

BOARD OF COUNTY COMMISSIONERS

JUNE 10, 2008

A regular meeting of the Board of County Commissioners was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman D'Aprile, Commissioner Duffy, Commissioner Moore, and Commissioner Loftus. Also in attendance were County Administrator Baltz, County Attorney Knowlton, Chief Deputy Board Services White, Executive Assistant Blair, and Deputy Clerk Lansing. The following members were absent: Commissioner Cummings. The meeting was called to order at 9:00 AM.

The Invocation was given by Pastor Art Grayman of Port Charlotte Seventh Day Adventist Church, followed by the Pledge of Allegiance.

Changes to the Agenda:

Deletion 1:L-1

Change 1: Move C-4 to Regular Agenda Z-3

Addition 1: Z-4

Addition 2: Z-5

COMMISSIONER LOFTUS MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

Special Recognition - Commissioner Richard Loftus

Arts and Humanities Council Artist of the Month

COMMISSIONER MOORE MOVED TO PROCLAIM DIANIA CROY ARTIST OF THE MONTH OF JUNE, 2008, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

An unidentified citizen accepted the Proclamation on behalf of Ms. Diania Croy.

Employee Recognition - Commissioner Dick Loftus & County Administrator Baltz

5 YEARS: Lorraine Budlong, Real Estate Services; Karen Hirsh, Human Services; Michael Leroux, Parks, Recreation & Cultural Resources; Marie Pecorella, Administration; Laura Raffone, Human Services; Vernon Nicholson, Facilities-Not Attending. **10 YEARS:** Rosemarie Tsourkas, Human Resources; Kenneth Barkley, Fire/EMS-Not Attending. **20 YEARS:** Linda Chmura, Public Works; Nancy Hart, IT; Lynne McCurry, Fire/EMS-Not Attending.

Award Presentations - None

I. CITIZEN INPUT - AGENDA ITEMS ONLY

Michael P. Haymans, Esq. spoke on behalf of the Englewood Cape Haze Chamber, provided detail on why they were all in favor of Z-2, and asked for Board approval.

Brad Kelskey spoke on behalf of the Washington Loop Homeowners against Mining Inc., asked the Board to support the determination of the hearing examiner related to Triple D Mines, and deny the modification request.

Lawrence Martin spoke about the Triple D Mines, provided a chart pointing out areas Jones Loop residents want to protect, discussed negative affects to the area, spoke against Special Magistrate conclusions, and asked for Board denial.

Calvin N. LeBuff mentioned he had provided Board members with a video, spoke about Stump Pass dredging, suggested the Board use his patent related to the salt water basin, opined the County would save millions of dollars over the years, and advised the Army Corp of Engineers agreed it could work. **Chairman D'Aprile** noted the importance and his appreciation of new ideas.

Cabot Dunn spoke on behalf of Triple D Mining Investment Group and regarding their application for a Group 3 Excavation Permit on Washington Loop Road, provided a history of steps taken, noted being denied at the last minute, asked for reconsideration, and a vote in favor of Z-2.

Sydney Bacchus, Ph.D. said she was an expert witness at the Triple D Mining hearing in December, 2007, pointed out several items not addressed by the Special Magistrate, discussed dewatering, said he proposed wet excavation, mentioned permits, impacts, quality and quantity of ground water, wildlife management, and provided a written summary of her review.

Dennis Krzeminsk spoke in favor of Waste Management and asked the Board to vote in favor of them.

Jones Loop resident Robert Buehm said they had asked for a moratorium months ago, recommended they follow the hearing examiners conclusions, and opined the mines will negatively impact the area.

B.J. Galberaiath thanked the Board.

Gary Bayn represented Southwest Land Developers and Waste Pro of Florida, asked the Board to delay their decision on Z-1 A and put the contract out to bid.

Nancy Haast President of Washington Loop Homeowners against Mining, Inc. asked the Board to uphold Mr. Russell's decision.

Professional Engineer Chris Beers advised he worked as a Project Manager on the Triple D Mining project, noted updating the plan, and asked for the opportunity to go back to the hearing examiner to present their case.

David Habershaw spoke on behalf of the Waste Management proposal, opined their proposal will save over a Million Dollars a year, said they have provided outstanding service to the County for many years, and asked the Board to vote in favor of negotiating the contract with Waste Management.

Audrey Shinske spoke in support of the Waste Management (WM) proposal, agreed with one day a week trash pick up, and opined WM has worked with Charlotte County for many years.

Sue Resky spoke in support of one day a week trash pick up, provided handouts related to Triple D mines, opined the County should protect the area and mentioned mines will bring future problems, noted ground water, and asked the Board to stick with Kevin Russell's decision.

Keith Banasiak represented Waste Pro USA, spoke on behalf of Z-1, agreed with the one day a week trash pick up, suggested the County put the contract out to bid, allow them to bid on the Contract, and said the numbers would show who wants to be in Charlotte County the most.

Steven Brown spoke on the Triple D Mine, said the decision was sound, opined the Special Magistrate was second guessing the decision, and asked the Board to uphold the Hearing Examiners decision not to move forward.

II. COMMITTEE VACANCIES

Charlotte County is seeking volunteers to serve on the following Committees:

Affordable Housing Advisory Committee is seeking eleven (11) members in the following categories: (1) one citizen who is actively engaged in the residential home building industry in connection with affordable housing; (2) one citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing; (3) one citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing; (4) one citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing; (5) one citizen who is actively engaged as a for-profit provider of affordable housing; (6) one citizen who is actively engaged as a not-for-profit provider of affordable housing; (7) one citizen who is actively engaged as a real estate professional in connection with affordable housing; (8) one citizen who actively serves on the local planning agency pursuant to Florida Statutes Section 163.3174; (9) one citizen who resides within the county; (10) one

citizen who represents employers within the county; and (11) one citizen who represents essential services personnel, as defined in the local housing assistance plan. Members shall serve for two year terms and may be reappointed; initial terms will be staggered.

