

BOARD OF COUNTY COMMISSIONERS

SEPTEMBER 23, 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 Cummings, Commissioner Duffy, Commissioner Loftus, and Commissioner Moore. Also in attendance were County Administrator Baltz, County Attorney Knowlton, Chief Deputy Board Services White, Executive Assistant Stoner and Deputy Clerk Lansing. The following members were absent: None. The meeting was called to order at **9:00 AM**.

The Invocation was given by **Chairman D'Aprile**, followed by the pledge of allegiance.

Changes to the Agenda:

Change #1, L9: Tourism: **RECOMMENDED ACTION:** Approve renewal of Contract #06-364, Tourism Advertising and Promotion with Smith Advertising and Associates for the term October 1, 2008 up to and including September 30, 2009 in the amount not-to-exceed \$326,000. This is an annual contract for the procurement of marketing services for the Tourist Development Bureau in promoting Charlotte as a travel destination. **BUDGETED ACTION:** None, \$326,000 is budgeted in the Tourist Development Trust Fund.

Change #2, L3: Purchasing: Corrected attachment tabulation sheet for Bid #2008000365, Butterford Waterway Crossing.

Change #3, F4: Budget: **RECOMMENDED ACTION:** Approve the Charlotte County Public Safety Department to apply for a grant from the E911 State Grant Program in the amount of \$88,729.99 to purchase software that gives call-takers the needed information to dispatch appropriate aid to medical emergencies and authority for the Chairman of the County Board of Commissioners to accept the grant if awarded. **BUDGETED ACTION:** None required at this time. There is no financial impact to the budget since no matching funds are required by this grant.

**THESE MINUTES ARE NOT OFFICIAL
UNTIL ADOPTION BY THE BOARD OF
COUNTY COMMISSIONERS**

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Deletion #1, Z-1: Public Safety: RECOMMENDED ACTION: Board approval allowing the Fire/EMS Department to conduct a pilot program to provide Basic Life Support (BLS) Non-Emergency Transports in Charlotte County.

Deletion #2, Growth Management: VI. PUBLIC HEARING AGENDA - 10:00 AM - RECOMMENDED ACTION: Adopt an annotation to the Future Land Use Map for the site which is the subject of Petition PA-01-05-16-LS, owned by J&J Homes. The annotation will limit the overall density of the subject site to 400 units and specifically limit the amount of density that can be placed in the portion of the property located within the Coastal High Hazard Area to 3.5 units per acre.

Deletion #3, Commission Office: VIII. PUBLIC WORKSHOP AGENDA - 1:00 P.M. The Board and Ex-Officio the Murdock Village Community Redevelopment Agency will hold a workshop to review and discuss the Murdock Village Community Redevelopment Plan at 1:00 P.M., or soon thereafter.

Addition #1, Attorney's Office: Z-1 Set an Executive Session today at 2:00 PM, or a soon thereafter, to discuss status of IUPAT negotiations. (Was originally set for 11:00 am, but was changed per vote during Commissioner Comments.

**COMMISSIONER MOORE MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.**

Proclamations - Commissioner Duffy

Wounded Iraq War Veterans Appreciation Day

**COMMISSIONER LOFTUS MOVED TO PROCLAIM SATURDAY, SEPTEMBER 13, 2008 AS WOUNDED IRAQ WAR VETERANS APPRECIATION DAY, SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.**

Commissioner Duffy advised she had presented the Proclamation last weekend, said she was honored to be in the presence of these men who sustained serious injuries while fighting for our Country, and noted how appreciative they were to have a day dedicated to them.

National Estuaries Day

**COMMISSIONER LOFTUS MOVED TO PROCLAIM SEPTEMBER 27, 2008 AS
NATIONAL ESTUARIES DAY, SECONDED BY COMMISSIONER MOORE.**

Motion Carried 5:0.

Bobbie Rogers, Resource Manager of the Charlotte Harbor Environmental Center thanked the County for their continued support, discussed their work, and mentioned the Charlotte Harbor Nature Festival will be held at the Sports Park on November 22nd.

American Business Women's Day

**COMMISSIONER LOFTUS MOVED TO PROCLAIM SEPTEMBER 22, 2008 AS
AMERICAN BUSINESS WOMEN'S DAY, SECONDED BY COMMISSIONER MOORE.**

Motion Carried 5:0.

Randy Ann Bechtel accepted the proclamation on behalf of the American Business Women's Association, said they try and give back to the community as much as they can, and thanked the Commissioners.

Ed McDonald Day

Commissioner Duffy commented on Ed McDonald's many accomplishments during his employment with Charlotte County.

**COMMISSIONER LOFTUS MOVED TO PROCLAIM SEPTEMBER 30, 2008 AS ED
MCDONALD DAY, SECONDED BY COMMISSIONER MOORE.**

Motion Carried 5:0.

Mr. McDonald joked he had taken his job as a temporary position 20 years ago and thank the Board.

Henry (Hank) Feeser Day

Commissioner Duffy described Mr. Feeser's many accomplishments during his employment with Charlotte County.

**COMMISSIONER LOFTUS MOVED TO PROCLAIM SEPTEMBER 23, 2008 AS
HENRY (HANK) FEESER DAY, SECONDED BY COMMISSIONER MOORE.**

Motion Carried 5:0.

Mr. Feeser accepted the proclamation and said it was a pleasure to work for the County for 17 years.

Award Presentations

Recognition of award received by the Purchasing Department from the National Purchasing Institute, 2008, Achievement of Excellence in Procurement Award.

Purchasing Director, Kim Corbett asked the employees involved to come forward, noted the Purchasing Department has received this award for the last 5 consecutive years, explained the program, thanked everyone in their department, and recognized them each by name.

The Charlotte Harbor & the Gulf Islands Visitor's Bureau has received the state of Florida's top tourism marketing achievement, a "Flagler" for its 2008 Visitor's Guide.

Tourist Development Director, Becky Bovell was proud to accept the Flagler Award, held it up for viewing, explained what it recognizes, and thanked her staff for their hard work.

I. CITIZEN INPUT - AGENDA ITEMS ONLY

Michele Martin from Brown and Brown Public Risk Insurance Agency (PRIA) spoke related to Consent Agenda Item L-6, advised they were a high ranking respondent to the bid process (Bid# 08396), pointed out a significant credit on Florida League of Cities proposal of \$440,000 that should have been applied to 2006/2007, said without that credit PRIA would have ranked the highest and would have saved the County over \$200,000, and requested the Board pull the Item for further discussion.

Chairman D'Aprile asked the Board and staff to take note of her concerns.

Larry Olliff of USA Fence thanked the Board for addressing the easement issue, explained Manatee County's procedures, and suggested Charlotte County do away with a review process.

David Bitner also discussed Consent Agenda Item L-6, commended the Board for insisting it go out to bid, said the County saved the taxpayers over \$1 Million, and noted the credit is deserved.

Kurt Gehring of the Gehring Group spoke on behalf of the Florida League of Cities (FLOC) as related to Agenda Item L-6, advised FLCO did initially have the account, and noted the renewal premium rates and savings were the exact same rates and savings that were presented during the bid process.

Chairman D'Aprile asked Ms. Corbett, Purchasing Director to clarify the procedures related to L-6. Ms. Corbett pointed out the background information for Agenda Item L-6, listed the FLOC premium amount, and proceeded to read the criteria into the record. **Commissioner Cummings** asked if we would have received the credit if we had not renewed with FLOC. Ms. Corbett explained we would not. **Commissioner Loftus** expressed confusion on the rebate, said it was a rebate from the previous year's premium, and stated we should have received the rebate either way. Mr. Gehring explained after the storms there was a 150% increase across the board over what it had been before, indicted since they are non-profit, FLOC used \$10 Million of their trust as an incentive to encourage renewal, said they took the excess money and spread it among those renewal clients, noted based on the profitability, they were looking at doing that again next year, and agreed it made FLOC more competitive in the bidding process. **Commissioner Duffy** said she wanted to discuss this further with staff and expressed concern that FLOCs representative was asked to respond when she asked for staff input. **Commissioner D'Aprile** said he is comfortable with the decision and remarked it is close to the deadline. **Commissioner Duffy** requested at least 10 minutes to discuss. **Commissioner Loftus** agreed it should be discussed further at recess. Attorney Knowlton advised the Commissioners would need to discuss it on the record or talk to staff at the break. **Commissioner Duffy** asked for clarification of the pricing. Ms. Martin advised PRIAs proposed premium was \$2,226,959, noted FLOC proposed premium for the full program was \$2,459,816, less the \$440,163 credit for year 2006/2007, for a bottom line amount of \$2,019,653, and explained the point is before the credit is applied, PRIAs price is \$232,857 less than FLOC. **Commissioner Duffy** stated there is no

confusion, FLOC is higher than PRIA without the credit. Bob Pryor, Risk Management Manager, said the rebate amount must be considered since it was part of their pricing, advised the final cost is less after the credit, reminded the Board that the numbers have never changed, and noted all information had been reviewed by staff and the Board. **Commissioner Duffy** remembered the meeting, but opined she may have missed this. Mr. Gehring commented that FLOC and PRIA both have the ability to grant participation credits on the Workers Compensation premiums, noted the criteria for use of the trust, said the rebate was given based on being part of the trust, mentioned a third party who reviewed and recommended the bids, and explained FLOC's bottom line cost is less than those in the private market. Ms. Martin advised the policy PRIA quoted was from an insurance company, not a trust, so participation credits were not offered, stated this 2006/2007 FLOC rebate should not be considered in the 2008/2009 tabulation, and opined since the County participated in the trust for year 2006/2007, the credit should have been given to the County regardless. **Chairman D'Aprile** and **Commissioner Loftus** both expressed that was their concern.

