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OF BOARD OF COUNTY COMMISSIONERS
OF JUNE 5, 2007

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June 5, 2007

**REGULAR 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, June 5, 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

Reverend Jack Diehl, Senior Pastor, Our Savior Evangelical Lutheran Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

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

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS - NONE

5. PROCLAMATIONS AND PRESENTATIONS

A. PRESENTATION OF PROCLAMATION HONORING DEPUTY BRIAN WOOD

Chairman Wheeler read and presented the Proclamation to Deputy Brian Wood.

Deputy Wood thanked the Board for the Presentation and expressed his honor of working with the County. He dedicated the Proclamation to his “good friend Richard Ruscalsky” who is deceased.

B. PRESENTATION TO INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSION ON BEHALF OF CENTERS FOR DISEASE CONTROL (CDC) BY JULIANNE PRICE, DEPARTMENT OF HEALTH

Julianne Price, Department of Health, introduced Christopher Kochtitzky from the Center for Disease Control (CDC) who presented Awards to Board members.

Mr. Kochtitzky gave a brief overview of CDC’s satellite and Internet locations around the world. He stated that the County has been involved, for a long time, in a process that CDC helped develop called “the Protocol for Excessive Community Excellence”, and because of the excellent work that the Health and Sheriff’s Departments and others have done, they have decided to select it as a “best practice community” for national and international training.

Mr. Kochtitzky presented Awards to Administrator Joe Baird for the County, Julianne Price for the Health Department, and Deputy Teddy Floyd for the Sheriff’s Office.

Commissioner Davis wanted to acknowledge the importance of these departments especially in their work with the Wabasso community. He thought it was appropriate that the Award was given to Administrator Baird.

Administrator Baird thanked County staff for the hard work they have done for the community.

6. APPROVAL OF MINUTES

A. REGULAR MEETING OF MARCH 20, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of March 20, 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 20, 2007, as written and distributed.

B. REGULAR MEETING OF APRIL 3, 2007

The Chairman asked if there were any additions, deletions or corrections to the Minutes of the Regular Meeting of April 3, 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 April 3, 2007, as written and distributed.

C. CHARTER WORKSHOP OF APRIL 12, 2007 (9:00 A.M.)

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

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved the Minutes of the Charter Workshop of April 12, 2007, as written and distributed.

D. CHARTER WORKSHOP OF APRIL 12, 2007 (7:00 P.M.)

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

ON MOTION by Commissioner Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Charter Workshop of April 12, 2007, as written and distributed.

7. CONSENT AGENDA

Vice Chair Bowden asked to pull, for discussion, Item 7.G

Commissioner O'Bryan asked to pull, for discussion, Items 7.H, 7.L, 7.V, and 7.AA.

**7.A. REPORT PLACED ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD:
CLERK OF THE CIRCUIT COURT – REPORT OF CONVICTIONS,
MONTH OF APRIL 2007**

**7.B. REPORT PLACED ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD:
DELTA FARMS WATER CONTROL DISTRICT – BUDGET FOR FISCAL
YEAR 2007/2008**

7.C. APPROVAL OF WARRANTS - MAY 11, 2007– MAY 17, 2007

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of May 11, 2007 to May 17, 2007 as requested.

7.D. APPROVAL OF WARRANTS - MAY 18, 2007– MAY 24, 2007

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for the time period of May 18, 2007 to May 24, 2007 as requested.

7.E. FLORIDA DEPARTMENT OF REVENUE – REVENUE SHARING APPLICATION

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved and authorized the Chairman to execute the State Revenue Sharing Application, as recommended in the memorandum of May 25, 2007.

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

7.F. 2007 ELECTION OF SCHOOL PLANNING ELECTED OFFICIALS OVERSIGHT COMMITTEE CHAIRMAN

The Board noted the re-election of Mr. Ken Daige as Chairman of the School Planning Elected Officials Oversight Committee for the year 2007.

7.G. APPOINTMENT TO THE PLANNING AND ZONING COMMISSION

Vice Chair Bowden wanted to publicly thank her representative on the Planning and Zoning Commission, Mr. George Christopher, for his dedication and service on the Planning & Zoning Commission. She announced the change she recommended for appointment and thanked Mr. George Lawrence for accepting the new appointment.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the appointment of Mr. George H.C. Lawrence as the District 5 Appointee to the Planning and Zoning

Commission, replacing Mr. George Christopher, as requested in the memorandum of May 29, 2007.

7.H. COMPLIANCE AND RESTORATION BONDING FOR CENTURY TOWN CENTER OFFSITE SAND MINE

Commissioner O'Bryan wanted to ascertain for the record that there would be impact to few residences, because there was no indication, looking at the map on the route from the mine to the Town Center. He also wanted to know if there were any objections from residents.

Administrator Baird gave staff's perspective on the matter. He felt it was a good situation and staff has had no complaints.

Attorney Collins addressed the hours of operation for trucks. He stated that developers are also required to post the \$2,000 per mile Bond to improve the road if it washes out.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Cash Deposit and Escrow Agreement with CRF – Panther IX, LLC, and authorized the Chairman to execute same, as requested in the memorandum of May 18, 2007.