Beaches and Shores Advisory Committee is seeking one member to serve as the District #4 representative. Must be a resident of Charlotte County and have an interest in the preservation of beaches and shores.

Boca Grande Street and Drainage Advisory Committee is seeking one volunteer who is a landowner and resides within the boundaries of the Unit to serve as the alternate member. The term shall be for two years.

Construction Board of Adjustments and Appeals is seeking one member to serve as an alternate on this committee. Must be licensed member of the construction industry. Construction Industry Licensing Board - is seeking a volunteer to represent the mechanical contractor category. Volunteer must be a resident of Charlotte County for at least 2 years and be a licensed mechanical contractor. Length of term until May, 2009. Environmentally Sensitive Lands Oversight Committee is seeking two volunteers who are residents and electors of the County. One volunteer is needed representing the business/land development category and another is needed to represent the environmental expertise category.

Gardens of Gulf Cove Street and Drainage Unit Advisory Committee is seeking four regular members and one alternate member. Must be landowners who reside within the unit.

Gulf Cove Waterway Advisory Committee is seeking one member to serve as the alternate for a two year term. Must be a landowner and reside in the unit.

Harbour Heights Street & Drainage Unit Advisory Committee - is seeking two volunteers to finish the remainder of unexpired terms. The first will expire on February 13, 2009 and the second will expire on February 13, 2010.

Harbour Heights Waterway Maintenance District Advisory Board is seeking one volunteer to finish the term of the alternate. Must live within the unit. This term is effective immediately and will expire April 10, 2009.

Lemon Bay Street and Drainage Advisory Committee is seeking two volunteers to serve as regular members, and one volunteer to serve as an alternate member. The term for regular members are for two and three year terms, and the term for the alternate

member is for two years. All volunteers must be landowners and reside within the boundaries of the Unit.

Manasota Key Street and Drainage Advisory Committee is seeking one volunteer who is a landowner and resides within the boundaries of the Unit to serve as the alternate member. The term shall be for two years.

Marine Advisory Committee - is seeking to fill the unexpired terms of two Member-at-Large positions. These terms will expire December 31, 2008 and December 31, 2010.

Mid-Charlotte Stormwater Utility Unit is seeking 5 members and 1 alternate member. Initial terms of office shall be drawn by lot at first meeting.

Placida Street and Drainage Advisory Committee is seeking one volunteer who is a landowner and resides within the boundaries of the Unit to serve as the alternate member for a two year term. Charlotte Ranchettes Street & Drainage Unit Advisory Board is seeking one alternate member. Volunteer must be a resident of Charlotte County and reside within the unit. Term expires January 23, 2009.

Rotonda West Street and Drainage Advisory Committee is seeking one volunteer who is a landowner and resides within the boundaries of the Unit to complete a vacated term as the alternate member. Term shall expire on February 27, 2009.

South Bridge Waterway Municipal Service Benefit Unit is seeking five (5) members and one (1) alternate member. Must live in unit.

South Gulf Cove Street and Drainage Advisory Committee is seeking one volunteer who is a landowner and resides within the boundaries of the Unit to complete a vacated term ending February 13, 2009, as the alternate member.

South Gulf Cove Waterway Advisory Committee is seeking one volunteer who is a landowner and resides within the boundaries of the Unit to complete a vacated term as the alternate member. The term shall expire on January 9, 2009.

Suncoast Waterway Maintenance Unit Advisory Board is seeking five (5) members and one (1) alternate member. Must live in unit.

III. REPORTS RECEIVED AND FILED

Charlotte Harbor CRAAC Minutes for May 22, 2008

IV. CONSENT AGENDA

Commissioner Moore asked that H-1 be pulled from the Consent Agenda.

COMMISSIONER MOORE MOVED TO APPROVE IV. CONSENT AGENDA EXCEPT ITEM H-1, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 4:0.

Clerk of the Circuit Court

A. Finance Division

(1) RECOMMENDED ACTION: Approve Clerk's Finance Memoranda.
BUDGETED ACTION: None

B. Minutes Division

(1) RECOMMENDED ACTION: Approve Minutes. BUDGETED ACTION: None

a) March 18, 2008 Land Use Meeting

b) March 19, 2008 Murdock Village Special Meeting

Board of County Commissioners

C. Commission Office

(1) RECOMMENDED ACTION: Appoint Bill Moyer and Joseph H. Ginter to the Harbour Heights Street & Drainage Unit Advisory Committee to finish the two vacated terms. These terms will expire Feb. 13, 2010 and Feb. 13, 2009 respectively. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Appoint Leroy J. Phillips to the Harbour Heights Waterway Maintenance District. This appointment is effective immediately and expires March 13, 2011. BUDGETED ACTION: None

(3) RECOMMENDED ACTION: Re-appoint to the Planning & Zoning Advisory Board Michael Gravesen for a four year term which will expire June 22, 2012. BUDGETED ACTION: None

(4) *RECOMMENDED ACTION: Approve proposed contract for Roger Baltz to serve as county administrator. BUDGETED ACTION: None*

D. Administration

(1) *RECOMMENDED ACTION: Approve an amended Consent Order between Florida Department of Environmental Protection and Charlotte County Board of County Commissioners to reach settlement of certain matters regarding Stump Pass Experimental Shoreline Stabilization project (permit file number 0194790-004-JC). BUDGETED ACTION: None*

E. County Attorney

(1) *RECOMMENDED ACTION: Approve the Settlement in the civil lawsuit captioned Prairieland, Inc. v. Charlotte County; Case No. 05-1115-CA. BUDGETED ACTION: The settlement amount will be funded by the Risk Management Department Self Insurance Fund Reserves.*

(2) *RECOMMENDED ACTION: Approve a resolution of the Housing Finance Authority of Charlotte County approving the issuance of tax exempt bonds in an amount not to exceed \$5,000,000 for the construction of Marian Manor. BUDGETED ACTION: FINANCIAL IMPACT SUMMARY: There are no budgetary implications to the proposed action. The bonds are secured by the property and do not represent a debt to either Charlotte County or the HFA.*

