

BOARD OF COUNTY COMMISSIONERS

NOVEMBER 12, 2008

A regular meeting of the Board of County Commissioners was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman D'Aprile, Commissioner Duffy, Commissioner Cummings, Commissioner Moore, and Commissioner Loftus. 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 Dr. David Blood of New Hope Christian Fellowship followed by the Pledge of Allegiance.

Changes to the Agenda:

Deletion #1: L-4 a) Approve Ranking of Firms for Request for Proposal #09-015, Construction Engineering Inspection (CEI) Services for the Aqui Esta Drive Improvements: 1st - Reynolds, Smith & Hills CS, Inc; 2nd - Wilbur Smith Associates, Inc., and 3rd - American Consulting Engineers of Florida, LLC; b) Approve Start of Negotiations; and c) Authorize the Chairman to sign the contract after completion of negotiations.

Change #1: G-1 Replace page 3 of the Impact Fee and Reimbursement Agreement for Babcock Ranch Community. Requested by Growth Management

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

Proclamations - Commissioner Adam Cummings

America Recycles Day

COMMISSIONER MOORE MOVED TO PROCLAIM NOVEMBER 15, 2008 AS AMERICA RECYCLES DAY, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.

Sue Ellen Macaroy accepted the proclamation, talked about recycling, and expressed the importance of preserving our nature resources. Commissioner Cummings talked about the landfill, its history, and related revenues.

Arts and Humanities Council Artist of the Month

COMMISSIONER LOFTUS MOVED TO PROCLAIM VICTORIA CAPPETTA AS ARTS AND HUMANITIES COUNCIL ARTIST OF THE MONTH OF NOVEMBER, 2008, SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.

Ms. Cappetta accepted the proclamation and thanked the Commissioners for encouraging the Arts in Charlotte County. Commissioner Cummings noted the importance of the Arts in the County and for economic development.

National American Indian Heritage Month

COMMISSIONER MOORE MOVED TO PROCLAIM MONTH OF NOVEMBER, 2008 AS NATIONAL AMERICAN INDIAN HERITAGE MONTH, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.

Selina Ethridge of the Daughters of the American Revolution accepted the proclamation, talked about Patsy West, and thanked the Commissioners. Commissioner Cummings talked about heritage and its importance.

Employee Recognition-Commissioner Cummings/County Administrator Baltz

5 Years: Margot Ayre, Utilities; Roger Davis, Budget; Claire Jubb, Building Construction Service; Charles Johnson, Facilities; Thomas Lach, Parks, Recreation & Cultural Resources; Edward Levasseur, Public Works; Gordon Madara, Utilities; Kelly Slaughter, Public Works; Bonnie Stoner, Commission Office; Margaret Stout, Animal Control; **10 Years:** Robert Edwards, Parks, Recreation & Cultural Resources; **15 Years:** Philip Carter, Public Works; Melvin Hudson, Public Works; **Not Attending:** **5 Years:** Michael Vaughn, Building Construction Services

Award Presentations - Commissioner Cummings

Commissioner Cummings commented on the relationships that are made while working to improve the Community, said no matter the differences, everyone brings something to the table, and commended those for putting themselves out there.

Commissioner Cummings commended **Commissioner Moore** for his contributions over the last four years, said he has been a strong consensus builder, and thanked him for his dedication and contribution. **Commissioner Moore** said it has been a great learning experience, appreciated the opportunity, was proud of the accomplishments made, and accepted the award with thanks.

Commissioner Cummings commended **Chairman D'Aprile** for eight years of compassion and empathy, noted he sees and feels the issues from the eyes of our citizens, mentioned the importance of his contribution to the community, said he is an extraordinary person, thanked him for leading a difficult ship as Chairman, and indicated he has earned our gratitude and thanks.

Chairman D'Aprile accepted the plaque with emotion, said the last eight years have been very rewarding, mentioned trying to do the best for the Community, thanked the citizens of Charlotte County for the opportunity to serve them, noted many accomplishments, and said he will continue to work for the County.

Commissioner Loftus suggested a picture be taken, thanked both Commissioners for their support during the hurricane and for their hard work during tough times. All Commissioners stood and had their picture taken together.