Commissioner Cummings explained the argument related to the chain of events, said PRIA gave a lower initial rate, commented FLOC offered a rebate to renew with them which caused the net cost to be substantially lower than PRIA, and opined it does not make a difference what the technical argument is, the rebate still brings the price in hundreds of thousands of dollars less for the same product. **Commissioner Moore** asked if the FLOC rebate would only be granted if we renew and if it was reasonable to believe that PRIA would come in less expensive next year. Mr. Pryor stated the rebate was based on renewal and stated there were too many unknown factors to advise. **Commissioner Loftus** asked if we could expect a premium credit each year. Mr. Pryor advised it would depend on whether they have a surplus. **Commissioner Duffy** asked if FLOC would provide the rebate without renewal. Mr. Pryor again confirmed they would not. **Commissioner Duffy** opined the rebate should not be considered as part of the bid, said without the rebate they are not the lowest bidder, and advised she could not support it. **Commissioner Cummings** said these are annual contracts only, advised it could go out to bid again next year, and noted if FLOC did not offer the rebate then, the County could go with whoever

comes in with the lowest bid. **Chairman D'Aprile** felt it was important to discuss this matter out of order and indicated the Board would later decide whether to vote for Item L-6 or pull it from the Consent Agenda. Ms. Martin gave a final statement advising others are voting to go with the lowest bidder and then are later pursuing the rebate. Mr. Bitner opined the Board should ask themselves whether they have received a rebate in the past, commended the Board for insisting this go out for bid for the best price, and commented regardless, they have saved the County over \$1 Million. **Commissioner Moore** is disappointed and said this was not the place to resolve this issue. **Chairman D'Aprile** opined it was important to discuss, noted the Board will have the opportunity to pull it, and said he would move on.

II. COMMITTEE VACANCIES

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

Boca Grande Street and Drainage Unit Advisory Committee is seeking one volunteer to serve as the alternate. Must be a land owner and reside within the unit. Term is two years. **Construction Board of Adjustments and Appeals** is seeking one member to serve as an alternate. Must be a member of the construction industry and hold a current license. Meetings are held as needed on the 1st and 3rd Monday of each month at 8:30 a.m. in Murdock.

Charlotte Harbor Community Redevelopment Agency Advisory Committee is seeking one volunteer to serve as a Business Representative from within the unit.

Greater Port Charlotte Street and Drainage Unit is seeking one member to serve as the alternate. Must reside within the unit. Term will expire in April 2009.

Harbour Heights Waterway Maintenance Advisory Board is seeking one volunteer to fulfill the term of the alternate which will expire in April 2009. Must be a resident of the unit.

Lemon Bay Street and Drainage Advisory Committee is seeking two regular members and one alternate member. Must be land owners and reside within the boundaries of the unit.

Manasota Key Street and Drainage Unit Advisory Committee is seeking one volunteer to serve as the alternate for a two year term. Must be a land owner and reside within the boundaries of the unit.

Mid-Charlotte Stormwater Utility Unit is seeking five members and one alternate member. Must be residents of the unit. Terms will be determined at the first meeting.

Charlotte County-Punta Gorda MPO is seeking one volunteer to serve as a Minority Interest Representative on the Citizens Advisory Committee (CAC).

Pirate Harbor Waterway Unit is seeking five regular members and one alternate to serve on this newly formed committee. Must be residents of the unit. Terms will be determined at the first meeting.

Placida Street and Drainage Unit Advisory Committee is seeking one volunteer to serve as the alternate member for a two year term. Must be a land owner and reside within the boundaries of the unit.

Rotonda West Street and Drainage Unit Advisory Committee is seeking one member to serve as the alternate. Must be a land owner and reside within the unit.

South Bridge Waterway MSBU is seeking two regular members and one alternate member. Must live within the boundaries of the unit. Terms will be determined at the first meeting.

South Gulf Cove Street and Drainage Unit Advisory Committee is seeking one member to serve as the alternate member. Must be a land owner and reside in the unit.

South Bridge Waterway MSBU is seeking two regular members and one alternate member. Must live within the boundaries of the unit. Terms will be determined at the first meeting.

Suncoast Waterway Maintenance MSBU is seeking three regular members and one alternate member to serve. Must reside within the unit. Terms will be determined at the first meeting.

West Charlotte Stormwater Utility is seeking one regular member to serve a three year term. Must be a land owner and reside within the unit.

III. REPORTS RECEIVED AND FILED - None

IV. CONSENT AGENDA

COMMISSIONER CUMMINGS MOVED TO APPROVE IV. CONSENT AGENDA WITH THE EXCEPTION OF AGENDA ITEMS L-4 AND L-6, AS AMENDED, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

Clerk of the Circuit Court

A. Finance Division

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

B. Minutes Division - No Items.

Board of County Commissioners

C. Commission Office - No Items.

D. Administration

(1) **RECOMMENDED ACTION:** Approve the proposed fees for CCTV-20.
BUDGETED ACTION: None

(2) **RECOMMENDED ACTION:** Approve to adopt the attached resolution to accept the Marine Advisory Committee's recommendations for West Coast Inland Navigation District ("WCIND") and the Boater Improvement Fund ("BIF") expenditures for the 2008-2009 fiscal year in the total amount of \$1,402,380. **BUDGETED ACTION:** Approve the revenues and expenditures for the WCIND and BIF funds as set forth in the attached resolution. **RESOLUTION 2008-113**

E. County Attorney

(1) **RECOMMENDED ACTION:** Approve the resolution correcting a scrivener's error in the legal description of Ordinance 2005-084 adopted October 18, 2005 which amended the Charlotte County Zoning Atlas from Planned Development (PD) to Residential Multi-family-5 (RMF-5) for property located south of San Casa Boulevard and east of Tenth Street in the Grove City area. **BUDGETED ACTION:** None **RESOLUTION 2008-114 / XREF-ORDINANCE 2005-084**

(2) **RECOMMENDED ACTION:** Set a Special Board meeting for the sole purpose of convening an Executive Session for Wednesday, September 24, 2008 at 1:30 p.m. or as soon thereafter as possible, in the County Attorney's Office Conference Room, to discuss settlement negotiations and/or litigation strategy related to Thomas Rapp v. Charlotte County and Janette S. Knowlton, Case No. 08-CV-642-FtM-29DNF. **BUDGETED ACTION:** None

(3) **RECOMMENDED ACTION:** Approve the attached agreement with the law firm of Kunkel, Miller & Hament to represent defendants in the action entitled Thomas Rapp vs. Charlotte County and Janette Knowlton now pending in the United States District Court for the Middle District of Florida, Fort Myers Division, Case No. 08-CV-642-FtM-29DNF in an amount not to exceed \$75,000. **BUDGETED ACTION:** None **AGREEMENT 2008-040**

F. Budget Office

(1) **RECOMMENDED ACTION:** Approve the Charlotte County Public Safety Dept. to apply for a grant from the E911 State Grant Program in the amount of \$173,160.00 for Call Taker Consoles and authority for the Chairman of the CCBC to accept the grant if awarded. **BUDGETED ACTION:** None required at this time. **GRANT 2008-020**

(2) **RECOMMENDED ACTION:** Approve the Charlotte County Public Safety Dept. to apply for a grant from the E911 State Grant Program in the amount of \$87,805.00 for replacing obsolete logging recorders to assure continuous 911 recordings which meet the goals set by the State of Florida 911 Plan on Enhanced 911 Systems and authority for the Chairman of the CCBC to accept the grant if awarded. **BUDGETED ACTION:** None required at this time. **GRANT 2008-021**

(3) **RECOMMENDED ACTION:** Approve the Charlotte County Public Safety Dept. to apply for a grant from the E911 State Grant Program in the amount of \$678,648.01 for replacing the County's obsolete E911 System to assure continuous 911 services and authority for the Chairman of the CCBC to accept the grant if awarded. **BUDGETED ACTION:** None required at this time. **GRANT 2008-022**

(4) **RECOMMENDED ACTION:** Approve the Charlotte County Public Safety Department to apply for a grant from the E911 State Grant Program in the amount of \$88,729.99 to purchase software that gives call-takers the needed information to dispatch appropriate aid to medical emergencies and authority for the Chairman of the County Board of Commissioners to accept the grant if awarded. **BUDGETED ACTION:** None required at this time. There is no financial impact to the budget since no matching funds are required by this grant. **GRANT 2008-023**

G. Growth Management

(1) **RECOMMENDED ACTION:** Approve the Budget Stabilization Agreement between Babcock Property Holdings, LLC and Charlotte County. **BUDGETED ACTION:** None **AGREEMENT 2008-041**

H. Economic Development

(1) **RECOMMENDED ACTION:** Approve the Charlotte County Industrial Development Authority's proposed budget for fiscal year 2008-2009. **BUDGETED ACTION:** None

J. Environmental Services

(1) **RECOMMENDED ACTION:** Approve Resolution adopting revised Accepted Operational Policies for Sanitation Franchise Collection Service. **BUDGETED ACTION:** None **RESOLUTION 2008-115 / XREF: RESOLUTION 89-101 & XREF: RESOLUTION 2002-030**

(2) **RECOMMENDED ACTION:** Approve Amendment to 2008 Trash Collection Agreement with Waste Management, Inc., of Florida, in order to provide sanitation collection services to Don Pedro and Knight Island residential units as part of the Charlotte County Sanitation Unit, a Municipal Services Benefit Unit (MSBU), and to include the Fuel Cost Indexing formula previously established and adopted by the Board in the 2004 Rate Case. **BUDGETED ACTION:** None

(3) **RECOMMENDED ACTION:** Approve the Budget Amendment #08-A49 in the amount of \$14,337,000 and Budget Transfer #08-025 in the amount of \$4,736,027 in order to appropriate funds in the Debt Service Fund for Conservation Charlotte. **BUDGETED ACTION:** Approve Budget Amendment #08-A49 in the amount of \$14.3 M and Budget Transfer #08-025 in the amount of \$4.7M. Funds are provided by the Conservation Charlotte Fund.