Resolution 2008-058

(3) *RECOMMENDED ACTION: Set a Special Board meeting for the sole purpose of having an Executive Session for Monday, June 16, 2008 at 9:00 a.m., or as soon thereafter as possible, in the County Attorney's Conference Room, to discuss phosphate litigation and settlement strategy. BUDGETED ACTION: None*

(4) *RECOMMENDED ACTION: Motion to find all Bonds for County Officers in compliance and in full effect at this time. BUDGETED ACTION: None*

(5) *RECOMMENDED ACTION*: Authorize the Charlotte County Attorney's Office to initiate all necessary and appropriate legal action against Gerald A. Duperault and Chin K. Duperault to recover costs of re-routing a gravity sewer line. *BUDGETED ACTION*: The legal expenses associated with the lawsuit will be funded by the Risk Management Department Self Insurance Fund.

F. Budget Office

(1) *RECOMMENDED ACTION*: a) Approve Letter of Commitment agreeing to pay Florida Healthy Kids Corp. an estimated \$11,566 local match for children not eligible for Federal funding, b) Authorize Chairman to sign the letter of commitment, and c) Authorize Chairman to sign contract upon review and approval by the County Attorney's Office. *BUDGETED ACTION*: None

Agreement 2008-022

(2) *RECOMMENDED ACTION*: a) Cancel the CIP presentation currently scheduled for June 18, 2008 and reschedule for Tuesday, July 29, 2008 at 1:30 P.M. and b) Change the topic of the budget meeting scheduled on Friday, June 13, 2008. *BUDGETED ACTION*: None

G. Growth Management - No Items.

H. Economic Development

(1) *RECOMMENDED ACTION*: a) Approve Interlocal Agreement by and between Charlotte County and the Charlotte County Industrial Development Authority (IDA). This Interlocal Agreement will replace the Interlocal Agreement between Charlotte County and the IDA which expired May 21, 2008. b) Approve Budget Amendment # 8-A35 to put in place dollars for Economic Incentive Development Fund for use in the Economic Incentive Program. *BUDGETED ACTION*: Budget amendment #8-A35 for \$1,000,000 from General Fund to Economic Development Fund.

XREF Agreement 2007-036

Commissioner Moore expressed confusion with the second part of Item H-1 and questioned the budgeting process and timing. Mr. Baltz explained the Million funding comes from the General Fund Reserves, explained this is a departure from the way we have handled Economic Development funding in the past, and asked Economic Development Director Don Root to provide additional detail.

Mr. Root said they are trying to streamline the current process and give the Industrial Development Authority (IDA) the responsibility. **Commissioner Moore** commented they are moving to the head of the line in the budget process, agreed on moving forward with aggressive plans, and asked why they needed to have the money allocated now versus a month from now. Mr. Root said there was no immediate demand but explained it needed to be done. **Commissioner Moore** said he is supportive of the concept, but opined this was not the day he wanted to allocate the funds.

Commissioner Duffy understood the importance of allocating funds for Economic Development and asked where incentive dollars came from in the past. Budget Director Ray Sandrock advised there is a separate fund where they budget the economic incentive dollars, noted it has an annual budget of \$250,000 which is brought to the Board separately, explained the \$1 Million request is in addition to the existing \$250,000 budget which is already put aside for some business incentives. **Commissioner Loftus** supports the incentive program, noted the importance of bringing business into the County, expressed concern with the timing, indicated waiting until the budget was approved, and commented he does not want to hinder Economic Development. Mr. Root explained we could lose some businesses if we delay negotiations.

Mr. Sandrock explained the problem is the uncertainty until we get to July 1st, said we have approximately \$5 Million in reserves, noted the impact we saw when the assumption went from 10% to 15% on de-valuations, expressed concern with stretching out our resources, suggested unless time sensitive it would be best to wait until after July 1st. **Commissioner Loftus** recommended waiting until July 1st. **Commissioner Moore** agreed but expressed concern with the meeting dates. Attorney Knowlton advised this was not time certain and recommended they postpone it to the first Regular Meeting in July or whenever they would like. **Chairman D'Aprile** commented that

Economic Development is one of the most important things to consider right now and opined we will not know the detail of our budget until July.

COMMISSIONER LOFTUS MOVED TO DELAY H-1 UNTIL JULY 8, 2008 REGULAR MEETING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

Commissioner Moore assured Mr. Root his opinion was not personal.

(2) **RECOMMENDED ACTION:** Approve Budget Amendment # 08-A36 for \$2,400.00 for donations received, for the sole purpose of hiring a summer intern for the Economic Development Office. **BUDGETED ACTION:** Approve Budget Amendment # 08-A36 for \$2,400.

J. Environmental Services - No Items.

K. Facilities Construction and Maintenance - No Items.

L. General Services

(2) **BUDGETED ACTION:** Budgeted within various Parks Maintenance accounts. **RECOMMENDED ACTION:** a) Approve ranking of firms for Request for Proposal #08-241, Permit/Design - Rotonda Weirs; 1st, DMK Associates; 2nd, Wilson/Miller, Inc; and 3rd, Johnson Engineering; b) Approve start of negotiations; c) Authorize the Chairman to sign the contract after completion of negotiations providing the fee does not exceed \$250,000. This is for professional engineering services for the design and permitting of two failed Stormwater weir structures and associated filter systems in the Rotonda Saint Andrews Subdivision; and d) Approve CIP amendment # 08-C16 in the amount of \$250,000. **BUDGETED ACTION:** After approval of CIP amendment 08-C16 there will be \$250,000 available in the Rotonda West MSBU. CIP project c410808. FY08 project total \$250,000.

(3) **RECOMMENDED ACTION:** a) Approve the ranking of firms for Request for Proposal #08-235, East County Planning Guide; ranking as follows: 1st-RWA, Inc.; 2nd-DeLisi Fitzgerald, Inc.; 3rd-Morris Depew Associates, Inc. and b) Approve start of Negotiations; and c) Authorize the Chairman to sign the contract

after completion of negotiations provided the fee does not exceed \$50,000. BUDGETED ACTION: Funding is provided by Growth Management in the Public Safety Fund.