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

7.I. RESOLUTION CANCELING TAXES ON PROPERTY DEDICATED TO INDIAN RIVER COUNTY FOR RIGHT-OF-WAY ALONG 81ST STREET

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-058**, accepting a right-of-way dedication and canceling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (*School District*)

7.J. RESOLUTION CANCELING TAXES ON PROPERTY DEDICATED TO INDIAN RIVER COUNTY FOR RIGHT-OF-WAY ALONG 6TH AVENUE AND INDIAN RIVER BOULEVARD

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-059**, accepting a right-of-way dedication and canceling certain taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes. (*Village Walk South of Vero Beach, LLC*)

7.K. TOURIST DEVELOPMENT COUNCIL 2007/2008 BUDGET RECOMMENDATIONS

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the amounts recommended (page 49 of backup) by the Tourist Development Council in the memorandum of May 25, 2007.

**7.L. FOURTH OF JULY FIREWORKS FUNDING MISCELLANEOUS BUDGET
AMENDMENT 019**

Commissioner O'Bryan was not sure it was appropriate to spend money on non-essential services/projects at this time, given the fact we are cutting budgets and possibly eliminating jobs.

Commissioner Davis understood Commissioner O'Bryan's concerns but felt there was a sense of pride in celebrating our Nation's Birthday and believed it would be money well spent. Commissioner Flescher was in favor of having the celebrations put on by the County. Vice Chair Bowden also wanted to see the celebrations go forward in the usual tradition.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2007-060**, amending the Fiscal Year 2006-2007 Budget.

7.M. MISCELLANEOUS BUDGET AMENDMENT 020

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-061**, amending the Fiscal Year 2006-2007 Budget.

**7.N. PAYMENT WORK ORDER No. 2 (ENGINEERING) WITH ARDAMAN &
ASSOCIATES, INC. PROVIDING PROFESSIONAL GEOTECHNICAL
SERVICES IN ACCORDANCE WITH THE ANNUAL GEOTECHNICAL**

SERVICES CONTRACT NO. 0534, 56TH PLACE BRIDGE NORTH OF 53RD STREET (PROJECT NO. 0703)

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved payment to Ardaman & Associates, Inc., for the attached Invoice Number SL-007105 for full payment of Work Order No. 2, as recommended in the memorandum of May 18, 2007.

7.O. WORK ORDER NO. 11 (ENGINEERING), ADDITIONAL SERVICES – MASTELLER, MOLER, REED & TAYLOR, INC., PROPOSED VERO LAKES 101ST AVENUE/CR 512 EXTENSION, FULL AND FINAL PAYMENT, IRC PROJECT NO. 0614, CONTRACT 0390 / 2006-2007

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved payment of Invoice Number 2056-4687 in the amount of \$2,500.00 for full and final payment of Work Order No. 11 with funding as specified and as recommended in the memorandum of May 25, 2007.

7.P. ACCEPTANCE OF CHANGE ORDER NO. 11, NEW COUNTY EMERGENCY OPERATIONS CENTER

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 11 with Turner Construction, and

authorized the Chairman to execute the Change Order, as recommended in the memorandum of May 30, 2007.

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

7.Q. ACCEPTANCE CHANGE ORDER No. 29, NEW COUNTY ADMINISTRATION BUILDINGS

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Change Order No. 29 with Turner Construction, and authorized the Chairman to execute the Change Order, as recommended in the memorandum of May 30, 2007.

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

7.R. SUPPLEMENTAL No. 1 TO WORK ORDER No. 1 TO THE 2006-2007 PROFESSIONAL CIVIL ENGINEERING SERVICES AGREEMENT WITH CARTER ASSOCIATES, INC., FOR: IRC PROJECT No. 0701, INDIAN RIVER COUNTY PARKS MAINTENANCE COMPLEX

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved Supplemental No. 1 in the amount of \$6,100.00, as outlined in the scope of services and authorized the Chairman to execute Supplemental No.1 services to Work Order No. 1, as recommended in the memorandum of May 17, 2007.

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

**7.S. OSLO ROAD BOAT RAMP – GK ENVIRONMENTAL, INC., SERVICES,
IRC PROJECT No. 0381**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the additional consulting services by G.K. Environmental, Inc., to cut two access lines within wetland area in the amount of \$2,000.00, as recommended in the memorandum of May 29, 2007.

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

**7.T. APPROVAL OF BID AWARD FOR IRC BID # 2007065 OLD HUMANE
SOCIETY DEMOLITION / FACILITIES MANAGEMENT**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously awarded the Bid to Timothy Rose Contracting, Inc., as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid, and as recommended in the memorandum of May 29, 2007.

7.U. INDIAN RIVER INDUSTRIAL CENTER INC.'S REQUEST FOR FINAL PLAT APPROVAL FOR A SUBDIVISION TO BE KNOWN AS INDIAN RIVER INDUSTRIAL CENTER SUBDIVISION

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously granted final Plat approval for Indian River Industrial Subdivision, as recommended in the memorandum of May 24, 2007.