K. Facilities Construction and Maintenance - No Items.

L. General Services

(1) **RECOMMENDED ACTION:** a) Approve Award Bid #08-352, Sod - Supply, Deliver and/or Install and Hydroseeding, to the lowest responsive, responsible bidder, Maloney's Sod Inc., of Punta Gorda, Florida, at the unit prices submitted. Terms of the contract are from October 1, 2008, through and including September 30, 2009; and b) Authorize the County Administrator to approve renewal options for up to two additional one-year terms, at the same prices, terms and conditions, by mutual consent. This is an annual contract for supply, delivery and/or installation of sod and hydroseeding on an "as required" basis for various County departments. **BUDGETED ACTION:** FY08 year-to-date purchases are approximately \$287,500. Items will be charged to the appropriate MSBU/TU or Transportation Trust as used.

(2) **RECOMMENDED ACTION:** a) Approve Award of Bid #08-327, Tree & Brush Power Shearing, at the unit price bid to Clear Zone Maintenance, Inc. Term of contract is to be from October 1, 2008 through and including September 30, 2009; and b) Authorize the County Administrator to approve the renewal options for up to two additional one-year terms, at the same prices, terms and conditions, by mutual consent. This is an annual contract for tree and brush power shearing, on an as required basis, along selected roadsides of roadways and/or shoulders within Charlotte County. **BUDGETED ACTION:** FY09 budget is available in the five MSBUs that receive power shearing (Greater Port Charlotte, Northwest Charlotte, Englewood East, South Gulf Cove, and Gulf Cove).

(3) **RECOMMENDED ACTION:** Approve award of Bid #08-365, 16" Force Main, C.R. 771 and Butterford Waterway Crossing, to Stevens & Layton, Inc., of Fort Myers, Florida, in the amount of \$655,049.85, for an experienced, licensed, and qualified Contractor to furnish all materials, labor, equipment, incidentals, and appurtenances required to successfully construct approximately 7800 linear feet of 16-inch diameter wastewater force main. **BUDGETED ACTION:** Budgeted Amount for C.R. 771 Forcemain is \$966,650 in CIP c350602 - Forcemain and amount budgeted for Butterford Waterway is \$190,000 in CIP c369501 - Waterway Crossings. Funding for this expenditure comes from the Utilities Renewal and Replacement Fund.

(4) **RECOMMENDED ACTION:** Approve Sole Source File #09-022, Economic Development Consulting Services with PharmaBioSource, Inc., for a not to exceed fee of \$125,000, to perform consulting services for the Economic Development Office. **BUDGETED ACTION:** Funds are available in the Economic Incentive Fund.

Commissioner Moore indicated his disappointment in the decision to use PharmaBioSource, Inc. as the sole consulting firm.

**COMMISSIONER MOORE MOVED TO APPROVE SOLE SOURCE FILE #09-022, ECONOMIC DEVELOPMENT CONSULTING SERVICES WITH PHARMABIOSOURCE, INC., SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.**

(5) **RECOMMENDED ACTION:** Approve Change Order #7 to Bid #08-054, 2008 County Paving Program with Ajax Paving, Inc., of Nokomis, Florida in the amount of \$159,404.69 for a revised total of \$9,926,418.15 with a fifteen (15) calendar day extension to the contract, for a qualified, licensed Contractor to resurface Charlotte County roadways for the 2008 County Paving Program. This change order is for additional roadway work in the Punta Gorda Non Urban MSBU area which includes allowances for all labor, supervision, materials and equipment necessary to complete the work. **BUDGETED ACTION:** FY09 funds are available in the Punta Gorda Non Urban Streets and Drainage MSBU, CIP project c410216 PGNU MSBU Paving Program. Project total is \$2,427,000.

(6) **RECOMMENDED ACTION:** Award Request for Proposal #08-396 Property & Casualty Insurance Coverage to Florida League of Cities for the total premium amount of \$2,019,655 for the term October 1, 2008 up to and including September 30, 2009. This is an annual contract for a firm to provide a comprehensive program of self-insurance to cover its workers' compensation, property, and liability exposures. **BUDGETED ACTION:** None

Commissioner Duffy noted based on the previous conversation she is unable to support awarding FLOC with the contract.

COMMISSIONER DUFFY MOVED TO DENY AWARDING THE REQUEST FOR PROPOSAL #08-396 PROPERTY & CASUALTY INSURANCE COVERAGE TO FLORIDA LEAGUE OF CITIES AND RECOMMEND ACCEPTING THE SECOND LOWEST BID. (AMENDED), SECONDED BY COMMISSIONER LOFTUS.

Commissioner Cummings inquired as to the impact from an insurance standpoint. Mr. Pryor advised the County would pay over \$200,000 more for the contract and be without any insurance until negotiations were completed with another bidder. **Commissioner Duffy** clarified her motion should have been to deny FLOC, and award PRIA, and asked to amend the motion.

Chairman D'Aprile asked if it is legal to deny L-6, accept the second lowest bidder, and whether there was time. Ms. Corbett said this was a Request for Proposal (RFP), noted pricing was only one of the scoring criteria used to evaluate and obtain the top ranked firm, and said FLOC scored the highest. **Commissioner Loftus** indicated his understanding was that this is a rebate from the 2006/2007 premium already paid, opined we should be entitled to the rebate regardless, and noted it would be different if they had indicated the credit was an incentive to renew.

Commissioner Cummings noted it does not matter if the rebate is from last year, said you do not get the credit unless you renew, asked if they want to pay an extra \$200,000 for the same product because somebody gave a technical argument that confused the issue, and opined the simple decision in these hard economic times is to accept the lowest price this year and bid out again next year. **Commissioner Moore** asked about the legalities involved. Assistant County Attorney Kira Honse advised since this was a RFP the Board has the right to reject all proposals with good reason. **Commissioner Duffy** said she was not confused, advised she was suspicious from the beginning, noted the County has used the same company for many years, and expressed her opposition. Mr. Baltz asked Ms. Corbett to briefly explain the process in response to **Commissioner Duffy**. Ms. Corbett said this was a RFP, named each member appointed to the Professional Services Committee, said a third party only reviewed the information and provided the data, noted a chart including all information was reviewed by the Commissioners on an apples to apples basis, indicated the criteria used, provided the scoring by applicant, and advised they brought the Professional Services Committee recommendation forward.

Commissioner Loftus asked if a rebate was received from FLOC in the past and when we were made aware of the credit. Mr. Pryor said this is the first time a rebate was offered, noted the rebate was included in the initial renewal proposal, and advised FLOC pricing was received several months prior to putting the policy out to bid. **Commissioner Cummings** recalled the rebate was mentioned at every meeting from the beginning. **Chairman D'Aprile** agreed and stated there was a motion and a second on the table to deny FLOC and approve Brown and Brown PRIA. **Commissioner Loftus** advised he changed his mind since FLOC pricing was in prior to RFP.

Motion Failed 1:4. Chairman D'Aprile, Commissioner Cummings, Commissioner Moore, and Commissioner Loftus opposing.

COMMISSIONER CUMMINGS MOVED TO AWARD REQUEST FOR PROPOSAL #08-396 PROPERTY & CASUALTY INSURANCE COVERAGE TO FLORIDA LEAGUE OF CITIES FOR THE TOTAL PREMIUM AMOUNT OF \$2,019,655 FOR THE TERM OCTOBER 1, 2008 UP TO AND INCLUDING SEPTEMBER 30, 2009, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:1. Commissioner Duffy opposing.

(7) **RECOMMENDED ACTION:** Approve the Award of Bid #08-382, Sale of County Owned Property, to Gordon W. Phillips for \$39,128.76.
BUDGETED ACTION: None

(8) **RECOMMENDED ACTION:** a) Approve the Guaranteed Maximum Price (GMP) to contract #07-025, Design/Build Services-Office/Warehouse Building-Burnt Store Waste Water Treatment Plant, with Magnum Builders of Sarasota, Inc., in the amount of \$682,680 and a Contingency of \$64,044; and b) Authorize the Chairman to sign the Amendment to Contract #07-025 for the GMP and contingency, the construction phase of the design/build project. **BUDGETED ACTION:** Budgeted amount in FY08 is \$749,400 in CIP Project South County Staging Area. Funding for this project comes from Utilities Operations and Maintenance Fund. Total project budget is \$800,000 in CIP Project South County Staging Area

(9) **RECOMMENDED ACTION:** Approve renewal of Contract #06-364, Tourism Advertising and Promotion with Smith Advertising and Associates for the term October 1, 2008 up to and including September 30, 2009 in the amount not-to-exceed \$326,000. This is

an annual contract for the procurement of marketing services for the Tourist Development Bureau in promoting Charlotte as a travel destination. BUDGETED ACTION: None, \$326,000 is budgeted in the Tourist Development Trust Fund.

M. Human Resources - No Items.

N. Human Services

(1) RECOMMENDED ACTION: Approve the annual Section 5316 grant and resolution for FY 2008/09 funding, to provide funds for Transportation Disadvantaged County residents who need transportation to work or job training in our existing Sunshine Ride program and authorize the Chairman to sign the requisite documents. BUDGETED ACTION: Grant will be reflected in the FY 2008/09 Budget for Transit Division. **GRANT 2008-024 / RESOLUTION 2008-116**

(2) RECOMMENDED ACTION: Approve the annual Section 5317 grant and resolution for FY 2008/09 funding, to provide funds for Transportation Disadvantaged County residents who are disabled and need transportation for most reasons in our existing Sunshine Ride program and authorize the Chairman to sign the requisite documents. BUDGETED ACTION: Grant will be reflected in the FY 2008/09 budget for Transit Division. **GRANT 2008-025 / RESOLUTION 2008-117**

P. Information Technology - No Items.

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

R. Public Safety - No Items.

S. Public Works

(1) RECOMMENDED ACTION: Approve and authorize the Chair to sign a U.S. Army Corps of Engineers permit for the Winchester Boulevard South construction project. This project will fill approximately 1.5 acres of wetlands in order to widen Winchester Boulevard from two lanes to four lanes and connect to CR 775 at its southern end. BUDGETED ACTION: The FY09 budget contains \$4,326,000 for mitigation in the Road Improvements Fund. CIP project C419302

Winchester Corridor South Phase 3. The project total is \$69,025,000.