(4) RECOMMENDED ACTION: Approve Change Order #2 to Bid #07-349, US 41 Revitalization - Phase I, with Peter A. Basile Sons, Inc., of Arcadia, FL in the amount of \$308,705.60, with a revised total of \$3,731,267.63. This is to add the landscaping on the west side of US 41, between West Tarpon Boulevard and Port Charlotte Boulevard. BUDGETED ACTION: Funding for this change order is supplied from the Native Tree Replacement Fund. CIP project c410304 US 41 Revitalization. The project total after CIP Amendment 08-C17 is \$16,239,000.

(5) RECOMMENDED ACTION: Approve deletion of the property inventory items listed on the attached for the month of June, 2008. BUDGETED ACTION: None

M. Human Resources - No Items.

N. Human Services

(1) RECOMMENDED ACTION: Approve Amendment to Agreement 2005-061 extending the Agreement through June 30, 2009 between Charlotte County and the Housing Corporation of Charlotte County, Inc., for the implementation of a Community Land Trust. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Approve 2001-032 Contract Amendment #005 between Charlotte County and the Housing Corporation of Charlotte County, Inc., for the completion of a minimum of 15 homes using SHIP funds under the Construction Strategy of the Local Housing Assistance Program. BUDGETED ACTION: None

P. Information Technology - No Items.

Q. Parks, Recreation and Cultural Resources - No Items.

R. Public Safety

(1) *RECOMMENDED ACTION*: Authorize E-911 to seek a Byrne Grant in the tentative amount of \$422,000 to purchase furniture for the Charlotte County Emergency Operation Center and the Charlotte County Sheriff's Office Dispatch Site. *BUDGETED ACTION*: None

Grant 2008-010

S. Public Works

(1) *RECOMMENDED ACTION*: Authorize the Chairman to execute an Interlocal Agreement for Administrative Services By and Between Charlotte County and the Charlotte County-Punta Gorda MPO, also known as a staff services agreement. *BUDGETED ACTION*: None

Agreement 2008-023

(2) *RECOMMENDED ACTION*: Set a public hearing for June 24, 2008, at 10:00 am or as soon thereafter as may be heard, to consider an Ordinance to establish a "No Parking" zone on both sides of Sailors Way from SR 776 to 435 feet north of SR 776. *BUDGETED ACTION*: Budget of approximately \$800 for the installation of "No Parking" signs is available in the Transportation Trust Fund.

T. Real Estate Services

(1) *RECOMMENDED ACTION*: Approve the attached Resolution approving the release of portions of two (2) six-foot (6') wide drainage and utility easements located in Port Charlotte Subdivision, Section Fifty-Two, and further authorizing the Director of Real Estate Services to execute the County Deed releasing said portions of said easements. (Owners: Beverly D. Lahr) *BUDGETED ACTION*: None

Resolution 2008-059

(2) *RECOMMENDED ACTION*: Approve the attached Resolution approving the release of a portion of a twenty-foot (20') wide canal maintenance easement located in Port Charlotte Subdivision, Section Seventy-Nine, and further authorizing the Director of Real Estate Services to execute the County Deed releasing said portion of said easement. (owners: Roland and Darla White)

Resolution 2008-060

(3) *RECOMMENDED ACTION*: Approve a resolution authorizing the Chairman of the Board of County Commissioners to execute a Declaration of Restrictive Covenant for a portion of Lot 17, Block 551, Punta Gorda Isles Subdivision, Section 20, where lift station #321 is to be relocated. *BUDGETED ACTION*: None

Resolution 2008-061

V. Tourism Development - No Items.

W. Utilities

(1) *RECOMMENDED ACTION*: Approve the Chairman to sign a Reclaimed Water Supply Contract between Charlotte County Utilities and Coral Creek Club. Agreement 2008-024 *BUDGETED ACTION*: None

Agreement 2008-024

(2) *RECOMMENDED ACTION*: Approve Resolution authorizing a Line of Credit to satisfy the Debt Service Reserve Fund Requirements for the County's outstanding Utility System Revenue Bond Issues. *BUDGETED ACTION*: None

Resolution 2008-062

X. Building & Construction Services - No Items.

Y. Other Agencies - No Items.

RECESS: 10:12 AM to 10:20 AM

V. REGULAR AGENDA

VI. PUBLIC HEARING AGENDA - 10:00 A.M.

Chairman D'Aprile said they would move on to VI. Public Hearing Agenda and suggested they hear Item (3) first since he anticipated it would be shorter than Items (1) and (2).

(3) County Administration - RECOMMENDED ACTION: a) Accept Public Input related to the uses of CDBG funds, b) Approve the use of CDBG funds for the rebuild/expansion of the New Operation Cooper Street Recreation Center, and c) Authorize the Chairman or his designee to sign appropriate documents for submission to the Department of Community Affairs.

XREF Grant 2005-022

Mr. Herbert thanked the Board for taking Item (3) first, provided detail, and asked for approval.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

COMMISSIONER LOFTUS MOVED TO APPROVE (3) COUNTY ADMINISTRATION - RECOMMENDED ACTION: A) ACCEPT PUBLIC INPUT RELATED TO THE USES OF CDBG FUNDS, B) APPROVE THE USE OF CDBG FUNDS FOR THE REBUILD/EXPANSION OF THE NEW OPERATION COOPER STREET RECREATION CENTER, AND C) AUTHORIZE THE CHAIRMAN OR HIS DESIGNEE TO SIGN APPROPRIATE DOCUMENTS FOR SUBMISSION TO THE DEPARTMENT OF COMMUNITY AFFAIRS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

(1) Budget - RECOMMENDED ACTION: a) Conduct a public hearing to consider adopting a revised ordinance to update the Five Year Capital Improvements Program (CIP) for FY2007/2008 through FY2011/2012 and b) Request the Board approve CIP Amendment #08-C14 and Budget Transfers # 08-016 and 8-017.