7.V. WATER OAKS L.L.C.'S REQUEST FOR FINAL PLAT APPROVAL FOR A PLAT-OVER-SITE-PLAN SUBDIVISION TO BE KNOWN AS INDIAN RIVER CLUB PLAT 8 – WATER OAKS

Commissioner O'Bryan wanted to confirm with staff that Water Oaks was supposed to be putting in a left turn lane along Highland Drive, which he had not seen on the Plat. He inquired if the turn lane was still part of the plat.

Planning Director Stan Boling updated Commissioner O'Bryan on the process, outlining that for this project, there is a condition tied to the Certificate of Occupancy that guarantees the turn lane on Highland Drive.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously granted final Plat approval for Indian River Club Plat 8 – Water Oaks, as recommended in the memorandum of March 27, 2007.

7.W. PRIVACY AGREEMENT WITH EFM GROUP, INC. FOR SPATIAL REFINEMENT OF UTILITIES GIS DATA TO FLORIDA STATE PLANE COORDINATE SYSTEM

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Privity Agreement with EFM Group, Inc., in the amount of \$99,900.00; authorized purchase of software (separate PO through DLT Solutions) for \$5,924.64; and authorized the Chairman to execute the Privity Agreement, as recommended in the memorandum of May 25, 2007.

7.X. EMERGENCY OPERATIONS CENTER WATER MAIN EXTENSION FOR FIRE TRAINING, WORK AUTHORIZATION DIRECTIVE No. 2007-001, UCP No. 2938, APPROVAL OF FINAL PAYMENT TO CONTRACTOR AND RELEASE OF RETAINAGE

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the total labor cost of \$17,888.00 and approved Application for Payment No. 3 – Final as final payment to Underground Utilities, Inc., in the amount of \$894.40, as recommended in the memorandum of May 23, 2007.

7.Y. ARTIFICIAL REEF CONSTRUCTION GRANT AGREEMENT, FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, FWCC-06111

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Artificial Reef Construction Grant Agreement FWCC-06111 with Florida Fish and Wildlife Conservation Commission, with funding as specified and as recommended in the memorandum of May 24,2007.

7.Z. NEARSHORE REEF MONITORING GRANT AGREEMENT, FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, FWCC-06720

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Flescher, the Board unanimously approved the Nearshore Reef Monitoring Grant Agreement FWCC-06720 with Florida Fish and Wildlife Conservation Commission, with funding as specified and, as recommended in the memorandum of May 24, 2007.

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

7.AA. INTERLOCAL AGREEMENT FOR PURCHASE OF OSLO ROAD STORMWATER RETENTION AREA, AND 20TH AVENUE RIGHT-OF-WAY; TEMPORARY CONSTRUCTION EASEMENT FOR OSLO ROAD STORMWATER RETENTION AREA

Commissioner O'Bryan questioned the purchase from the School Board, which seemed high to him in comparison to the current market conditions.

Attorney Bill DeBaal responded to Commissioner O'Bryan's questions. He stated that the offer made was supported by the appraisal, and the School Board has already dedicated almost 2 acres of right-of-way for the roadway construction.

Administrator Baird thought we should be careful in the purchase of the right-of-way.

Commissioner Davis thought the price was close to market value. He asked if this was being paid for with impact fee dollars. He also expressed the need to go ahead and take care of Oslo road.

Vice Chair Bowden thought Commissioners O'Bryan and Davis made good points. She also thought it would be appropriate to revisit this and see how best to approach it.

Chairman Wheeler was concerned that this was another non-funded State mandate for the School Board. He believed schools Statewide must have 6% if they wanted Federal funding

Commissioner Davis wanted to approve this and to have the opportunity for negotiations. The Board discussed whether to trade or what would be the appropriate way to move forward in this process. Administrator Baird remarked that money was a big issue.

Attorney Collins informed the Board that under Item 7.I. of the Consent Agenda, the school Board dedicated five (5) acres of right-of-way to the county.

Attorney DeBaal explained that there was an existing platted subdivision (Highland Acres) contained in this property, and they have tried to work out a "horse trade" where the right-of-way would be abandoned in exchange for this property. He also outlined the facts that influence this process.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Interlocal Agreement with the School District of Indian River County, and authorized the Chairman to execute all documents necessary to complete the conveyance of the properties, as recommended in the memorandum of May 29, 2007.

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

8.A. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES

A. INDIAN RIVER COUNTY SHERIFF – ROY RAYMOND FORFEITURE TRUST FUND

Mr. Harry Hall, Comptroller, Sheriff's Department, presented this request to the Board, which contains two items. One was for the use of proceeds obtained through the annual auction to purchase like-kind material and equipment. The other item was to use \$100,000.00 out of the Sheriff's Law Enforcement Trust Fund, to purchase a system by which they can capture current and future fingerprint records and submit them electronically, as mandated by the State.

Motion WAS MADE by Commissioner Davis, SECONDED by Chairman Wheeler, Seconded by Chairman Wheeler to approve the \$100,000.00 from the Law Enforcement Trust Fund, as requested.

Commissioner O'Bryan confirmed with Mr. Hall that this request was a State unfunded mandate. Mr. Hall also confirmed for Chairman Wheeler that the cost for the system is \$216,698.00, none of which would be funded by the State.

