissioner O'Bryan, **SECONDED** by Chairman Wheeler, the Board by a 2-3 vote (Commissioners Davis, Bowden and Flescher opposed) **DENIED** the inclusion of a Preamble in the Draft Charter document.

Attorney Watts explained the provisional changes and requested permission to include the following Sections in the Draft Charter document:

Section 1.1. (Creation and General Powers of Home Rule Charter Government.)

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved the inclusion of Sections 1.1 through 1.3 in the Draft Charter document.

Section 1.4. (Special Powers and Duties of County)

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O’Bryan, the Board unanimously approved the inclusion of Section 1.4 in the Draft Charter document.

Section 1.5 (Transfer of Powers)

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Wheeler, the Board by a 3-2 vote (Commissioners Davis and Bowden opposed) approved the inclusion of Section 1.5 in the Draft Charter document.

Section 1.6 (Separation of Powers) specifically referring to the “County Manager” as “County Administrator”.

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved the inclusion of Section 1.6 in the Draft Charter document.

Section 1.7 (Relation to State Law) was deemed standard language and **did not require approval.**

Section 1.8 (Conflict of County Ordinances with Municipal Ordinances)

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved the inclusion of Section 1.8 in the Draft Charter document.

Under **Section 1.8.1** with subsections 1 through 4 (Urban Services Boundary for the County and its Cities), Attorney Watts explained that he had added language to show the purpose of the referendum. Said provision read, *"If permitted by law, such plan amendment shall be effective only upon vote of the electors, of the County at a referendum. If a referendum is not permitted, such amendments shall be adopted by ordinance approved by not less than four Commissioners."* Attorney Watts wanted to revise this Section to establish county pre-emptive planning jurisdiction. He also discussed new language for Section 1.8.1.1 – Urban Services Boundary, which provides that the County's Comprehensive Plan in effect on May 1, 2007 establishes an urban services boundary.

Attorney Watts responded to questions from Vice Chair Bowden as to whether cities have any recourse if they run into this situation regarding annexed lands outside the urban service boundary. He asked the Board if they wanted the stricture of a super-majority to apply to all amendments of the urban service boundary or to only those, which occur inside a city. Chairman Wheeler and Commissioner O'Bryan favored "all".

Chairman Wheeler wanted to see language added that says, "unless provided by Interlocal Agreement", as it pertains to conflicting ordinances between a municipality and county.

Attorney Watts agreed that there could be an inclusion that reads, "The County Plan prevails except when otherwise provided by an Interlocal Agreement."

Attorney Collins believed it would be useful to have that provision.

Warren Dill, Fellsmere City Attorney, had also come up with similar provisions for inclusion, which states, "... unless otherwise provided by Interlocal Service Boundary Agreement."

Discussion ensued among Board members and Attorney Watts on whether a super-majority vote was required to approve an Interlocal Agreement.

Rich Stringer, City Attorney, City of Sebastian, also spoke to the wording of the provision whether to require super-majority vote for the approval of the Interlocal Service Boundary Agreement, and believed in this instance it may not be needed.

Attorney Watts reminded everyone that they are talking about the county enactment of an ordinance approving an Interlocal agreement and whether the county should subject itself to a requirement of the majority plus one vote. He thought that was a policy choice to be put in the Charter.

George Christopher, Planning & Zoning Commission, asked if the substitution on page 8 was for the entire Section and subsections under Section 1.8. In which case they would be dropping the referendum requirement on the density increased vote if legally allowed, and hoped that was not what they were agreeing to.

Attorney Watts read for the record the substituted language for Section 1.8.1.1. - (Urban Services Boundary).

Commissioner O'Bryan asked that the wording "... if a referendum is not permitted, such amendment shall be adopted by ordinance of not less than four Commissioners", be changed to "majority plus one vote".

Mr. Christopher suggested the inclusion of Section 1.8.1.4 regarding densities, which he thought was a critical provision. Discussion ensued on whether to take out this Section.

Attorney Watts advised that this was a policy choice, and if the Board wanted to limit the referendum to density increase, which would apply only to residential Comprehensive Plan changes, they could do that. He felt the open question was, “Shall we limit the provision for referendum super-majority to amendments effecting an increase in density?”

Attorney Collins sought clarity on the final wording for S. 1.8.1.4 regarding densities. Attorney Watts explained that only the following sentence would be added: “If permitted by law, any such plan amendment effecting an increase in residential density shall be effective only upon vote of the electors of the county at a referendum, and if a referendum is not permitted such amendments should be adopted by ordinance approved by not less than a majority plus one.”