Ordinance 2008-054

Assistant Budget Officer Linda Carr described the recommended action.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

COMMISSIONER LOFTUS MOVED TO A) CONDUCT A PUBLIC HEARING TO CONSIDER ADOPTING A REVISED ORDINANCE TO UPDATE THE FIVE YEAR CAPITAL IMPROVEMENTS PROGRAM (CIP) FOR FY2007/2008 THROUGH FY2011/2012 AND B) REQUEST THE BOARD APPROVE CIP AMENDMENT #08-C14 AND BUDGET TRANSFERS # 08-016 AND 8-017, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

(2) Growth Management - RECOMMENDED ACTION: a) Conduct a public hearing to discuss an amendment to the Planned Development zoning district, Section 3-9-49 of the Charlotte County Code of Laws and Ordinances, and an amendment to Chapter 3-9, Article I, Section 3-9-2, Rules of Construction; b) Set a second public hearing to approve the ordinance adopting the amendment of Section 3-9-49 for June 24, 2008 at 10 AM or as soon thereafter as it may be heard; and c) Set a second public hearing to approve an ordinance adopting an amendment to Chapter 3-9, Article I, Section 3-9-2, Rules of Construction for June 24, 2008 to immediately follow the adoption hearing on the amendment of Section 3-9-49.

Planner III, Inga Williams explained this is the first Public Hearing on the revision of the Planned Development Ordinance, stated Planning and Zoning Board recommended denial, explained two modifications that would be added, expressed offense with comments stating this Ordinance is all about height, opined it is about eliminating frustrations, streamlining the process, and adding in modern ideas. Ms. Williams commented on some wanting to model this Ordinance on Sarasota's Ordinance, said the Board would not agree, provided detail, discussed open space, public space, green space, the developer's concept, mentioned changes were highlighted in yellow on the Board's attachment, discussed additions made, noted the changes they would like to make prior to the next Public Hearing, and requested any Board recommendations to be incorporated.

Commissioner Moore asked when this would come back and Ms. Williams confirmed it would be heard again on the forth Tuesday of the month. **Chairman D'Aprile** brought up a conversation he had today with a citizen who stated issues as important as this should not be heard in the summer months since it does not allow additional citizen participation from those not here now, opined it may be best to hear these issues November through April when more taxpayers are present, and said the suggestion should be considered. **Commissioner Duffy** asked for the definition of hard space and for clarification of the term one year after final. Ms. Williams explained.

Brad Kelsky, Esq. represented the Friends of Cape Haze, discussed the Comprehensive Plan, noted inconsistencies, said his clients asked him to move forward with litigation against the County if this Ordinance passes as written, commented denial was based on citizens input, and urged the Board to comply with Planning and Zoning and deny this Ordinance.

Veronica Anderson stated she had attended the Planning and Zoning meeting, said nobody looked toward the future, stated young families are rapidly moving away since they are losing their jobs, mentioned schools closing, hospital personnel leaving, indicated ours is a dying town with abandoned homes and business closings, urged the Board to face the reality and realize baby boomers do not have the retirement that their parents had, said the County will be the loser if this continues, opined the future is here, and asked the Board to look at the big picture and work hard to find a solution.

Bob Melvin agreed with Ms. Anderson, said the County is either open or closed for business, noted working people are suffering because a select group wants their way, and expressed hope that the Board will lead and move forward to do the right thing.

Ruy Villela opined this PD is all about West County, said he knows Mr. Melvin is a Real Estate guy who wants to build a block of high rises, discussed several existing buildings on Placida Road, mentioned mounds of dirt across from the Hacienda, noted he is not against building within the current rules, indicated roads were downgraded, and commented he was the citizen who suggested these hearings be held in season.

Cape Haze Property Owners Association President, Marvin Medintz opined people are already set in their opinions, indicated a decision could wait until season since there is no building going on right now, wondered about the dirt mounds, described eco-tourism, and opined the Board plays favorites when deciding which locations deserve protection.

Rick Fried opined Charlotte County was a great place to retire, talked about the impact of bad decisions, and urged the Board to look long term.

Audrey Shinski thinks we are getting off on the right track, said what they are trying to do is construct a new zoning designation not decide whether more construction should be allowed, talked about height and density, commended staff for their hard work, opined they could create an Ordinance to please everyone with some changes, passed around generic site plans, held up existing and future photos, discussed flexibility, public space, and opined everyone should benefit from the application.

Attorney Knowlton advised citizens who are submitting evidence for the record that it must be standard size and left with the Board.

Michael Summers commented that this County runs on a 12 month calendar and should not be adjusted for snowbirds who should be here for important issues, said the County is suffering and losing money because of the delays, opined there has been more than enough public input, commented on confusing workshop notes, addressed one by reading it to the Board, discussed open space, hotels, height, and urged the Board to pass the Ordinance now to help the County create jobs and increase economic growth.

Scott Roberts said he has listened to a lot of people today, opined the world, not just the County is having economic problems, and explained residents are not opposed to height, they are opposed to 1,200 feet.

Percy Angelo provided handouts, urged the Board to reject the draft Ordinance, discussed setbacks, and additional reasons for her opposition.

Steven Brown noted his work with staff and on the focus group for this PD Ordinance, said he supports Planning Commission recommendations, discussed indoor open space, and recommended the Ordinance be sent back for further study.

Nancy Haast called this proposal short sighted, said now was the time for County leadership, and encouraged the Board to vote against this proposal.

Sue Resky provided handouts, expressed concern with the Board being asked to change a 19 year old Ordinance over a few weeks, discussed changes, standards, height, flexibility, addressed density language, open space, mentioned trade offs for height are significant, and opined Michael Summers is trying to flip his property.

Lynn Siebert provided handouts, discussed impacts, market studies, funding, setbacks, traffic, parking, level of service concerns, and spoke in opposition to increased height.