The Chairman CALLED THE QUESTION and the Motion carried unanimously, approving the \$100,000.00 from the Law Enforcement Trust Fund.

Motion WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, under discussion, to approve the \$45,639.00 proceeds from the surplus auction to be utilized for the like-kind purchase, as requested in the letter of May 16, 2007.

Chairman Wheeler questioned the movement of the \$1.2 million funds from salary and could not imagine that the \$45,639.00 was that important. He thought the money should come back to the General Fund of the County.

Commissioner Davis believed that in this situation it would be more appropriate that these funds go directly back to the equipment.

The Chairman Called the Question and by a 4-1 vote (Chairman Wheeler opposed) the Board approved for the Sheriff's Office to use the \$45,639.00 to acquire new like-kind materials and equipment, as requested in the letter of May 16, 2007.

9. PUBLIC ITEMS -

9.A. PUBLIC HEARINGS

**1 MEADOWLARK WOODS SUBDIVISION PETITION
WATER SERVICE – 61ST AVENUE NORTH OF 41ST STREET,
INDIAN RIVER COUNTY PROJECT NO. UCP-2324,
PRELIMINARY ASSESSMENT RESOLUTION III
(ADMINISTRATIVE)**

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

Dan Chastain, Manager of Assessment Projects, Department of Utility Services, recapped the issues as outlined in memorandum dated May 18, 2007, and asked the Board to approve Resolution III in order to start the bidding process.

The Chairman opened the Public Hearing.

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

On MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2007-062**, confirming the Special Assessments in connection with water main expansion to Meadowlark Woods Subdivision (61st Avenue North of 41st Street) in Indian River County, Florida; and providing for Special Assessment Liens to be made of record.

**9.A.2. INDIAN RIVER COUNTY'S REQUEST FOR ABANDONMENT
OF A PORTION OF MOORINGLINE DRIVE LYING
ADJACENT TO LOT 138 (LEGISLATIVE)**

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

Planning Director Stan Boling presented this request by recapping his memorandum of May 29, 2007. This is an agreement with Mr. & Mrs. Keller for the abandonment of a strip of right-of-way to resolve a front yard setback issue relating to a completed addition to the Keller's residence. Director Boling asked the Board to approve staff's recommendation.

Director Boling responded to Commissioner O'Bryan question explaining that this was just a technical matter during the survey.

The Chairman opened the Public Hearing.

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

On Motion by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously adopted **Resolution 2007-063**, providing for the closing, abandonment, vacation and discontinuance of a strip of Mooringline Drive right-of-way adjacent to Lot 138 as shown on Plat of the Moorings, Unit Two, reserving a Drainage, Pedestrian and Utility Easement over the entire right-of-way, said land lying in Indian River County, Florida.

9.A.3 AMENDMENTS TO CHAPTER 972 OF THE CODE OF INDIAN RIVER COUNTY TO LIMIT TEMPORARY VEHICLE SALES LOCATIONS (LEGISLATIVE)

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

Assistant County Attorney Bill DeBraul presented this item, reminding the Board of past actions and current progress on the matter. He asked the Board to conduct the public hearing and consider adoption of the Ordinance as submitted.

The Chairman opened the Public Hearing.

Brian McNulty, Gator Chrysler Suzuki, Melbourne, has been coming to the County for four (4) years conducting auto sales. He reviewed some of the discussions from a Planning and Zoning (P&Z) meeting he attended regarding the matter. He cautioned that if the Board passed this law they would be protecting car dealers from competition by its government action, which he called a “de jure Monopoly”. He spoke in defense of car dealers and salesmen doing business in the County. He remarked that the County has a lot to consider when it starts limiting free enterprise.

Commissioner O’Bryan questioned whether the warranty offered by Mr. McNulty’s Company was factory warranty; if the Company had a Warranty Center in Indian River County to perform that work, and did the warranty work for the other dealerships as well. **Mr. McNulty** stated that the Company offers its own warranty, did not have a warranty center in Indian River County, and provides warranty services for other dealerships. He also explained that his Company was active in charity work through the Sebastian Chamber of Commerce.

Chairman Wheeler had questions on sales tax and licensing of cars and addressed remarks about “a monopoly”.

Attorney Collins responded to comments regarding a restraint on trade law. He was not sure the justification was there in enforcing our own laws to protect public safety and welfare because local dealers violations were 24% and outsiders were 18%.

Joseph Paladin, Developer, believed it was free competition and was in favor of outside dealers coming in to have car sales.

Commissioner O'Bryan thought they should look at the fairness issue regarding lowering prices to compete. Commissioner O'Bryan and Mr. Paladin engaged in further discussion regarding fairness to local dealers.

John Williams, 1535 Smugglers Cove, agreed that this is a fair level playing field. He thought this was similar to paying \$50.M to try to keep Piper Aircraft here, and a fair playing field should be required. He resented inferences from a Brevard County Car dealer that there was collusion between Chairman Wheeler and the auto dealers.

Joe Warrick, Vero Beach, thought competition was in the best interest of the citizens of Vero Beach. He urged the Board to consider the temporary tent sales.