(2) **RECOMMENDED ACTION:** Approve to accept conditions and authorize Chairman to sign the U.S. Army Corps of Engineers permit for the Burnt Store Road construction project from a two-lane road to a four-lane road. The project is located within the Alligator Creek and Charlotte Harbor watershed. **BUDGETED ACTION:** Funding for this project is budgeted in the Road Improvements fund. CIP project C419901, Burnt Store Road Safety and Widening. Project total \$60,758,000. Funding for this project phase is from gas taxes, road impact fees, the 2002 sales tax extension, an FDOT grant, and developer contributions.

(3) **RECOMMENDED ACTION:** Request the Board set a public hearing for October 14, 2008, at 10:00 a.m., or as soon thereafter as may be heard, to consider approving an ordinance amending the provisions of the Gulf Cove Waterway MSBU to provide for the removal of advisory board members of the Unit by the BCC. **BUDGETED ACTION:** Recording fees of approximately \$44 are available in the Gulf Cove Waterway MSBU fund.

(4) **RECOMMENDED ACTION:** Approve and authorize the Chairman to sign a Resolution supporting Charlotte County Erosion Control Project - Phase 1 and provide matching funds for annual monitoring of the completed erosion control project. **BUDGETED ACTION:** The FY09 budget will have \$810,000 available in matching funds in the Stump Pass Beach Renourishment fund. CIP project c390404, Stump Pass Maintenance Dredging, project total \$16,891,000.

T. Real Estate Services

(1) **RECOMMENDED ACTION:** Approve a Resolution repealing Resolution 2005-183 and establishing Administrative, Procedural and Technical Requirements and Filing Fees for Occupation of County Easements and Occupation of County Rights-of-Way, and providing an effective date. **BUDGETED ACTION:** None **RESOLUTION 2008-118 & XREF: RESOLUTION 2005-183**

(2) **RECOMMENDED ACTION:** Approve a Resolution approving and authorizing the Chairman to execute a grant of a utility easement to Florida Power & Light Company, to be located on a portion of

Tract L, Block 4611, Port Charlotte Subdivision, Section Eighty-Five, lying in Section 29, Township 41 South, Range 21 East (South Gulf Cove Park). BUDGETED ACTION: None RESOLUTION 2008-119

V. Tourism Development - No Items.

W. Utilities - No Items.

X. Building & Construction Services - No Items.

Y. Other Agencies - No Items.

RECESS: 10:15 AM - 10:25 AM

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

(2) Public Works: RECOMMENDED ACTION: Adopt amending the purpose of the Burnt Store Village MSBU to include beautification projects.

Chairman D'Aprile indicated the next item was a Public Hearing to amend the Burnt Store Village MSBU. Dawn Harrison, Public Works noted the Ordinance would amend the purpose of the Burnt Store Village Street and Drainage MSBU to include beautification.

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

Motion Carried 5:0.

Commissioner Cummings pointed out a vote was needed since this is the only Public Hearing.

COMMISSIONER LOFTUS MOVED TO AMEND THE PURPOSE OF THE BURNT STORE VILLAGE MSBU TO INCLUDE BEAUTIFICATION PROJECTS ORDINANCE 2008-085, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

VII. PRESENTATION AGENDA - 10:00 A.M.

(1) Commission Office: RECOMMENDED ACTION: 10:00 a.m., or soon there after presentation of Salt Water Catch Basin design by Calvin LeBuffe.

Wendy Berg gave a power point and video presentation explaining the Salt Water Basin concept.

Ms. Berg introduced John Anderson and Calvin LeBuffe and advised they would answer questions. **Commissioner Loftus** opined this is a great idea, expressed his concerns related to operational and maintenance costs and asked if they had that information. Mr. Anderson said Mr. Conga could supply that information to the Board. **Chairman D'Aprile** interjected it could work, but noted the Board would require a higher level of certainty and detail related to the costs involved. **Commissioner Cummings** suggested they install a working prototype on a smaller project. Mr. LeBuffe advised they selected Stump Pass because it would be perfect for the prototype, noted the cost of dredging, opined dredging causes Red Tide, and mentioned using grant money to help subsidize the project. Ms. Berg proceeded to explain several topics that Mr. Conga provided in his absence. **Chairman D'Aprile** said grant funding would be helpful, opined if this project works it could be economic to the County, and said they need the facts before they could make a decision. Mr. LeBuffe opined the Army Corp of Engineers believe it could work. **Commissioner Moore** asked if this was presented to DEP. Mr. LeBuffe explained he had given a presentation in Tallahassee and was told it would need approval at County Level. **Commissioner Moore** suggested he give a presentation to the WCIND since they have been involved with innovations in this area.

IX. BOARD WORKSHOP AGENDA
No public input - No Items.

V. REGULAR AGENDA

Chairman D'Aprile advised the addition of Z-1 to set an Executive Session for today at 11:00 AM, or as soon thereafter, to discuss status of IUPAT negotiations.

COMMISSIONER MOORE MOVED TO APPROVE SET AN EXECUTIVE SESSION FOR TODAY AT 11:00 AM, OR AS SOON THEREAFTER, TO DISCUSS STATUS OF IUPAT NEGOTIATIONS, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.

X. CITIZEN INPUT - ANY SUBJECT

Chairman D'Aprile advised citizens they had three minutes to speak on any subject. Ken Ice said he is from the Pirate Harbor Property Owners Association(PH), indicated his presentation would take longer than the three minutes allowed, and requested additional time. Chairman D'Aprile advised he would grant extra time if there was no repetition. Mr. Ice read a five page summary of complaints and requests related to how Charlotte County Utilities (CCU) handled the LPS sewer system installation at Pirate Harbor.

Public Hearing Verbatim Excerpt related to Pirate Harbor CCU Sewer Assessments:

D'Aprile: Good Morning.

Ice: Ah my name is Ken Ice (President), I'm from the Pirate Harbor Property Owners Association, first of all Mr. Chairman I'd like to ask for some ah extra time, the presentation I have I can't cover in three minutes. If I can't do it in three minutes I'll have to have someone else do the rest of it. **D'Aprile:** Well if you don't, okay, I'll give you the extra time providing no one else comes up and repeats exactly what you said. **Ice:** We, we, we ah figure we only have three speakers, we tried to hold it down so we won't be repetitious. **D'Aprile:** Alright, go right ahead. **Ice:** The whole presentation shouldn't take more than about 15 minutes. **D'Aprile:** Alright. **Ice:** I have met with most of you in the past and I think you all know why the residents of PH... **D'Aprile:** Excuse me, excuse me, you said 15 minutes? **Ice:** Yes, not my time, all total, if at most. **D'Aprile:** Oh, alright, go ahead.

Ice: Mr. Ice proceeded to read the following five page presentation:

I have met with most of you in the past and I think you all know why the residents of PH are here today. In case some of you don't, I'll explain: Some Government injustices just don't go away. The residents of PH are going to make sure this is one of them. Of Course, I'm talking about the manner in which the Charlotte County Utilities handled the installation of our LPS sewer system. I am going to briefly address some of the issues

regarding the way this project was handled, and other residents are going to address you with what we feel are important facts involved in this issue. The first, is the way CCU handled the initial costs of the infrastructure. When the new staff at CCU took over in 2004 from the interim director, some of you had appointed, we do **not** believe the Pirate Harbor sewer package and its quoted costs was mysteriously missing. We believe that management at CCU wanted to rebid this project using their new staff so that they could significantly increase the project costs. CCU knew sooner or later we would ask about it, and then they could pretend it never existed, and they could start all over. This is where the deception from CCU started. CCU didn't want the project to go away because each system is another feather in their cap, and more money in their coffers. The new CCU just wanted our project to be bid on their terms, not the previous CCU terms where bids were far less and projects were handled by local businesses. We know now that there was absolutely nothing wrong with the original bid submitted to us in 2004. We also know that things were happening at CCU in 2004, that caused the 2004 staff to leave, so they could be replaced by hand picked replacements. In 2004, the "Good Old Boy" System of doing business in Charlotte County and at CCU was in full swing. Prior to the new staff taking over at CCU, several LPS systems had been installed in Charlotte County by the old staff, and had been done so at a reasonable cost to residents in those areas. One of them was very comparable to our Pirate Harbor project.