Randy Keilin discussed his background, opined this would allow a developer to present the Board with a proposed project for approval, expressed the need to stimulate the economy, and asked the Board to move forward.

Ruth Bromberg said quality of life is the reason we moved here and why seasonal residents return, urged the Board to reject the Ordinance as it is written, and opined there are better ways to stimulate the economy.

Todd Rebol indicated he was for the Ordinance, mentioned earlier comments related to snowbirds unable to attend, and noted many year round residents work and can not be here either.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

Commissioner Moore expressed appreciation for those who worked on the focus group and opined he was not sure where the Ordinance is going. **Commissioner Loftus** also thanked the focus group, staff, and Ms. Williams for what she has done, noted the difficulty in trying to melt two different views together, acknowledged the need for flexibility, discussed how decisions would be made, opined Sarasota's Ordinance is not as good as what we have here, mentioned the need to diversify our economic development and tax base, and said we need this to help our residents with high tax bills.

Commissioner Duffy resented being threatened with lawsuits, explained not all residents were opposed to height flexibility, opined those opposed are mostly limited to West County, Placida, and Cape Haze, said this Ordinance is designed to allow for flexibility, mentioned a small group who live on the water, advised most on the focus group were neutral but something went wrong by the third day, said the process started when the snowbirds were here, wondered who would come to build with the restrictions, and said if we keep this up, Charlotte County will be closed for business. **Chairman D'Aprile** asked for input from staff.

Ms. Williams responded to the comment that this Ordinance is inconsistent with the Comprehensive Plan, opined that was just a threat should this Ordinance get adopted it would then delay someone from utilizing this Ordinance because they would need to go through the courts to settle, advised she looked at the issues brought up and advised the Ordinance is consistent with the Comprehensive Plan, and said she was open to any specific input.

Commissioner Loftus opined they move forward with the Ordinance as it is. **Commissioner Duffy** asked for detail on open space percentages. Ms. Williams responded in detail.

Chairman D'Aprile said this is the third time the Board is hearing this issue, discussed density, height, setbacks, open space, and gave an example of how it could work. Mr. Ruggieri provided additional detail on the example.

Attorney Knowlton advised the motion would set the second Public Hearing for June 24, 2008 to hear both items.

COMMISSIONER LOFTUS MOVED TO SET A SECOND PUBLIC HEARING FOR JUNE 24, 2008 TO CONSIDER A, B, AND C, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

Chairman D'Aprile opined they need to fine tune the issues prior to June 24, 2008 so they can make a decision ASAP. Commissioner Moore confirmed a, b, and c were included in the motion.

RECESS: 1:45 PM - 2:00 PM

Z. Regular Agenda

(1) Environmental and Extension Services: RECOMMENDED ACTION: Approve a) Attached contract with Waste Management of Florida, Inc. and b) CIP Amendment #08-C15, and Budget Transfer # 08-15 in the amount of \$3,384,069.

XREF Agreement 2002-014 and Agreement 2002-015

Director of Environmental Extension Services, Jim Thompson provided detailed background and offered to answer questions.

Commissioner Moore opined this is a good deal, commented that surrounding counties already have cutback to once a week, noted for a nominal fee Waste Management will work with residents who require an additional trash pick-up, and stated he was in favor of the contract.

Commissioner Loftus noted receiving citizen comments questioning why the County is not receiving a discount, explained residents need to understand this contract will cut 4 trips down to 3, advised costs are based on volume, and said he is in favor of the contract.

Commissioner Duffy commended staff for their hard work and stated Waste Management has been a good partner to the County.

Chairman D'Aprile advised the Commissioners are in favor of the agreement, said there were no past problems with Waste Management, noted they have brought down the costs by \$1 million and saved each household \$17.00, commented they will provide the containers free of charge, and opined there is no need to put this out to bid.

COMMISSIONER MOORE MOVED TO APPROVE A) ATTACHED CONTRACT WITH WASTE MANAGEMENT OF FLORIDA, INC. AND APPROVE B) CIP AMENDMENT #08-C15, AND BUDGET TRANSFER # 08-15 IN THE AMOUNT OF \$3,384,069. XREF AGREEMENT 2002-014 AND AGREEMENT 2002-015, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

Mr. Thompson advised the program would start in October. Mr. Baltz confirmed citizens are able to have a second weekly pick-up. Mr. Thompson explained interested residents could make arrangements for a second weekly pick-up for \$7.50 per month.

(2) County Attorney: RECOMMENDED ACTION: Accept, modify or reject the Special Magistrate Recommendation dated May 19, 2008 in reference to Triple D Investment Group LLC's Request for Relief.

Barbara Jeffries, Excavation Administrator introduced Assistant County Attorney Rooney, provided background information, the rights of the Board related to the Special Magistrate Recommendations, and asked if there were any questions.

Commissioner Moore asked for staff recommendation. Ms. Jeffries stated her recommendation was to modify by allowing Triple D to reapply under the 2003 Ordinance, have them resubmit a completed new permit package, and pay the required fees within a 60 day window from today. Commissioner Moore asked why staff suggested the modification instead of accepting the proposal and if it could come back. Ms. Jeffries gave detail, explained accepting it in its entirety would not be the correct decision, and said it could come back. Commissioner Duffy asked for mine location information. Ms. Jeffries responded.

Chairman D'Aprile indicated he is against any mines in that area, does not like being threatened with the Burt Harris Act, and opined the recommendations should be modified. Attorney Rooney provided procedures to be followed if this was brought back and explained staff did not agree with several points made by the Special Magistrate.

Commissioner Loftus asked what the fee would be if it goes back to the Hearing Officer and asked if it would be the 2003 fee schedule. Ms. Jeffries advised the excavation fee would be \$9,600.00. Attorney Rooney explained the fee schedule had been updated by resolution and reflects the current County costs.

Commissioner Duffy stated she is not against mines, opined the area is not appropriate for mines and does not want to see any mines in that area at all, said there must be another option, and mentioned she wished it had never been allowed to occur there.