Attorney Watts asked for the Board’s pleasure on the proposed Sections 1.8.1 and 1.8.1.1. Board members were comfortable with those provisions.

Attorney Dill questioned language in Section 1.8.1.1 which states that the “Board of County Commissioners may amend its comprehensive plan... in the manner provided by law: ...” He suggested the provision read, “.... in the manner provided herein.” He understood this would only apply to density and perhaps intensities and asked why they could not leave the industrial/commercial to the cities without the county having to vote every time a city wants to do an industrial or commercial. It was explained to him that intensities would be left out.

Commissioner O’Bryan asked if they could add a Section 1.8.1.2 that reads, “... with the exception of lands that are annexed for commercial/industrial, the above provisions do not apply.” Commissioner Davis did not believe that was good policy.

After lengthy discussions among the Attorneys and Board members, on whether to include or exclude certain language to stipulate prevailing ordinances between municipality and county, it was decided that they needed to get together and work out a simple set of language as to what was required.

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved to direct its Legal staff to get together with Attorney Watts, and the Legal staff of the Cities of Sebastian and Fellsmere, to work out a simple set of language that would be agreeable to all.

Under **Section 1.8.2** (Maximum countywide building types) Attorney Watts explained that this would be a second subject of county’s pre-emptive jurisdiction.

Chairman Wheeler wanted language added that sets a maximum height. **Attorney Watts** advised that the Board might not want to do that by Charter but by Ordinance.

Nancy Offutt, Vero Beach, commented on prior discussions about building heights and new construction and asked what about destruction, grandfathering-in, or non-conforming uses.

Attorney Watts explained that this language is optional and they do not have to do anything at all. If a grandfathering-in provision was required it could be placed in the Ordinance.

Chairman Wheeler asked if we could put in building heights with exceptions like we currently have in our ordinances.

Attorney Watts advised that in a Charter you either authorize or limit Legislation but you do not actually enact it in the Charter; it is left to the legislative process, and would take a referendum to undo.

Attorney Collins agreed that maximum height should not be in the Charter but once there are ordinances establishing maximum heights, any increase would require a referendum.

Attorney Dill thought this was a slippery slope and requested that the Board exclude industrial and commercial structures from this provision.

Attorney Watts' advice was to continue Section 1.8.2 as a permissive section, but once they enact it, they could provide that any ordinance increase in height requires referendum in a non-industrial zone. His usual advice to counties contemplating Charter is not to use the Charter as a place to do legislation because facts and legislative changes happen.

(Clerk's Note: Commissioner Davis exited the meeting at 4:47 p.m.)

Article 2 – Legislative Branch

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board by a 4-0 vote (Commissioner Davis absent) approved the inclusion of all of Article 2, as amended, in the Draft Charter document.

Article 3 – Administrative Branch

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Wheeler, the Board by a 4-0 (Commissioner Davis absent) approved inclusion of Article 3, as amended, in the Draft Charter document.

Article 4 – County Attorney; Article 5 – County Officers; Article 6 – Powers Reserved to the People (Initiative and Recall)

(Clerk’s Note: Commissioner Davis rejoined the meeting at 4:51 p.m.)

ON MOTION by Commissioner O’Bryan, SECONDED by Chairman Wheeler, the Board unanimously accepted the wording of Articles 4, 5 and 6, as amended, for inclusion in the Draft Charter document.

Article 7 - Miscellaneous Provisions.

Attorney Watts recommended, under Section 7.3.2, that they add to the restrictions on Charter amendments the same addition made to the restrictions on ordinances, (this is, they cannot apply to the management powers or duties of the county’s constitutional officers.)

Commissioner Davis explained the problem he has with this new language. Discussion ensued among Board members and Attorney Watts on whether to have language to change the cycle of the Charter to provide three (3) members from Charter Review, one (1) from each municipality, and two (2) appointed by each Commissioner.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously accepted the wording of Article 7, as amended, for inclusion in the Draft Charter document.

Further discussion ensued regarding provisions for Charter repeal.

George Christopher thought it was important the way this is drafted that an amendment only need majority vote, and thought they had all talked about having a 60% vote to amend the Charter. He drew attention to page 21, Section 7.3.3, which states, "... Passage of proposed amendments shall require approval of a majority of electors voting in said election."

Chairman Wheeler favored 60% of the votes.

Attorney Watts could not say whether the Constitution authorizes it or that it does not explicitly prohibit a 60% number. He advised that if it was put in and someone wanted to challenge it they could.