Secondly, I'd like to address the issue of the connection fees being charged to Pirate Harbor residents to hook up to the system. At meetings with some of you, and with County Administrator Baltz, we proved to you beyond a doubt, that the information we received over a year and a half period from staff at CCU was both ever changing and deceptive. The total costs of the connection fees were never disclosed to us until the construction of our project was well under way. We were never told during this period about the added fees totaling almost \$3,700 for what the CCU tells us are Plant Capacity fees, transmission fees, and what they call Accrued Guaranteed Revenue fees. This brings the cost to connect to the system to about \$6,500. This is cash-upfront, and it goes up each month if we do not connect. Combined with the installation fees paid over 20 years, this brings the grand total to nearly \$14,000 per

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lot. If we were a built out community right now, that would take the total project costs to over \$5. Million dollars. Think about that for a minute...Do you actually expect future projects to get the go ahead from residents in Charlotte County with costs like that? We think not. And we know for sure that had CCU been honest and up front with us about these costs, our project would not have been approved either. They knew that, and that is why they were not disclosed to us until the project construction was well underway. Another example of CCU's deception. We have learned that these additional fees were done away with several years ago, because of protests from residents, and we know they were reinstated again by a County resolution presented to you by the current CCU staff. Well, we feel it is time to once again do away with them. We are in tough economic times. The County is in a state of recession. Unemployment is at an all time high. Residential construction is at a standstill. Hundreds of homes are in foreclosure in the County. Vacant homes are everywhere as residents have moved out of the county, looking for greener pastures. This is even admitted to in CCU's 2007 Annual Report, Page 5-28. You can read it. The need for sewer plant expansion is not there, and it's time to stop those projects that the county cannot expect the existing residents to pay for. These are unnecessary impact fees and certainly will do nothing to improve construction in Charlotte County. Mr. Baltz, Mr. Cummings, Mr. D'Aprile, you have insulted the intelligence of the entire community of Pirate Harbor. Mr. Baltz, the letter I received from you after our meeting, you said you talked to CCU staff and they said they did not intentionally withhold cost information from us. What did you expect them to say? Did you actually expect them to admit it? That's exactly what they did, and they did it intentionally to make sure this project was not rejected. Mr. D'Aprile, and Mr. Cummings, you said after your Board meeting several weeks ago, that mistakes were made, but there was nothing you could do about it now except to make sure it didn't happen again. Well you're wrong! That response is something you may tell your adolescent child, and only makes us believe that you may be part of the CCU problem. Your inattention to this in the first place is why we are here today. Our community is made up of lawyers, educators, judges, engineers, contractors, law enforcement, company CEO's and many others willing to step up and prove you wrong.

What we are asking the Board to do today is twofold:

* First, we would like to present you with over 200 petitions signed by Pirate Harbor Property Owners, requesting that the Commission appoint an independent party to investigate and audit the manner in which the CCU handled the Pirate Harbor Sewer Project, and its significantly increased and unnecessary costs when compared to the costs of systems installed by the old CCU staff prior to 2004. When this is proven to be true we want our excessive fees refunded to our residents.

* Secondly, we are asking the Board to abolish the resolution that established the additional fees we were not told about by the CCU, and that those fees be waived from our connection costs, and any future connection costs to residents of Charlotte County until it becomes necessary again sometime in the future.

What I've presented to you is a brief synopsis of what the problems at CCU are, and a very brief synopsis of what we know to be true. Mrs. Duffy, Mr. Loftus, with the injection of two new commissioners in the near future you have the most opportune time to right the wrong that was perpetuated in 2004 at CCU long before you took office on the commission. We are asking that you end this debacle now, before it escalates to even greater heights and further embarrassment to the County. We ask that you respond to our petition within 30 days from today, with exactly what you intend to do to bring this to an amicable closure. Thank you. **D'Aprile:** Thank you.

D'Aprile: Anyone else wishing to address the Board on any item?

Fleming: Good Morning Commissioners. **D'Aprile:** Good Morning. **Fleming:** My name is John Homer Fleming, I'm a resident of Pirate Harbor and I'm also the Vice President of the Property Homeowners Association. We are here today basically because of these outrageous increases in costs and I'd like to just give you an example of why, in addition to what President Ice has told you, we have found out. The City of Cape Coral is installing a gravity system at the present time. This gravity system not only removes the liquid waste, but also the solid waste. Their project is also bringing in two types of water, their system is costing each lot owner, each homeowner **\$17,000 to \$20,000.**

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The current project in PH is a low pressure system which means it only reduce, only removes the waste water, that system is costing us as previously stated by the President of the Association approximately **\$14,000**. We ask you why we are paying so much for so little? **D'Aprile:** Thank you Sir.

Dimuzio: Ah good morning, my name is Bob Dimuzio resident of PH and ah I wanted to just go ahead and reinforce what the two gentlemen previously have said, um, we have put our trust into the County to go ahead and find us the best possible pricing to go ahead and install a system. Keep in mind we came to you voluntarily to say at once Turn Bay pulled that trunk line across the front of us we wanted to go ahead and have our sewer system put in. We had a presentation of one price and obviously that price has now ended up to be charged four times the normal and proven cost to install the similar projects, ah, you know we've been doing some study, we're found some inconsistencies in the way this whole project was handled, our project was padded with meaningless studies at a huge expense, the awarding of contracts were done so without public input and discussion or comparison of costs. There seems to be blatant conflict of interest throughout the entire process since 2004. In doing our research we saw instances where contracts were awarded then cancelled and awarded to another firm at a much higher cost. To make matters worst, these contracts were taken away from local firms. The Commissioners preach to use local contractors but the County continues to support out of area firms...case in point, during the installation of our project, I noticed Hahn Construction doing the work, they're out of Lee County. We're all frustrated um with the unexplained costs which are so much higher than previously projects ah not only here but other parts of the State, I just came back from Tallahassee, my sister is putting in a gravity system at a cost of **\$7,000** and it's a much larger piece of property than what we have for our standard lot. It's apparent to me the staff has a total disregard for taxpayers ah of this County, they are running up expenses by overstaffing change orders which is a big thing that goes on in this county and needless studies or duplicate studies and by not using the most using the most cost efficient means of applications. For example, in our project there is a choice of a release valve that has to be put out through our system, there's 11 of them that are gonna be put in ah former projects and it's not required to have a um certain type, former projects

use a manual release system, our project was a deemed to have a automated system... difference in cost: manual is \$400, the automated system is \$2,950 that's \$4,400 versus \$32,450... big difference and I dare say that the cost is gonna be even higher cause those automated ones have to be monitored on a regular basis. We feel this should be a great interest to you because you're districts are going to continue to put sewers in and you're gonna have the same questions coming up time after time if you don't get to the bottom of this, we a we believe that you are kept in the dark as far as how this procedure is going on and ah we feel that we we can help you out as far as explaining some of the things we're seeing and we feel that the only way to get to the bottom of this is to go ahead and have an audit. We're ask your support to sponsor the request for ordering an audit of Engineer of Record, and ah record contract and CCU. Thank you. **D'Aprile:** Thank you Sir.

Anyone else like to speak to the Board on any item?

Kerwer: My name is George Kerwer ah Pirate Harbor and ah Secretary to the Board of Directors ah a lot of what I gonna say has already been said so I won't repeat it just to emphasize couple of points. Ah in all my dealings with CCU and the administrators, ah it's almost as though they didn't want us to know the details of what was going on, they gave us generalities and ah responses that were vague and indifferent and that has gotta stop. Ah I want to emphasize the request for a completely independent investigation independent of the CCU and the County Administrator staff, somebody who is totally out of the line and reports directly to the Commissioners. If they have to hire them, hire them ah in effect to look at the entire bidding process, review all bids, the component part costs as it was just mentioned and whether expansion was really needed as it's alleged. In effect, follow the money and see where it went and that's all I have to say about it.

D'Aprile: Thank you Sir. **D'Aprile:** Anyone else? Please come forward.

Naudi: My name is William Naudi and I live in Pirate Harbor. I have only one question. When developed Palm Bay ?? low pressure system ?? I went to check...no tanks there. Directly from the house in the street? Why not do the same thing in Pirate Harbor...

got to be a reason but... that's all I want to say. **D'Aprile:** Thank you. **Naudi:** Your welcome. **D'Aprile:** Thank you Sir.

Leonard: Good morning Commissioners, my name is Bob Leonard. Um when this first came out I had just build a house and spend \$8,000 to install for an aerobic septic system which requires an annual permit every two years and an annual fee to the septic installer to inspect the system to make sure it ran. I even spent extra money to have the drain field extended, just because I thought it was a good idea. When the first proposal came in to put sewer systems in PH, I was right there at the head of the line to sign up for it. I'm a firm believer that the sewer systems are an excellent idea on the water, preservation of the water quality ah as you know, I'm very interested in fishing and and the ecology of the harbor ah so on and so forth. So when they first presented it to us, I think it was a no brainer at that price, immediately voted for it, when we found out later what they felt was going to be the correct price, I don't know whether I would have voted for it or not, that's a lot of mo, a lot more money, but whether I would of or wouldn't of, we are where we are at this point. Um my single biggest concern is that throughout this entire project while it was done in PH, is their total ah lack of concern and ignorance of any complaints made during the installation. My complaint has been right along I complained to the ah CCU ah personnel on-site that the line and grade of my swale in front of my house was not restored properly, they did not put sod in there, they put clumps and it sank 6" to 8". I have a square every time it rains where they made a connection. The other side, the entire line and grade is out of a whack because they used their slant boring machine right there in my front yard and made another connection on that side besides which they hit the water line, they hit the cable line ah we didn't lose electricity thank God that was deep enough that the guy couldn't hit it with a shovel. More importantly I have signed up already for the new system what ah regardless of what the outcome of this is... when that fellow came out with my box to hand to me to have my electrician install it I again pointed all this out to him. He said oh that should have been done, that should have been done. Nothing ever happens with these people. You complain, you talk, you write letters, whatever you do, you are ignore... period.