Jim Pegana, Director of Marketing for Service Chevrolet, was all for a competition and believed this was all about fair trade. He asked the Board to consider restricting not free trade but fair trade, and regulating it thus making the playing field more level.

Vice Chair Bowden questioned whether Indian River County car dealers had gone to other counties or cities to do business with tent sales. To the best of Mr. Pegana's knowledge they did not.

E. Fred Augenstein, President of The Ad Agency, handed out copies of his presentation to Board Members (copy on file). He favored free enterprise but urged the Board to vote no on tent sales.

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

Commissioner O'Bryan felt there should be some kind of common ground and in order to ensure a level playing field they should have the ordinance worded similarly for all vehicles, that "If any offsite host some type of sale, it is open to all dealers who want to participate."

Commissioner Davis gets concerned when government wants to regulate the free enterprise system, but as a farmer had seen what free trade could do to a local economy. He saw a predatory practice of outside dealers taking advantage of sales opportunities in this County. He suggested a cap of 10 sales per year, half to locals and half to out-of-towners, and that they revisit the matter in one year to see if it is working.

Vice Chair Bowden was taking into consideration the opinions given by the Advisory Boards and the Legal department, and for those reasons did not want to regulate enterprise in our County. Her vote was "No".

Chairman Wheeler wanted to see: (1) a level playing field and fair competition, (2) people who do business here have an investment in our community, and (3) a change in the Ordinance that would allow a specific number per year. He also wanted to direct staff to have it reworked and brought back.

Vice Chair Bowden asked for legal input on how they could approach this issue. Attorney Collins believed that there has to be a basis for discrimination and regulation, and was not sure it was enough to overcome Interstate commerce free trade types of issues. Attorney DeBraal confirmed that they would go against Commerce laws if the County tried to regulate trade, and only the Federal government could do that.

Attorney Collins opined that if the Board decides to have ten (10) temporary sales events per year and five (5) are available for local dealers and five (5) for out-of-town dealers, there was some fundamental fairness there. He thought it was defensible if the Board wanted to limit the number of sales to one every week, and they were open to both inside and outside dealers.

Commissioner O'Bryan wanted a Motion to instruct staff to come back with an ordinance with wording that would limit temporary sales, and that it would be equitably distributed between local and non-local dealers.

Discussion continued among Board members on whether to set a specific number of sales per year.

Motion WAS MADE by Commissioner O'Bryan,
Seconded by Commissioner Davis, to set twelve (12)
temporary sales per year, one every month.

Discussion ensued on whether to include RVs and boats, off-site vehicle sales, and the issuance of permits.

The Chairman CALLED THE QUESTION and by a 3-2
vote (Commissioners Flescher and Bowden opposed) the
Board approved for the County to have twelve (12)
temporary vehicular tent sales per year, one every month.

Inclusive vehicles are recreational, boats, cars and motorcycles.

The Chairman called a recess at 10:45 a.m. and reconvened the meeting at 11:01 a.m., with all members present.

9.A.4 PUBLIC HEARING TO CONSIDER AMENDING SECTION 913.10.2 OF THE CODE OF INDIAN RIVER COUNTY TO LOWER THE RATING ON BONDS SECURING WARRANTY OF SUBDIVISION IMPROVEMENTS (LEGISLATIVE)

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

Attorney Collins presented this request, reminding the Board of prior actions by recapping his memorandum of May 15, 2007. He asked the Board to receive public input and adopt the proposed ordinance with revisions as deemed necessary.

The Chairman opened the Public Hearing.

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

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2007-014**, amending Section 913.10.2, maintenance security, of the Indian River County Code; providing for codification; providing for severability; and providing for an effective date.

9.A.5 FLORIDA POWER & LIGHT FRANCHISE AGREEMENT
(ADMINISTRATIVE)

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

Budget Director Jason Brown presented this item by recapping his memorandum of May 29, 2007 through a PowerPoint presentation. He asked the Board to adopt the ordinance creating Part II of Chapter 312 of the Code of Indian River County Grant of Electric Franchise to Florida Power & Light Company; to take public comments; to close the public hearing and adopt the proposed ordinance.

Nick Blount, FP&L representative, spoke of the Company's long relationship with the County. He gave a brief overview of FP&L's services and current practices, and urged the Board to adopt the ordinance.

In response to Chairman Wheeler's question, Director Brown said the Agreement was similar and was at the 6% rate that the City of Vero Beach pays.

The Chairman opened the Public Hearing.

Bob Johnson, Coral Wind Subdivision, read in a Newspaper article that FP&L was searching for locations to build additional power generating Plants in the State of Florida. He wanted the County to approach FPL to see if our location was identified, and if Calpine could be a good economic venture for them. He suggested the County add language to the Agreement that there were favorable lands for negotiation for FP&L's use of that property. He also understood that rates would be increased .67% with this agreement.

Administrator Baird affirmed the rate increase and explained that the agreement is 30 years old and the rates had never been adjusted. Further, the increase was not on the fuel adjustment portion of the bill. He also responded to Mr. Johnson's further concerns of Calpine, underground utilities. He advised that Calpine is private property and was regulated by the Public Service Commission.