Commissioner Loftus expressed concern with the fees, read Item K for the record, and stated his understanding. Ms. Jeffries advised they would be charged the applicable fee of \$9,600.00. County Attorney Knowlton and Assistant County Rooney provided additional clarification.

Commissioner Moore moved to remand the recommendations. Mr. Rooney asked if the motion was in line with staff recommendations. **Commissioner Moore** explained his motion was to remand as submitted by the Special Magistrate.

COMMISSIONER MOORE MOVED TO REMAND THE SPECIAL MAGISTRATES RECOMMENDATIONS, FAILED DUE TO LACK OF SECOND.

Commissioner Loftus moved to remand the recommendations back to Hearing Officer Kevin Russell for review under the 2003 Ordinance.

Attorney Rooney asked if this motion was in line with staff recommendations and proceeded to clarify the points for the record.

Commissioner Duffy seconded for discussion.

Commissioner Duffy asked if the permit process would start from the beginning. Ms. Jeffries answered affirmatively and explained a lot of the scientific work has already been completed. Attorney Knowlton stated the modification they came up with was not presented to Kevin Russell for the hearing and gave a timeline account. Ms. Jeffries advised it had not been fairly reviewed by the public or by staff and advised the 60 days would also give the applicant time to present their re-design. **Commissioner Duffy** asked additional questions related to phosphate in the soil. Ms. Jeffries advised what has been done and explained plans for future improvements. **Commissioner Duffy** stated since there were no better options available today for the use of this property she would support the motion. **Commissioner Moore** also agreed to support the motion.

Chairman D'Aprile asked what happens after staff recommendations are reviewed by the Hearing Officer. Attorney Rooney advised if the Board allows Triple D another chance, staff's modification allows them the opportunity to reapply under the old rules, they will be scheduled before Kevin Russell once again, and will be treated the same as they would under the 2003 rules.

COMMISSIONER LOFTUS MOVED TO REMAND STAFFS RECOMMENDATIONS BACK TO HEARING OFFICER KEVIN RUSSELL FOR REVIEW UNDER THE 2003 ORDINANCE, SECONDED BY COMMISSIONER DUFFY.

Ms. Jeffries pointed out if the Board approves staffs recommendation today it would not come before the Board again, advised this would be the last opportunity for rejection if the Board does not want this mine, and indicated they could still come in for a new application but it would come in under the 2007 Ordinance and then come before the Board under a rezoning.

Commissioner Duffy reminded the Board that this is the second of four applications within one mile.

Motion Carried 3:1. Chairman D'Aprile opposing.
ABSENT: Commissioner Cummings.

(3) County Attorney: RECOMMENDED ACTION: Approve Contract for Roger Baltz to serve as County Administrator.

Agreement 2008-025

Attorney Knowlton advised the next Item is for discussion and direction on the County Administrator contract. **Commissioner D'Aprile** asked if the Commissioners had read the contract.

COMMISSIONER LOFTUS MOVED TO APPROVE CONTRACT FOR ROGER BALTZ TO SERVE AS COUNTY ADMINISTRATOR, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

Mr. Baltz thanked the Board, stated he is pleased with the terms of his contract, and said he is looking forward to the challenges ahead.

Commissioner Loftus commended County Administrator Baltz for stepping up to the plate and taking on the job, said he is very confident Mr. Baltz will lead us in these difficult times, and opined the County will be a better place because of him. **Commissioner Duffy** thanked Mr. Baltz for jumping into the position. **Chairman D'Aprile** opined Mr. Baltz is a man of character and wished him good luck.

(4) Commission Office: RECOMMENDED ACTION: Discussion and Direction related to Harbor Nissan Impact Fee Appeal.

Jeff Ruggieri, Growth Management Director provided details related to the Impact Free Appeal and advised staff recommendation was to grant the appeal.

Geri Waksler represented Harbor Nissan, stated the appeal is based on County error, proceeded to explain, and asked the Board to review and eliminate the impact fees.

Commissioner Loftus said he was Chair of the CRA Advisory Board at the time this Ordinance was written, said it was modified later, opined the County has to be fair, and advised he would support staff recommendation. **Commissioner Duffy** opined there should not be any impact fees assessed based on County error. **Commissioner Moore** noted inconsistencies and agreed with

Commissioner Duffy to grant the appeal. Chairman D'Aprile asked if the County would have to pay the impact fees and was advised this unique situation would not require them to pay the impact fees.

COMMISSIONER MOORE MOVED TO GRANT HARBOR NISSAN IMPACT FEE APPEAL FOR ALL REASONS PREVIOUSLY STATED, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

(5) Budget-RECOMMENDED ACTION: Approve Sheriff's Office to apply for the Criminal Intelligence add Canine Interdiction Initiative Grant in the amount of \$42,120 to improve timely intelligence to members of Uniform Road Patrol Division, Criminal Investigations Division, and Jail Division.

Grant 2008-011

Linda Carr, Budget Office provided detail on the Federal Grant request, explained it would require a match of \$12,022.00, and noted the matching funds would come from the Sheriff's Budget.

COMMISSIONER LOFTUS MOVED TO APPROVE SHERIFF'S OFFICE TO APPLY FOR THE CRIMINAL INTELLIGENCE ADD CANINE INTERDICTION INITIATIVE GRANT IN THE AMOUNT OF \$42,120 TO IMPROVE TIMELY INTELLIGENCE TO MEMBERS OF UNIFORM ROAD PATROL DIVISION, CRIMINAL INVESTIGATIONS DIVISION, AND JAIL DIVISION. GRANT 2008-011, SECONDED BY COMMISSIONER DUFFY.

Commissioner Moore said he was told a matching fee was not required for this Grant. Assistant County Attorney Dan Gallagher explained there were two identical Grants and indicated the one on the consent did not require the matching fee.

Motion Carried 4:0.

ABSENT: Commissioner Cummings.