D'Aprile: Thank you Bob. Anyone else? Ladies and Gentlemen, I do hear your complaints and I do hear your your problem, but I'd like to make one correction on the Sir... when you mentioned my name and Commissioner Cummings' name about the fact that we didn't care, I mean that that I can only speak for myself but I certainly do care about your situation. I'm the one who invited you to my office and created ah ah conversation between you and I and or your people with staff to see if we can find a resolution to this problem. I am not happy with the outcome, I am not critical of you nor you should be of me, especially when I try to help the situation. Now what has happened to you is unjustified, that's my belief, my personal belief, I'm not saying anything else however, I'd like you to know that this is something that should never happen ever ever ever happen again. You're given a price, you stick by it. In my business or any business I've ever owned in the past, I gave a customer a price, that's the price. I do not change it midstream or find something else, and if I did, I would notify you prior. Now these are things that I have concerns with, alright, now can I correct it in the short amount of time I have left on this commission, I doubt it, but certainly I am very much involved in it. Commissioner...(Loftus) **Loftus:** Thank you Mr. Chairman, Mr. Chairman, over the years the two years I've been here on board, I've had concerns, I shared it with former Administrator, he just blew me off, I have shared it with our new Administrator, he has listened to my concerns, he wants to address them, but at this particular point in time with the issues that were brought up with the PH, I also have issues with the Charlotte Harbor of over almost **\$700,000** for the ah design and um permitting for that project which is over 50% and it should normally be only around 10% to 15% at the max. We have ah all kinds of issues with it. I've ah have gotten all kinds of misinformation from Utilities, the just the resent one was an in information that um I requested in reference to ah the issue of Charlotte Harbor and the design standards the design and the letter that I receive or memo I received for Utilities was the fact that ah when they were looking at the gravity sewer because it was a um design for the grav both gravity sewer and the low pressure sewer back in '94 - '95 and ah that um they indicated that um they did look at the gravity sewer plans but however the ah zoning had changed after they had designed the um gravity sewer. Well I'll tell ya I've been around here for a while and that is incorrect because I was involved in it

and as a matter a fact Commissioner Cummings was involved in it because I had a meeting with him and CDM at the time back in November of '95 in referenced to the oversized gravity sewer project. I think Commissioner Cummings will remember that meeting and um it was just oversized but we had changed the zoning in the Charlotte Harbor prior to them designing that gravity sewer. It was someone's mistake ah but it was not that it was designed afterwards, the the zoning was not designed afterwards which the memo states. So I have some major problems and I think that it is time that we get this straighten out and you know and another issue that I've I've been after and it just bugs me is ah the issue of um when someone asks for a master meter and they're insisting on a single meters, it costs the developer for each unit **\$3,000** more to put in single ones, **\$2,000** for Utilities plus **\$1,000** with the the piping that the plumber has to put in there. So it's **\$3,000** extra a unit for that so I'm looking at the this whole issue of the utilities needs to examined, examined very thoroughly and I believe very strongly that we need to have an outside independent audit of this total utilities to find out where we are because I do not believe that the customer should not be taken advantage of and I feel very strongly that there's mismanagement in Utilities. I've expressed this to our Administrator on several times, I that was the reason I asked for the resignation of the former Administrator because he was not addressing those issues. Thank you Mr. Chairman.

D'Aprile: Thank you. Yes Commissioner... (Duffy) **Duffy:** Mr. Chairman, um I've had several meetings with the private the a um PH Property Owners and they have some some real valid concerns and the perception among any number of people in our Community that something needs to be investigated is to be taken seriously. I take it very seriously and I ah think that they made the suggestion yesterday and asked me if I would support um an independent audit and I agreed with them and I assured them that I would support their request today so I also second what Commissioner Loftus just said that I do think an audit needs to occur. **D'Aprile:** Any other comments? Jeff would you like to rebut on the ah the main issue here from what I understand is not not so much the procedure and its installation or the installation of the unit but the amount of the cost when they were given the price, X amount of dollars and they all agreed to it, they signed it, they were all happy with it, then all of a

sudden there was another amount of a larger amount money for the initial hook up charges or the connection fees and this seems to be a little bit of a a controversy here, they weren't aware of it... we certainly gave a price at the beginning which they assumed at that time that that was the entire thing. We never seemed to have given them what it would really cost. I don't think it might have taken place if they knew what it was going to cost, but nevertheless this is something ah we need to address this as best you possibly can and see if we can come up with a solution.

Pearson: Sure, thank you ah Chairman ah for the record Jeff Pearson, Charlotte County Utilities (CCU) Director, ah first I would like to say CCU has been completely transparent in this entire process um the Pirate... on December 13, 2005 the Pirate Harbor Water Unit was dissolved by the BCC, assets were moved to CCU Operations and Maintenance. At that point was our first step in being able to ah pursue an MSBU for this area ah CCU went out for State revolving funds um there was a resolution approved to set a uniformed method of collection on this in April of 2006, um it I all of this was public it was advertised the bids went out for bid according to Charlotte County purchasing requirements. CCU staff has done a good job this project um we delivered um this project ahead of the schedule that was approved by the construction, I would be happy to address several of the comments um Mr. Ice comment about re-bidding the project...there was anticipated cost in 2004, early 2004, the cost of putting in and designing infrastructure since 2004 has drastically changed ah the costs have gone up, ah PVC pipe is also tied to the cost of petroleum because it is a petroleum product. CCU does not control what bids that we get. This project was engineered um it the costs for before the MSBU was established everyone received notice, we have met with the POA, not Mr. Ice, he was not the president then, but Mr. McCullough which I do not see here, he was the president, we worked with him very closely, I have a stack of documentation and emails stating even from their website, person saying that the information is clear and and accurate we have never the the MSBU has been lowered by **\$113.00** since the beginning of this project and that before it was um approved by the Board in 2006 CCU has done its due diligence we have um I ah don't know about the issue about um the swale that's the first time I've heard that but I can assure you that will be taken care of with the

contractor because they're required to restore that swale. Um, as far as the cost of the MSBU, the cost of the MSBU is not **\$14,000** ah the cost of the MSBU was recently lowered um, I've got that exact price ah the to um if you add in the connection fees which are separate from the MSBU, there's a lot of vacant properties out there that do not connect. We do not want to confuse the MSBU with the connection fees cause those folks are not paying connection fees... their paying the MSBU. Connection fees come when that individual property owner comes in to connect, so but if you combine both of those the total project is if they came in and paid CCU to get hooked... connected to sewer **\$12,536.97** for an annual assessment of **\$290.10**... the original assessment that was approved by the BCC in 2006 July, 2006 was **\$403.24** that price has gone down because we have ah finished construction on that project. That's what our engineer, Boyle Engineering, who the County hired, a professional engineer to design that project with working with that engineer, with working on trying to save money where we could, we brought a **\$3.1 Million** project down to a little over a **\$2 Million** project for a savings of almost **\$1 Million** for this project. Um also as far as comparing this project to another project ah a I haven't seen any comparisons... I can't state that but I do know that ah specifications have changed we now have a specifications for the design that is going to ensure our rate payers are not cost ah having to pay for extra labor to maintain automatic release valves or manual release valves, manual release valves take more man power and an automatic one is automatic it means it comes on and off automatically without someone standing there operating that valve. Ah that savings will be recouped in in our rates and to our customers um we like I said we have been very transparent with all of the costs... I have a breakdown of the costs right here ah the design, the engineering design was **\$213,610**, that's what the engineer charged us. It's black and white, it's very clear, the construction was **\$1,099,442** that was brought through the bidding process, that was the lowest responsive bidder um the there was a land purchase that the staff back in 2004 did not account for of **\$91,826** to site for the lift station at that site ah that when through the BCC that was approved um also there is inspection, our Inspection Staff has to go out there and inspect the project, we don't work for free, we can not charge our existing prosp ah customers for those services... just like with a developer we charge a developer when we have to go out and

inspect that project um there's postage of **\$991**, ah there's MSBU Admin. fees GIS that comes out of central and indirect of **\$8,537**, those numbers are all black and white, collection fees ah the Tax Collector cost is **\$43,389**, ah the contingency on this project is **zero dollars**, the interest **\$672,402** at **4%**. We have to our utility customers and the money in our reserves have to pay for this project. I'm not sure... I'm not aware of any utility that loans money for certain projects for free, um that is based on **4%** in anticipation of State revolving fund loan which we were originally approved for back in 2007, however we were recently notified that the loan was a we're on their um waiting list, priority list, so they've actually backed up on what they originally told us we were going to be able to borrow those funds from the State, and now we're we have to wait before we can borrow those funds. I normally their interest rate runs between **3%** and **4%**, it's a it's a fluctuating interest rate um the total with interest is statutory uncollectible, this is a statutory requirement of **\$109,495**, the total amount of the collection is **\$2,299,405** when you minus what was paid in by the property owners in 2000 and 2008 the balance to pay for the infrastructure, the community infrastructure to serve this area is **\$1,994,700** ah and one ERU has been prepaid, there's total of 383 ERU's. The total per ERU cost right now, today is **\$5,221.73**. That is a very good cost to install infrastructure. I am not aware of any project, any sewer project that annual assessment now is **\$290**. Um we have all of the documentation ah regarding connection fees. The POA back in 2004, February of 2004 was aware there were connection fees. According to this presentation ah that was provided by a former CCU Engineering Manager, um it specifically states that, um what the connection fees were.

Kesner: The newsletter... it's right here.

Pearson: and this was provided to all of the homeowners- ah it says: "Currently this fee is approximately **\$3,500** in addition to the assessment. Electrician fees are normally **\$200** to **\$400**." May I also remind the Board that there was a rate study underway when this MSBU was adopted in 2006, it was in July. It was July 20th. That rate study was approved in October of 2006, one of the POA meetings we have, I have my original handwritten notes and I explained what the connection fees were to the POA. I also explained that the difference between connection and the cost of

the infrastructure. CCU is only as good in reaching out um to POA's and HOA's with their help. It's it's it's very costly for CCU any any postage that we have to send out regarding a MSBU has to be charged toward that MSBU, any additional costs and we tried to be as efficient and economical as possible and communicate these things with their former president. Um and we have done our due diligence. I have the documentation to prove it. I would be happy to share it with anyone who would like to see it. I would be happy to share any financial information with anyone that would like to see it. We have been above board and transparent on this and I'm happy to answer any questions you may have. **D'Aprile:** Thank you Jeff. Any questions from the Board? I have no further questions on it. Commissioner... (Moore)