Chairman Wheeler thought it was worth the risk and wanted to have it added. Commissioner Davis favored majority all the way across. Vice Chair Bowden believed majority makes sense.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board by a 4-1 vote (Chairman Wheeler opposed) approved the substituted language to Section 7.3.3 as follows: "... Passage of proposed amendments shall require approval of a simple majority 50% plus 1 of electors voting in said election."

Commissioner O'Bryan agreed with Commissioner Davis.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously approved Section 7, as amended, (with the additional wording in S. 7.3.2 and the revised wording under S. 7.4) for inclusion in the Draft Charter document.

Attorney Watts promised to give the Board a finished Charter document with the amendments approved today. Chairman Wheeler thanked Attorney Watts for his assistance.

12.C. AUTHORIZATION FOR ADDITIONAL FUNDING FOR C. ALLEN WATTS, ESQ.

(Clerk's Note: this Item was heard after Item 11.J.3)

Attorney Collins reminded the Board that Mr. Watts was retained to provide legal services with respect to developing a Charter ordinance and also to assist with annexation issues. Mr. Watts has notified the Legal Department that he has approached the \$5,000.00 limit of the original authorization. Attorney Collins requested authorization to continue to have Mr. Watts on retainer with an additional \$10,000.00 for legal services, as needed.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner O'Bryan, the Board unanimously authorized the additional amount of not-to-exceed \$10,000.00 for additional legal services by C. Allen Watts, as recommended in the memorandum of April 25, 2007.

13. COMMISSIONERS' ITEMS

A. COMMISSIONER GARY C. WHEELER, CHAIRMAN

1. SETTING OF MAY 15, 2007 AS THE FIRST PUBLIC HEARING FOR CHARTER GOVERNMENT

Chairman Wheeler asked for dates to be set for public hearings to have public input on the Charter and how it would be adopted. The tentative dates proposed for the public hearings were May 15, 2007 and May 22, 2007. The Chairman then opened the floor to public comments.

Fred Mensing, was opposed to Charter government.

Al Minner, Sebastian City Manager, 386 Belfast Terrace, speaking on behalf of the Mayor of Sebastian, wanted to see a delay of the Charter and favored seeing the advancement of the Interlocal Agreement (ILA).

Jerry Swanson, 3001 Ocean Drive, opposed Charter government and supported the ILA.

John Williams, 1535 Smugglers Cove, begged the Board to go forward with Charter and give the opportunity to the people to vote on issues that will affect them.

Rene Renzi, Waverly Place, and Civic Association of Indian River County, agreed with John Williams and saw Charter as a simple extension of democracy.

Ray Scent, 1615 71st Court, was opposed to Charter government.

Nancy Cook, Vero Beach, was opposed to Charter government and favored the ILA.

Catherine Schenk, 2800 Indian River Boulevard, supported Charter government.

Bill Menzies, 1943 Tamara Trail, urged the Board to have the next public hearing, and to let the people decide between Interlocal and Charter government.

Russel Herman, 586 Redwood, speaking on behalf of the Friends of St. Sebastian River, requested that the Board let the people vote on this important matter, and to keep Charter government alive, but not to overly rush the date on the vote.

Robert Cook, 710 Riomar Drive, wanted the Charter process to stop now.

Don Studley, the Polo Grounds, was opposed to Charter government.

Nicholas Schaus, 137 Anchor Drive, hoped the Board would leave Charter issues to the voters to decide.

Peter Seed, Indian River Shores, believed Charter needs additional work, it should go to public hearings, and if the Board were not prepared to proceed he would feel betrayed.

Carol Webb, 911 Ladybug Lane, believed it was not prudent to leave a decision of this magnitude to the elected officials on how land use should be determined. She felt the voters should have a voice.

George Hamner, Jr., Sandfly Lane, had no real disagreement with Charter, but felt the Board should first pursue the ILA, move slower on Charter, and table the public hearings for the future.

Jeff Bass, 1281 Indian Mount Trail, did not understand Charter government. He believed planning was the only way to control how a community looks and grows. He urged the Board to kill this initiative and focus on plans for the future.

Attorney Collins responded to comments regarding compilation of the Charter without a Charter Review Committee.

Adriene Cuffe, 695 43rd Avenue, believed they did not have enough information on Charter and did not know which way to go. She wanted to know how a Charter could possibly help us, and what Interlocal Agreements may say.

James Goddard, 600 Riomar Drive, did not know which way to go and thought the decision to put this before the people was the right one.

Bob Smith, 295 Coconut Palm Road, urged the Board to have the hearings on Charter government.

Jens Tripson, 2525 14th Street, supported putting the Charter to the people at a public hearing.

Alfred Baldwin, Lindsay Lanes, felt there was no guarantee that the ILA would pass or go forward. He hoped the Board would give them the opportunity to vote and make decisions.