Rene Renzi, Waverly Place, asked if there were any prospects of the utility service lines being redrawn. Administrator Baird and Attorney Collins believed it has to be approved by the Public Service Commission.

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

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously adopted **Ordinance 2007-015**, granting to Florida Power & Light Company, its successors and assigns, an electric Franchise; imposing provisions and conditions relating thereto; providing for monthly payments to Indian River County; providing for severability; providing for repeal of other conflicting ordinances and resolutions; providing for inclusion in the Code of Ordinances of Indian River County; providing for filing with the Department of State; and providing for an effective date.

9.B. PUBLIC DISCUSSION ITEMS

1. REQUEST TO SPEAK FROM LOUIS APRILE REGARDING DEVELOPERS' TURNOVERS TO HOMEOWNER'S ASSOCIATIONS

Louis Aprile, the Village of Citrus Springs, through a PowerPoint presentation, addressed the developer turnover problems the homeowners of Citrus Springs are experiencing. He was addressing the Board because Florida Statutes Chapter 720 did not provide enough protection against developers and the Statutes suggested they take their concerns to the Board of County Commissioners. He was seeking the Board's help in giving the Statutes more power and control over the matter.

Chairman Wheeler suggested Citrus Springs put this on the Agenda for the Legislative Delegation. Mr. Aprile had already gone to Tallahassee and was advised to sue the builder, but that is prohibited by State Statutes.

Mr. Aprile outlined problems residents are faced with, which include the Lake, parking, lack of fencing, drainage, irrigation, poor landscaping, and dead grass. He asked for the County's help in getting the developers to deliver what was promised.

Lou Fitzpatrick, Citrus Springs resident and President of Lake Temple, said the only assistance he got from the County was "no", when he sought help to get the lake cleaned two years ago. However, St. Johns River Water Management District (St. Johns) had come and assisted in getting the developer to re-dredge the lake. He strongly believed that County staff let them down because they released the \$1. Million Bond before the developer ever embarked on the other side of the street.

Administrator Baird addressed remarks regarding voting rights and homeowner documents. Director Boling responded to questions regarding ownership and designation of commercial property.

Public Works Director Jim Davis and Director Boling responded to questions from the Board about Certificates of Completions for certain phases in the subject area.

Commissioner Davis asked staff what could be done to help the residents of Citrus Springs deal with their issues. Administrator Baird suggested we could have our Lobbyist aggressively introduce this issue in Tallahassee.

Commissioner Davis thought it would be appropriate to ask our Lobbyist to approach this issue immediately during its Special Session.

Mike Sento discussed problems he experienced, and the lack of cooperation from the builder/developer. He suggested the Board apply pressure until developers fulfill their obligations.

Commissioner Davis wondered who would be hurt if the County holds up building permits for the developer.

In response to Chairman Wheeler's inquiry of what their options were, Director Keating said they were still holding some Maintenance Bonds on some of the Phases, so they could look at those and make sure the Maintenance Bonds are drawn on if there were problems. He also stated that if it was required landscaping, Code Enforcement would become involved, but for amenity landscaping, the County has no control and could not require specific performance.

Board members and staff further discussed Maintenance Bonds, and how to remedy the situations between now and June 25, 2007, in the Phases involved. Staff offered to contact St. Johns and to go out together and see what they could do for the residents of Citrus Springs.

Ann Genie, Citrus Springs, Village G, had called St. Johns and was told they would not do anything on their side of the Street (Villages A, B & C) until they were finished on Village C. She wanted the record to reflect that coming into Village E, there was a "piece of grass" that has never been mowed, and said piece of land is listed as a Park on the Plan.

Administrator Baird invited Citrus Springs' residents to come back at 2:00 p.m., when St. Johns would be here for a meeting.

There was CONSENSUS to contact St. Johns River Water Management District to see if they could have someone come over; staff would go out this week to look at the situation; and staff would contact the Legislative Delegation to have this matter addressed in its Special Session.

Myra S. Vollavic, Village B, was instrumental in having St. Johns come and look at Village 'C' retention plan. She believed what happened to the lakes happened because of lack of maintenance for two years.

Attorney Collins discussed the issues of turnovers and the responsibility of fixing the problems.

Susan Senko, Village 'E', asked how they could get the developer to stand accountable since there was no Bond.

Administrator Baird clarified the confusion regarding turnover and Maintenance Bonds.

Joseph Gadrielle, Citrus Springs, believed the County's Engineering Department failed them tremendously in regard to the deterioration of the lakes.

Administrator Baird thought St. Johns was responsible for ongoing maintenance at the Lakes.

Catherine Baker, Village B, had concerns for the public road that goes from 5th Street to Oslo Road, relative to “sodding” and whose responsibility it is.

Joe Castalucci, Village C, made the Board aware that St. Johns was not going to do anything on the south side of 5th Street SW. He asked if St. Johns and the County were holding Bonds, because St. Johns had said they would not release the Bond until a drainage problem has been corrected.