VII. PRESENTATION AGENDA - No Items.

VIII. PUBLIC WORKSHOP AGENDA - No Items.

X. CITIZEN INPUT - ANY SUBJECT

President of the Charlotte County Fraternal Order of Police, Robbie Robbins said half of his membership are road deputies, talked about wage freezes, mentioned 18 State of Florida officers lost their lives last year in the line of duty, mentioned Fire/EMS receiving for over 4%, said the Sheriff put 3% on the table for his people, asked the Board to give serious consideration to the police during budget discussions.

AA. County Administrator:

Mr. Baltz asked for the Board's position on the Green Building Ordinance, requested clarification that they want a Green Building Ordinance drafted for their future consideration, and received affirmative Board consensus. **Commissioner Moore** explained it would be optional with incentives in the future. **Chairman D'Aprile** said new government buildings would be green. **Commissioner Duffy** said she heard costs to build "green" were leveling out.

BB. County Attorney:

Attorney Knowlton gave a brief update on the Regional Conflict Council, discussed Charlotte County's involvement, and provided the Commissioners with their options. **Commissioner Moore** asked what a minimum contribution amount would be. Attorney Knowlton explained they would accept anything, suggested \$500 to \$1,000. **Commissioner Moore** recommended \$1,000 or \$2,000. **Chairman D'Aprile** opined \$1,000.

Attorney Knowlton also provided an update on the Bar Complaint filed by Mr. Sumner after the County took action against him for Code Enforcement issues.

CC. Commissioner Comments:

Commissioner Duffy asked if these type of lawsuits could be stopped. Attorney Knowlton said they could not be stopped but advised there is a process that is being followed. **Commissioner Duffy** brought up the ongoing problems at the Beach Complex, suggested a gate or closing the park early, said she was aware it would cause a problem for boaters,

expressed resident frustration, and asked for Board input. Commissioner Moore opined closing early may not be the solution. Commissioner Loftus mentioned parties and functions held at the Beach Complex would also need to be considered. Chairman D'Aprile suggested posting a sign stating the park is closed and opined it would give Law Enforcement the support they need.

Commissioner Moore stated there is an issue with a billboard on Tamiami Trail in Port Charlotte, said the owner wants to move the sign closer to the road, and received Board consensus to instruct Legal to contact and negotiate.

Chairman D'Aprile asked if there is a dog Ordinance that requires residents to pick up after their dogs, said he has received a lot of complaints, and opined the need for an Ordinance. Commissioner Loftus opined it would cost the County since law enforcement personnel would need to come out and witness it. Chairman D'Aprile stated residents just need something to go by and asked Legal to check into it.

RECESS: 1:23 PM - 2:00 PM

2:00 P.M. IX. BOARD WORKSHOP AGENDA - No public input.

Conduct a Workshop to discuss the Future Wastewater Expansion Areas.

Jeff Pearson, Director, Charlotte County Utilities (CCU) informed the Board that Mike Clark and Esther Kaufman of Jones Edmund, Charlotte County Utilities staff, and two Health Department representatives were all present and available to answer questions later in the presentation.

Mr. Pearson suggested the Board listen to the entire presentation prior to questions and answers, explained the visual presentation would provide an overview of Wastewater Expansion Areas including the Reasons for the Study, What the Study Covered, Current Expansions, System Enhancements and Maintenance, Future Priorities, Procedures, and Benefits.

Commissioner Moore questioned page 14, asked about the numbering system, and what the colors represent. Mr. Pearson explained what location each color represented and advised how priorities were set.

Commissioner Loftus asked when the re-development project on Tamiami Trail would begin. Mr. Pearson responded it would be on line spring or summer 2009 and described it's location. Tom Dunn with CCU provided additional detail.

Commissioner Moore brought up old pipes and discussed relining. **Commissioner Loftus** asked for the replacement status of old pipes off Midway, mentioned citizen complaints of clogged pipes, and asked for the status of updated pipes. Mr. Pearson responded with detailed statistics and projections for the future. James Huish, CCU Operations Manager, responded to questions, provided location detail, and stated he would provide the Board with requested maps of past and future plans. **Commissioner Moore** asked for detail related to the Burnt Store Corridor and if there has been discussions with the City of Punta Gorda related to its growth. Mr. Pearson replied. Mr. Baltz mentioned meeting with citizens in that area, stated we are investing in improvements now in anticipation of serving that area, and commented on future conversations that will take place at Joint Meetings.

Commissioner Duffy asked several questions related to MSBUs and wastewater areas. **Commissioner Loftus** discussed water reuse and opined now is a good time to reline pipes. Mr. Pearson responded. **Commissioner Moore** asked if pricing has improved related to relining and opined the pressure is on us more now. Mr. Pearson discussed several different technologies available and mentioned accommodating the Comprehensive Plan.

Chairman D'Aprile asked what type of pipes are relined, how it is done, and if it is more cost effective to replace the pipes. Mr. Pearson and Mr. Clark advised the type of pipes relined were sewer pipes, explained the relining process in detail, and opined relining was more cost effective.

Mr. Baltz pointed out page 14 on the screen, discussed the priority expansion areas, and expressed the importance of making the right decisions.

Commissioner Loftus asked for anticipated timeframes related to the Manchester Basin and Spring Lake areas and asked for exact locations. Mr. Pearson advised they would like to begin Community involvement in late 2009 and pointed out locations on the map. Mr. Baltz noted CCU would need to reach out to over 5,000 property owners to advise them of assessments.

Commissioner Duffy asked for a copy of the map, commented on being careful not to assess residents that have already been hit with the Septic fee that should be good for 5 years. Mr. Pearson advised it would be close to five years before connection. **Chairman D'Aprile** opined CCU would be willing to work with residents. Mr. Pearson said they could consider working a rebate program into the MSBU. **Commissioner Moore** asked about payment terms and expressed concern with CCU being in the banking business.

Chairman D'Aprile thanked Mr. Pearson for the presentation.

ADJOURNED: 3:00 PM

Signature on file in Commission Minutes
Chairman

ATTEST:

BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS

By: Signature on file in Commission Minutes
Deputy Clerk

JL