Debra Ecker, 550 Riomar Drive, believe that to deny going forward with the County Charter would undercut the County's land use regulations and implementations.

Ital Veron urged the Board to vote for the public hearings.

Dennis Drake, 748 Banyon Road, asked the Board and all concerned to be cautious to the voice of the majority and make sure the minority is protected.

Diane George, 1515 27th Avenue, directed comments to Commissioner Flescher regarding his statement to the Press Journal.

Commissioner Flescher responded to comments from Ms. George regarding his “political demise” and statements to the Press.

Pat Corrigan, 3645 90th Avenue, was opposed to Charter government but favored the ILA.

Nancy Offutt, Vero Beach, representing Treasure Coast Builders Association, asked the Board to refrain from going forward with Charter government and let planning do its work.

The Chairman called at break at 12:43 p.m. and reconvened the meeting at 1:01 p.m.

Jerry Thistle, 2656 Paloma Drive, did not think he knew enough to say we should go to Charter government.

Mark Tripson, 5020 12th Street, urged the Board to leave the urban service boundary alone, and did not support Charter government.

Vin Bailey urged the Board to kill the Charter initiative and work for agreements with the municipalities.

Guy Barber, 2015 Highland Drive SW, talked about the power and influence the IRNA has over the Board and the County.

Mike Ray, 440 Greystone Court SW, presented growth rate analyses from other counties to dispel fear that this County's growth rate is out of control. He challenged the Board to make an educated decision and stop the process of voting against this Charter.

Chairman Wheeler responded to comments regarding "monopoly and scare tactics".

Bob Cole, 98 North Bay Street, Fellsmere and Vice Chairman of Fellsmere Planning & Zoning Commission, agreed that the public needs to be informed. He argued that it was not the voters in Fellsmere that County residents needed to be concerned about, but with our representation. He displayed a map showing Fellsmere's City limits, its surrounding areas, and the two planned annexations. Mr. Cole believed both alternatives (Charter & the ILA) should go forward.

Richard Baker, Sebastian, thought the Board should go on through the process, bring out the issues, and let the voters decide.

Don Right, 720 N. Fisher Circle, Sebastian, objected to how the Charter process is being handled. He suggested Charter be reviewed before moving forward.

Tommy Barnes, 602 Tulip Lane, felt Charter was bad for Indian River County and should be scrapped.

Joseph Schulke, Sebastian, did not believe Charter government was the right answer.

Honey Minuse, Vero Beach, urged the Board to bring the Charter movement to public hearings.

Richard Dunlop, 426 Indies Drive, gave his views on the Interlocal Agreement. He informed the Board that the Town of Orchid would be having its third meeting on the ILA, tomorrow at 2:00 p.m. in the Orchid Town Hall. He did not think Charter should be on the fast track and urged the Board to stop Charter now.

Mayor of Fellsmere **Sara Savage**, 235 S. Hickory Street, Fellsmere, also believed Charter was going too fast. She had a meeting with Chairman Wheeler and offered to table Fellsmere's annexation if the Chairman would stop the Charter process but the Chairman said no they would have to take it away altogether. She believed the County needed to revisit the Comprehensive Plan because it is over 20 years old. She felt the ILA was the way to go.

Chairman Wheeler responded to the Mayor's remarks that he had refused to stop the Charter process if Fellsmere tabled its annexation proposal.

Ed Nelson, 8775 20th Street, requested that the Board publish a copy of the draft Charter document in the Newspaper, so people would be better informed.

Bill Teston, 736 Iris Lane, questioned the authority of the Chairman in making decisions with the Mayor of Fellsmere on what should be done for the County. He also questioned the wisdom to proceed with this process without the due consideration of the voters.

Chairman Wheeler responded to the questions of Mr. Teston. He reiterated prior comments that if the annexations were off the table he would be willing to freeze Charter.

John Higgs, 45 Wax Myrtle Way, believed that if Fellsmere takes annexation off the table and the County put a hold on Charter, it would enable everyone to discuss the matter and make the right decisions.

Jason Nunemaker, City Manager, Fellsmere, did not think this was an appropriate forum for negotiations, but wanted to reiterate the proposals on the table. Fellsmere was willing to meet with the County to discuss the issues.

Commissioner Davis applauded the Chairman's efforts in the push for Charter government, but felt the mechanism to get there is one that continues to backfire on us.

Motion WAS MADE by Commissioner Davis, SECONDED by Vice Chair Bowden, to kill the Charter, move forward with the Interlocal Agreement, and if that fails, have other Commissioners bring Charter back and move forward with the process.