Director Davis said St. Johns required a Certificate of Completion to be issued but they do not require a Bond. He also responded to questions from the Board regarding issuance of a Certificate of Completion and whose responsibility it was to maintain the property.

Chairman Wheeler suggested Lou Fitzpatrick and the President of the Association get together with County staff and prepare “a punch list” consisting of “what do we have the ability to fix and not to fix”, and then each party could address what they need to address.

There was CONSENSUS to create a punch list for each individual Village, then decide which ones are going to be turned over, which has bond money, and whether St. Johns River Water Management District still has the maintenance issue.

Catherine Baker stated that June 25th was the turnover for Village E, and asked if there was any way to stop the turnover from developer to homeowners.

Attorney Collins suggested the homeowners retain Attorneys to represent them at the time of turnover, because the County is not a party to those agreements.

The Chairman called a recess at 12:35 p.m. and reconvened the Meeting at 12:51 p.m., with all members present.

9.C. PUBLIC NOTICE ITEMS -

1. NOTICE OF SCHEDULED PUBLIC HEARINGS FOR UPCOMING BOARD MEETINGS:

A. JUNE 12, 2007 MEETING

CONSIDERATION OF THE DISPOSITION OF COUNTY OWNED SURPLUS PROPERTIES FOR AFFORDABLE HOUSING

B. JUNE 19, 2007 MEETING

COUNTY INITIATED: REQUEST FOR APPROVAL OF SMALL SCALE COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENTS TO REDESIGNATE 1.32 ACRES FROM C-1 TO L-1 AND TO REZONE THOSE 1.32 ACRES FROM CON-1 TO RS-3; REDESIGNATE 7.6 ACRES FROM REC TO L-1; REDESIGNATE 6.76 ACRES FROM L-1 TO REC; AND TO REDESIGNATE 2.42 ACRES FROM L-1 TO C-1 AND REZONE THOSE 2.42 ACRES FROM RS-3 TO CON-1. (LEGISLATIVE)

9.C.2. NOTICE OF SCHEDULED PUBLIC HEARING JUNE 19, 2007

AMENDMENT TO INDIAN RIVER COUNTY CODE SECTION 101 – COUNTY OFFICERS (LEGISLATIVE)

Chairman Wheeler read the Notices into the record.

10. COUNTY ADMINISTRATOR'S MATTERS

A. SPECIAL SESSION DELEGATION

Administrator Baird asked if any Commissioner wished to attend the Special Session in Tallahassee, or should he just seek approval on an as-needed basis.

Chairman Wheeler suggested Commissioner Davis, who has served on the Tax Reform Committee in Tallahassee and Administrator Baird attend the Session, if they were available. He said other Commissioners who wished to attend might do so.

There was CONSENSUS for Commissioner Davis and Administrator Baird to attend the Special Session in the Florida House of Representatives on June 12, 2007, to address Property Tax Reform issues.

11. DEPARTMENTAL MATTERS

A. COMMUNITY DEVELOPMENT

I. CONSIDERATION OF MEETING DATES FOR TWO BOARD HEARINGS TO CONSIDER PROPOSED AMENDMENTS TO THE LDR CHAPTER 911 TABLE OF USES FOR THE INDUSTRIAL DISTRICTS

Planning Director Stan Boling presented this item to the Board reminding them of prior actions. He explained that because this is a type of LDR amendment that changes the uses allowed in certain zoning districts, there has to be two (2) public hearings, one of which has to be after 5:00 p.m. He requested approval of the dates suggested.

Chairman Wheeler felt the earlier the better to have the meeting and perhaps they could have the evening meeting at 5:05 instead of 7:00 pm. All other Commissioners concurred and preferred the time of 5:30 p.m.

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved the following meeting dates to consider the proposed LDR amendments, as recommended in the memorandum of May 30, 2007:

Meeting # 1 - Special Meeting - Wednesday, July 11,

2007 at 5:30 p.m.
Meeting # 2 - Regular Meeting - Tuesday, July 24,
2007 at 9:05 a.m.

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.1 PUBLIC WORKS – NONE

11.J. UTILITIES SERVICES –

**1. AMENDMENT NO. 1 TO WORK ORDER NO. 1 WITH MASTELLER AND
MOLER, INC. FOR ENGINEERING SERVICES TO DESIGN THE BRINE
LINE WATER MAIN EXTENSION TO THE SPOONBILL MARSH SITE
LOCATED AT THE ISLES OF GRAND HARBOR SITE**

ON MOTION by Commissioner Davis, SECONDED by Vice Chair Bowden, the Board unanimously approved Amendment No. 1 to Work Order No. 1 with Masteller and Moler, Inc., in the amount of \$47,600.00 to provide engineering design, permitting and construction services for the Spoonbill Marsh Site and authorized the Chairman to execute same, as presented and as recommended in the memorandum of May 21, 2007

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

12. COUNTY ATTORNEY - NONE

13. COMMISSIONERS ITEMS

A. COMMISSIONER GARY C. WHEELER, CHAIRMAN

1. DISCUSSION REGARDING BUDGET FOR COMMISSION OFFICE

Chairman Wheeler believed if they were asking County departments to make budget cuts the Commissioners' office should lead by example. He wanted to discuss the matter so they could give staff direction and provide suggestions on what areas to or not to cut. He had made several suggestions, one of which was to cut the \$43,000.00 a year they spend to publish the Agenda. Another suggestion was to place a hiring freeze on current vacant positions in the Commissioners' Office.