Moore: This won't make the speakers very happy cause it doesn't speak, solving their problem, I don't really know how to solve your problem, quite honestly, I'm sorry about that, I just don't know how to mitigate it... but I do think that through the conversation and that I think we could have a better system in understanding what projects are gonna cost. Now the next project that comes up, we're gonna be in a big hurry to do it. The people who were going to serve with this project are gonna want us to start tomorrow and what I'm gonna tell ya fights that unfortunately and may slow us down, um it's common practice that when you're gonna do a sewer system, we give you the estimated price and at the end we true up because it's all gotta add up to the right numbers at the end, so we don't know, and I, I can live with that, but what I think I saw through this story is the fact that the numbers and the understanding varied immensely for time to time and I'm not really going to get into did we explain it enough, did you not listen, did you not know the terms, did I not do this... I can't reconstruct that for you. What I can say, I think we can clean up our system towards the future to where there is a better contract with the people and we unequivocally force ourselves to put it in writing and if that writing is wrong and it's it's gonna go over by a %, now just go over it by 10%, you're gonna go back to public meetings and your changes are are limited um that's gonna slow the project down but um it may stop meeting like this because at this stage I haven't a clue how to help ya, I surely don't. Thank you Sir. **Loftus:** (Interjects)

Voice from the audience: May I speak? **D'Aprile:** One second Sir, one second. Go ahead... **Loftus:** Ah Thank you Mr. Chairman, to follow up on Commissioner Moore's comments um this is why I'm saying that we need to look at an outside independent auditor, in that way there we can finally come to a resolution on what has happened, what we need to do to correct the situation. It's been going on too long and we need to correction because the rate payers are the one's suffering for it so we need to find out what is wrong with CCU and let's correct it and that's why I say we need to move forward with an independent outside auditor. **D'Aprile:** Commissioner Duffy... **Duffy:** I, I think it's our role to be citizens advocates and I just think that **\$14,000** or **\$13,000** something is way too much money for our residents to be expected to hook up to a sewer system. It's just, ah it's just out of control and the citizens deserve better, so I support an independent audit, just find out, just to find out how it wound up costing this much, so that it never happens again.

White: Asks to speak. (Chief Deputy White)

D'Aprile: I don't think personally that... Yes... Tommy(White), excuse me...

White: If I could just weigh in as representing the Clerk, ah who is ah of course the internal audit for the Board of County Commissioners, um when I first started hearing some of the situations I thought we could you know volunteer to specifically address some of those financial situations, but as it continued and grew and the word investigations and engineering got up, came out, it's become obvious in this discussion, this is way beyond our ability with basically a three person staff to take this on um you know their continually auditing internal auditing County operations and ah in fact we're doing some work related to the utility now, some previous accusations, but I, I'm agreeing this ah is beyond the scope of our staffing levels and I think an independent outside would be the way for you to go, I mean with three people this is something we could work on for a year and do nothing else and ah we have other obligations, so...

D'Aprile: Okay, thank you Tommy appreciate it. It's been suggested that an outside audit take place to ah look over Mr. Pearson and CCU and see if everything is legitimate, I don't think there is a problem there. I think he is legitimate, that's my opinion, I don't think he has anything to hide in that respect and I stand firm on that, however, if it is, it is the request of the Board and the citizens of the County to have an outside audit conducted, audit to that program or for that situation, I'm in favor of it, so I need a motion for that...yes sir...

Moore: Is there any comment or guidance from, from legal on this?

Knowlton: (County Attorney)-Ah I was going to suggest that perhaps we come back to you with the estimated costs for doing it, I don't know who we would use um I, I really don't know where you would go for this, but I would like to be able to bring that back to you with ah suggestions as to who you should use and how much it's costing and where that, where the payment is coming from.

White: Right and as a, as an auditor in a former life, um I can tell ya one of the main things in estimating that is gonna be identifying the scope of this audit and as an auditor, this appears to be a situation based on some of the issues that need resolving, the auditors probably gonna have to hire an engineering firm to assist in his audit, because some of these issues are beyond a CPA, they're engineering questions, um such as the um, ah, Engineer of Record question that you brought up, so that scope would have to be identified first and, and like you say then identify what, what it would cost.

Cummings: Cause what you're talking about is not a regular audit... it's a performance audit. **White:** Oh no, it's not a financial audit in itself, No. **Cummings:** Right, it's a performance audit. **White:** Right. It's both, It's both. **Cummings:** And would, would include, and would include value engineering and all of that kind of stuff. **White:** Probably, because you're, a lot of the questions raised are questioning management decisions along the way and, ah, so it's not just a financial audit, no.

D'Aprile: And how much do you think, Tom, that, that might cost, give me a, a ballpark. **White:** I, I would think ah, a CPA firm, engineer, ah, Low-end \$50,000 high-end \$100,000. **D'Aprile:** \$100,000? **White:** Oh, yeah. **D'Aprile:** For an audit? That's pretty, pretty nice. Spend more money. **White:** Well the County's, the County's ah, financial audit costs about \$200,000. **D'Aprile:** Well, that's what they want. I am not in favor of that. **Duffy:** It's not what they want, Mr. Chairman, it's, nobody wants to spend any money, but, but, you know, really, I mean, they have some, some valid points, I don't know how much percentage of the audit would need to be performance - based; I think majority of it is financial, which, I mean, I, they, you know, there are auditors in the, for example, the School Board uses a, a local CPA and they do, they, they review, every School Budget every year and that's pretty in-depth. I don't know that, you know, and like you said, we don't know the scope yet, so once we determine the scope then I think we'll have a better idea of what really costs are. **Moore:** Yeah. **D'Aprile:** Why, why don't we, why don't we just do, if you're going to have an audit, why don't we do the financial portion of it, rather than all the engineering and all the rest of it. That can really go into a great deal of money. I don't think there is any problem with that. It's been proven it's not. But the financial portion of it is what people are interested in. If we do that portion of it, it'd be considerably lower, and, and, and, in the fee, so, I would be, I would suggest that. Yes, Commissioner.

Loftus: Mr. Chairman. I have a problem with that because of the simple reason that to date I have not gotten an answer about why we spent almost \$700,000. You're talking about an audit between \$50,000 and \$100,000. We're going to be assessing the people in Charlotte Harbor over \$700,000 for the, the, for the engineering and permitting that should have only been around \$200,000 at max. We got, ah, ah, we've gotten some money for the grants; that's that \$9 Million that was flipped between the City and, and, and the County. But when you're talking about um, going 50% over the cost of the construction for, in, for engineering and permitting, I think there's a, a call for a performance. **D'Aprile:** As well? **Loftus:** Yes, positively. **D'Aprile:** You're willing to go the \$100,000-\$150,000 cost? **Loftus:** I, I want to see some preliminary figures first. We need, we need to get some figures... **D'Aprile:** Well, I don't think a decision is going

to be made now. If you want, if you want a decision on what the preliminary costs are going to be before you make a decision on this, that's where we're going to have to go with it. **Loftus:** Yes, and that's what, I, I think we need to, we as a Board need to do. **D'Aprile:** I would need personally to know exactly how much this audit's going to be as far as performance is concerned, as far as the costs are involved. Commissioner Cummings.

Cummings: On um, Mr. Pearson, did we hire a Value Engineer on this project? **Pearson:** Yes. Our Engineer of Record, uh, Boyle Engineering, ah, did do, ah, that's standard in any engineering, ah, contract that we do. They do perform value engineering on this. Um... **Cummings:** So, Boyle, Boyle hired another engineering firm to do value engineering on them, or they did it in-house? **Pearson:** They do it themselves. **Cummings:** Okay. **Pearson:** Okay, that's their job.

Kesner: (Teresa Kesner): I'm sorry. Um, I was a, a, fresh, new member of the CCU staff, a, five (5) years ago, and so at that point in time I have a little bit of remembrance as the finance manager dealing with the acquisition of Florida water services and knew, in fact, that we did not have the rights to serve Pirate Harbor, so, um, it took a long legal process to be able to dissolve their water unit and acquire the rights to serve their area and then move into the sewer. We knew we had to overcome that challenge before we sewer Pirate Harbor; we had to acquire the rights to the water; one goes hand-in-hand with the other. So, I had contacted, based upon a request from my supervisors, I had contacted **Dufresne:** Henry, who was our engineer of record at that time to, in fact, do an exploration of what it would take to sewer, ah, actually two things. First of all, if we were to take over the water unit, what kind of shape was the water system in, um, were there any financial challenges to that; um, were we sure we wanted to do that, or just leave them as a bulk water customer; and secondly, what approximately would it take to sewer the area. **Dufresne:** Henry, the end of November of 2004, came in with an estimated cost, having looked at all of the environmental and geographical and topographical challenges to doing Pirate Harbor because they are so low elevation and came up with a price of just over **\$800,000** to sewer Pirate Harbor in November of 2004. So then when we got, um, the actual costs, about 2 hrs. - 2 hrs. - 2

years later, when you really look at that, the cost differential, in time, from 2004 to 2006, prices doing what they will have you do, and the market, it really was pretty much in alignment. So was value engineering done? Ah, not specifically by Boyle, but yes, we had two (2) um feasibility studies done by two (2) different companies without coercion, without knowing each other was doing it, and we had something to compare to.

Cummings: And just, and just an observation, um, if we decide we want to explore the idea of doing an audit of whatever scope is, ah, the Board would conclude, it may not hurt to first ensure that we have collected together the body of documentation that we did have with a summary for a chronology at a project from kind of start to finish to accompany whatever estimates we may or may not acquire in terms of an audit so there could be some level of, sort of a refresher course on this project, from start to finish, and, ah, before we make the decision on whether or not we want to spend however many tens of thousands of dollars rehashing this stuff.