Vice Chair Bowden seconded the Motion in hope and belief that we will make tremendous headway with the ILA. She requested that the County seek the assistance of outside Counsel to move us forward with the ILA.

Commissioner O'Bryan believed a better alternative would be to go ahead with the first public hearing and have a second public hearing in the future, and that would give them an option if the ILA does not work. He believed they need to keep all options on the table and was not in favor of killing the Charter completely.

Commissioner Flescher wanted to have the public hearings to better inform the people because they do not know enough about Charter government. He appreciated the work Mr. Watts has done on the Charter application and did not want to see taxpayers money wasted.

Chairman Wheeler believed it was important that we do not kill Charter now and that the public hearings be held.

Chairman Wheeler and Commissioner Davis engaged in further discussion on the issues. Commissioner Flescher asked Mr. Watts what would happen to the cost of his work should Charter be denied today. Mr. Watts explained how the Board would have to give direction on changes to be made.

The Chairman CALLED THE QUESTION. By a 2-3 vote (Commissioners Wheeler, Flescher and O'Bryan opposed), the MOTION to stop the Charter process, pay incurred expenses, and proceed post haste with the Interlocal Agreement, FAILED for lack of a super majority vote.

The Chairman called a recess at 3:19 p.m. and reconvened the meeting at 3:38 p.m., with all members present. The Chairman announced that he would continue with Item 12.B.

(Clerk's Note: This item was continued following Item 12.B. at 5:20 p.m.)

Chairman Wheeler asked for a Motion to set May 15th as the first public hearing for Charter Government.

MOTION WAS MADE by Commissioner Davis, SECONDED by Vice Chair Bowden, to DENY setting May 15, 2007 as the First Public Hearing for Charter Government.

Discussion ensued among Board members regarding tabling this item and working towards the ILA.

The Chairman CALLED THE QUESTION. By a 4-1 vote (Chairman Wheeler opposed) the Board DENIED setting May 15, 2007 as the First Public Hearing for Charter Government.

Administrator Baird thought it would be in everyone's best interest to table Human Resources item (11.D.1) "BOCC Organizational Structure".

On Motion by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved to table Item 11.D.1, "BOCC – Organizational Structure" to allow sufficient time for review, as recommended by County Administrator Baird.

The Chairman called for a recess at 5:25 p.m. and reconvened the meeting at 5:39 p.m. moving to Item 9.A.1, with all members present.

**13.A.2. REQUEST FROM THE CITY OF FELLSMERE FOR
APPOINTMENTS TO THE TREASURE COAST REGIONAL
PLANNING COUNCIL**

This item was deferred.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved to defer Item 13.A.2.

13.B. COMMISSIONER SANDRA L. BOWDEN, VICE CHAIRMAN - NONE

13.C. COMMISSIONER WESLEY S. DAVIS - NONE

13.D. COMMISSIONER JOSEPH E. FLESCHER

1. OPTIONS FOR GROWTH MANAGEMENT

Commissioner Flescher reminded the Board of Mr. Paladin's Proposal to the Board on April 19, 2007.

MOTION WAS MADE by Commissioner Flescher, to authorize Administrator Baird to direct staff to review Mr. Paladin's proposal, presented on April 19, 2007, and to come back with a plan.

Commissioner Davis thought perhaps they could incorporate this into some of the things Fellsmere is doing with the Interlocal Agreement and keep things focused on the issues current, like annexations. He suggested a delay of this Proposal for a certain period of time, until they get past some of the issues at hand. He would be interested in looking at this if the Interlocal agreements are not passed.

A brief discussion ensued between staff and Board members relative to the Paladin Proposal.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Commissioner Davis, that Administrator Baird direct staff to only review the proposed “Paladin Plan” for application.

Chairman Wheeler was not comfortable voting on this matter without prior backup. Commissioner O’Bryan thought they could talk about the concepts and would rather not see us limit the proposal.

Administrator Baird thought maybe they could meet with Mr. Paladin and County staff and try to incorporate some of his ideas in a report and send an information only report back to the Board.

The Chairman CALLED THE QUESTION. By a 3-2 vote (Commissioners O’Bryan and Wheeler opposed), The Board approved that Administrator Baird would direct staff to only review the proposed “Paladin Plan” for application.

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

14. SPECIAL DISTRICT AND BOARDS

A. EMERGENCY SERVICES DISTRICT - NONE

B. SOLID WASTE DISPOSAL DISTRICT - NONE

C. ENVIRONMENTAL CONTROL BOARD - NONE

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.

15. ADJOURNMENT

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 6:06 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

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