Administrator Baird said staff could cut the \$43,000.00 for advertising cost, immediately.

Commissioner Flescher did not believe the hiring freeze would save money. He had done some research on the salaries of County Commission staff, and on expenses incurred for overtime since February 9, 2007 to present.

Board members and Human Resources Director Jim Sexton discussed the exorbitant amount of overtime hours and costs incurred by the Commissioners' staff during the period mentioned above. They also contemplated the need for new employees and whether to put a hiring freeze on the current vacant positions in the Commissioners Office.

Commissioner O'Bryan suggested they keep in mind that filling jobs needed to be done through in-house transfers if they would be cutting County staff in a month. He recommended they all wait a month until the end of the Session in Tallahassee and see what happens before they fill any positions.

Commissioner Flescher asked Mr. Sexton if there were any other positions in the County that they could ensure would not incur overtime. The Board continued to discuss how to alleviate the overtime problem and whether to wait or fill the vacant positions in the Commissioners Office as planned.

There was CONSENSUS to move forward with the positions as posted.

Motion WAS MADE by Commissioner Davis, SECONDED by Commissioner O'Bryan Wesley to leave things the way they are, freeze positions, and not hire anyone until they hear from the Legislative Delegation on June 22, 2007.

Further discussion ensued regarding whether to hire, freeze positions, eliminate temporary personnel, or wait to hear from Tallahassee, and the percentage by which to cut the budget. There was CONSENSUS to wait to hear from Tallahassee.

Commissioner Davis, Seconded by Commissioner O'Bryan WITHDREW the Motion. MOTION WITHDRAWN.

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

C. COMMISSIONER WESLEY S. DAVIS

1. REQUEST FOR CONSIDERATION OF HIRING FREEZE WITHIN THE COMMISSION OFFICE

This matter was addressed under Item 13.A.1. Please see that item for discussions and action.

D. COMMISSIONER JOSEPH E. FLESCHER- NONE

E. COMMISSIONER PETER D. O'BRYAN

1. FOLLOW-UP OF SEBASTIAN HARBOR PURCHASE

Commissioner O'Bryan updated the Board on prior actions on this matter. He stated that the Land Acquisition Advisory Committee (LAAC) recommended purchase of the property

and that the purchase comes 100% from conservation land funds. They also recommended that the Fleming Street extension be removed from the long-range plan. The City of Sebastian recommended the purchase of the Sebastian Harbor Preserve with Land Acquisition funds and requested that the Indian River County Board of County Commissioners remove the Fleming Street extension from the long-range plan.

Commissioner O'Bryan wanted to make a Motion for the Board to reaffirm to staff that it is the recommendation of both the LAAC and the City of Sebastian that this purchase be done with 100% Land Acquisition funds, and for the removal of Fleming Street from the long-range Plan.

Commissioner Davis did not think that removal of a Street at this level was where they should start that process. He thought they ought to have Sebastian bring the matter forward through County staff and then let staff give their recommendation for some alternative sites and go through the process we have in place and not just to remove the Streets.

Motion WAS MADE by Commission O'Bryan,
SECONDED by Chairman Wheeler, for the Board to direct
staff to make the acquisition with 100% Land Acquisition
funds.

Commissioner Davis thought they needed to be careful of that too, because as he understood it, we would be doing inter-fund borrowings, and we would be exercising the options we have in place on the property. He asked for staff's clarification.

Director Keating said in this case there were two options: (1) they could purchase the property completely with LAAC funds, or (2) they could purchase the majority with LAAC funds and the right-of-way for Fleming Street with Impact Fee funds or other transportation funds. He stated that in the next Florida Community Trust cycle they would be looking at applying for an FCT Grant for the Sebastian Harbor Preserve property. It becomes problematic if they get FCT

funds for the entire property and they want at some point to go back and use part of it for right-of-ways.

Dale Simchick, Sebastian City Council Member, addressed Sebastian's involvement and the alternatives to use LAAC funds or impact fees. She felt there was no clear and definitive answer on how to impact this Preserve and what funds were to be used. Sebastian has told the County that as a City they do not want this road, and they have asked the County to use full land acquisition money and respect the Preserve. She urged the Board to decide and respect the City's opinion.

Discussion ensued among Board members and Ms. Simchick on what funds to use for the purchase.

The Chairman CALLED THE QUESTION and the Motion carried unanimously, directing staff to make the acquisition with 100% Land Acquisition funds.

14. SPECIAL DISTRICTS AND BOARDS

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

A. EMERGENCY SERVICES DISTRICT

1. HEALTH SCIENCE STUDENT(S) EXPERIENCE AGREEMENT BETWEEN INDIAN RIVER COMMUNITY COLLEGE AND INDIAN RIVER COUNTY DEPARTMENT OF EMERGENCY SERVICES

2. MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF CORRECTIONS

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 1:54 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/AA/2007 Minutes