Kesner: Yes sir. We've begun compiling that. **Cummings:** And of course, one of the, one of the, one of the quandaries that I think we're going to run into here is that this may create an ah, opportunity, ah, to improve operations and future projects and if we want to approach it that way, that's fine. I don't think that it solves the fundamental problem the citizens bring forward, um, when I had a Marine Service, I guaranteed my price, if I went over, I ate the cost, every time, but it was my money that I was paying for that. I had a profit margin or in the case of the job in question apparently didn't. But I pulled money out of what I would have used to pay my rent and things like that to make up that difference. The County doesn't turn a profit, there is no such thing as the County's money, there is only the rate payers and the tax payers money, so once that, and now that that bill has been incurred I'm gonna have to justify why I would go to another citizen and take money from and put it over to make good on this issue and you're taking something away from someone else. Ya know, they didn't make a mistake either, so I mean, I do think there is a difference here. I think that we always should be looking for ways to improve the process, but I'm not seeing a real big opportunity to take money away from someone else to solve this problem, which is what the fundamental question that you bring forward here, because

the bills already been incurred, somebody's gonna have to pay it. The County has no money of its own. **D'Aprile:** Thank you. It is noted that an independent audit be made both on the financial as well as the physical portion of it. I can not ask for a motion to accept that until we find out what it's gonna cost. I think that's the judgment of the Board at this time. So I would think that we would put this off on the agenda right now to make sure that the audit prices, what we want at this time will be notified or communicated to the Board at the next meeting or whatever the case may be so we can make a legitimate ah um decision on an audit, okay? Commissioner..

Cummings: And I'm not committing one way or another as to what decision I'll make when the information comes forward. I don't object to gathering more information on it. I do feel compelled to offer that when we start assigning intent as to why something or some... did or didn't happen. The idea that this is some grand conspiracy that someone set out with the intent of increasing the cost to the customer is down right preposterous. Nobody benefits from the cost of a project coming up. The customer doesn't benefit, the elected official doesn't benefit, and as evidenced by the beating they're taking here today, the staff certainly doesn't benefit, nobody benefits from that, so if we can get this down to a more rational conversation, who knows, maybe something productive might come out, but I don't buy the grand conspiracy theory, that somehow or another somebody had some... set out with the intent of increasing the cost. It's preposterous. There's not motivation, nobody wins. Thank you. **D'Aprile:** Thank you.

Ice: Mr. Chairman, could I make one more comment. **D'Aprile:** If you'd like, please make it brief. **Ice:** It will be very brief. Um when we approved this **\$3.1 Million** we didn't object to that MSBU. We were lead to believe that the person who had previously bid that had previously bid that ha, had, was incompetent. We were lead to believe he didn't know what he was doing. We have since learned that in 2004 ah all of those people have been replaced for some reason... and we don't know why... and that needs to be looked into. Why were those people replaced ah that ran that section in 2004. They had installed 12 systems, they had already installed 12 systems all over the County and came in on budget and they knew what our project was gonna cost because they had already done it. They'd done 12 of

them. They knew how much these projects were gonna cost and that, that, that needs to be looked into. As why, why all of a sudden was the staff at CCU replaced with a new staff? That needs to be looked into because that when the increase got started... when that staff got replaced, we were lead to believe that those people didn't know what they were doing. They bid these things... well we found out later that's not true. That's not true. They were not incompetent, they had done 12 of them. Thank you.

D'Aprile: Alright, I want you to know that the Board...no Sir...no longer... The Board is interested and you're, and, and, feels for you, okay, that's why we're gonna go forward with this, okay, and I just want you to know we're not just setting you aside like people think we are, were not. We're concerned about the situation. If we find fault, fine, then we'll correct it. If we don't find fault, shame on us. I just wanted you to know that, okay. Those books are open, he suggested it. I'm looking forward to looking at them and finding out if this in fact is a act of bad business, ya know, well see, so until such time... No longer Sir, we're, it's closed. Alright... Are we still on Public, no we're finished with the Public Comments Sir.

AA. County Administrator:

For informational purposes, Mr. Baltz brought up impact fees, said they are required to be adjusted either up or down, and asked Jeff Ruggeri to provide the methodology behind it. Mr. Ruggeri explained the administrative process, stated Section 3-3.5-13 of the Impact Fee Ordinance provides for the methodology to automatically update the impact fees based on certain criteria, said they have completed the task, noted as a result of this, the impact fees have been lowered by 12%, and mentioned the rollback. **Commissioner Moore** about the current rollback rates. Mr. Ruggeri explained further. **Commissioner Duffy** commented on the Legislative Bill designed to provide funds to first time home buyers, said Charlotte County is eligible since they lowered their impact fees, and noted the criteria requires the County to maintain lower impacts fees for 3 more months. **Commissioner Moore** asked how much could they expect and asked for the full criteria. **Commissioner Duffy** advised \$20 Million across the state, and said she will

look into it and advise at the next meeting. **Chairman D'Aprile** opined it is important to know the details prior to a decision on extending the rollback another three months.

Mr. Baltz indicated he was working to help provide the Supervisor of Elections additional space for the election and explained the status.

Mr. Baltz referred to a letter received from the Harbor Heights Civic Association, explained their concerns, advised he responded on behalf of the Board, and explained how their concerns were addressed. Mr. Baltz also mentioned another letter received related to Peoples Gas (TOCO) and a request for a rate increase. **Commissioner Moore** asked for detail related to the rate being approved. Attorney Knowlton clarified.

Mr. Baltz said they have received several letters of interest in Murdock Village and indicated the intent is to negotiate fully unless Board direction is to the contrary.

Mr. Baltz talked about the Development Review Committee (DRC) process, said he has been asked to look into creating a less formal DRC process, noted its strict process was the outcome of past litigation related to the Evergreen case, and asked for Board comments. **Chairman D'Aprile** said he would like more flexibility. **Commissioner Loftus** agreed. **Commissioner Cummings** explained why the existing structure was developed, mentioned Sunshine, and noted he wants to see the new ideas and intent. Mr. Baltz appreciated the input, said the goal is to improve the method, and noted the intent to continue to protect the County and its stakeholders. **Commissioner Moore** asked if this is automatically quasi-judicial. County Attorney Knowlton explained the County lost the case, said the court made the ruling, advised it is quasi-judicial, and noted we must abide by the ruling when reconstructing the procedure. Mr. Baltz indicated they would take a look at what can be done and be careful not to harm the County position.

BB. County Attorney:

Ms. Knowlton commented that last Thursday the Florida Supreme Court withdraw its position on the Strand case related to Murdock Village and explained the impact of their decision.

CC. Commissioner Comments:

Commissioner Moore brought up the revised towing fees that were recently approved by the Board, advised after approval the companies requested the Board approve an additional fuel adjustment, explained the research indicates the fees are fair within the State, and suggested we do not enter into a fuel adjustment. The Commissioners agreed and provided Board consensus.

Chairman D'Aprile commented on compact negotiations with Mosaic, expressed his frustration by reading his written opinion related to Attorney de la Parte's intent to represent Lee County prior to completing his job for Charlotte County, said he was paid by us and is now planning to defend Lee County, noted Charlotte County can no longer afford additional litigation expenses related to Mosaic and phosphate mining, noted he is in favor of negotiation not litigation, indicated Attorney de la Parte estimated the cost to be \$2 Million, advised it is now over \$12 Million, stated there has been no significant change in the law, noted the benefits of bringing Mosaic to the negotiation table, quoted **Commissioner Cummings** comments prior to the 4/1 vote not to pursue, opined we have done our share, and said the phosphate industry needs to be more flexible related to the litigation rights of the County. **Commissioner Loftus** agreed with **Chairman D'Aprile**, expressed his disappointment with Attorney de la Parte, said our taxpayers spent over \$12 Million and now he is going to represent Lee County, and indicated he has not finished his job here. **Chairman D'Aprile** confirmed the Commissioners had clearly advised Mr. de la Parte of their desire to see the compact somewhat completed and stated their opposition to his working for Lee County, and opined Mr. de la Parte lied when he advised a judge that there were no conflicts with Charlotte County.

Ms. Knowlton noted her understanding that at least two Commissioners know what has been filed in the Lee County case, commented that she is not aware of what has been filed, expressed concern that the Commissioners are making comments related to privileged communication discussed in an Executive Session which should not be revealed unless the entire Board waived that, advised they have the ability to waive it, mentioned as

County Attorney she was sued by Mosaic on a public records request, said they are still seeking a legal memorandum that Attorney de la Parte sent, a copy of the transcript of executive session related to the settlement of the Ona case and the compact negotiations on a whole, said legal is pursuing, noted she had identified the documents as being responsive to their request, and claimed an exemption from disclosure, said the Judge has granted a hearing continuance to allow the County the opportunity to respond, opined the County is rightful in withholding the documents, and advised the impacts involved if they loose and if they disclose the information. Chairman D'Aprile directed the Attorney not to disclose the information and indicated Mr. de la Parte had lied to the Judge when he said Charlotte County had no objection to him working for Lee County. **Commissioner Moore** said based on what has transpired would the Board choose to still have Mr. de la Parte as part of our team. **Chairman D'Aprile** responded that Mr. de la Parte is being paid to negotiate not litigate the Mosaic compact, said he wants results, and added if Mr. de la Parte resigns he can go wherever he wants. **Commissioner Loftus** said the citizens of Charlotte County deserve results for what they have paid for. **Commissioner Duffy** shared her frustration, expressed concern that this is unethical and presents a serious conflict of interest, said Charlotte County has paid Mr. de la Parte millions of dollars to represent our interests, opined he should not have considered Lee County as a client since he is being paid to negotiate the agreement for us and then takes on Lee County to file an objection to their latest permit, and said she feels he has abandoned the citizens of Charlotte County.

Chairman D'Aprile announced there is an executive session following adjournment and noted he is unable to attend. **Commissioner Duffy** noted she is also unable to attend immediately following this meeting but would be available later in the day. Ms. Knowlton advised the meeting should take no longer than a half hour and said the Board could make a motion to change the time to better accommodate the Commissioners.

COMMISSIONER MOORE MOVED TO RESCHEDULE THE EXECUTIVE SESSION FOR 2:00 PM THIS AFTERNOON, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

ADJOURNED: 12:30 PM

THESE MINUTES ARE NOT OFFICIAL
UNTIL ADOPTION BY THE BOARD OF
COUNTY COMMISSIONERS

Book 66, Page 1084
September 23, 2008

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