I. CITIZEN INPUT - AGENDA ITEMS ONLY

Geri Waksler said she will miss both Commissioners, first spoke related to Item Z-4, requested paragraph "F" be removed from the Settlement Agreement, suggested new language, and requested the Board adopt the settlement today.

Attorney Waksler also spoke on behalf of Southwest Land Developers (SLD), Item Z-5, discussed history of SLD meetings related to airport commerce center and utility extensions, and mentioned their requests.

Tim Mulligan requested Item L-5 be removed from the Consent Agenda and be tabled for further review or permanent deletion.

II. COMMITTEE VACANCIES

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

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.

Edgewater North Waterway Advisory Committee is seeking three volunteers to serve. Must reside within the boundary of the unit. Terms are for three years.

Environmentally Sensitive Lands Oversight Committee is seeking volunteers who are residents and electors of the County to serve representing the following categories: environmental expertise, business/land development and community representative. Terms vary.

Gulf Cove Waterway Unit Advisory Committee is seeking one volunteer to serve as a regular member. Must be a land owner and reside within the boundaries of the unit. Term is for three years.

Greater Port Charlotte Street and Drainage Unit Advisory Committee is seeking one volunteer to serve as a regular member. Must be a land owner and reside within the boundaries of the unit. Term is for three years.

Lemon Bay Street and Drainage Advisory Committee is seeking two regular members and one alternate. 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 unit.

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

South Bridge Waterway Municipal Service Benefit Unit is seeking one (1) volunteer to serve as a regular member and one (1) volunteer to serve as an alternate member on this newly formed committee. Terms will be determined at 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 unit.

South Burnt Store Street & Drainage Advisory Committee is seeking one volunteer. This is a three (3) year term effective immediately expiring on June 26, 2011.

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.

Town Estates Street & Drainage Unit Advisory Board is seeking one volunteer to finish a vacated term. Term is effective immediately and expires Jan. 23, 2010.

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

Minutes for the October 29, 2008 Charlotte Harbor Community Redevelopment Agency Advisory Committee.

County Investment Report/Interest on Investments as of September 30, 2008

IV. CONSENT AGENDA

COMMISSIONER CUMMINGS MOVED TO APPROVE IV. CONSENT AGENDA EXCEPT ITEMS G-1, L-1, AND L-5, 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

- (1) RECOMMENDED ACTION: Approve the following Meeting Minutes:

July 15, 2008	1:30 p.m.	Goal Setting Workshop
July 22, 2008	9:00 a.m.	BCC Regular Meeting
July 28, 2008	5:01 p.m.	MSBU Public Hearings
July 29, 2008	1:30 p.m.	CIP Workshop
July 29, 2008	5:01 p.m.	Special Meeting
August 12, 2008	9:00 a.m.	BCC Regular Meeting
August 18, 2008	9:00 a.m.	Emergency Meeting
August 25, 2008	1:30 p.m.	Executive Session - Phosphate

Board of County Commissioners

C. Commission Office

(1) RECOMMENDED ACTION: Re-appoint Mr. John Biluk as a regular member of the Deep Creek Non-Urban Street & Drainage Unit Advisory Committee. Mr. Biluk was appointed to finish the term of Fred Stitler in Jan. 2007, which expires Nov. 25, 2008. Mr. Biluk has requested re-appointment to serve the full three year term, effective Nov. 25, 2008 and expiring Nov. 25, 2011. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Approve appointments to the Historical Advisory Committee - a) Ms. Terry Zic as the Lemon Bay Historical Society representative; and b) Mr. Vernon Peebles as the Member-At-Large. The Punta Gorda Historical Society representative will remain vacant until a replacement is named. Terms will expire in September 2011. BUDGETED ACTION: None

(3) RECOMMENDED ACTION: Approve the appointments of Mr. Vincent Vurro and Mr. Matt Stamm to the Suncoast Waterway Maintenance MSBU. Terms effective immediately and length to be determined at first meeting. BUDGETED ACTION: None

(4) RECOMMENDED ACTION: Approve a resolution in support of a constitutional amendment that requires state legislators to operate under the same Sunshine Law as county officials. BUDGETED ACTION: None (**Resolution 2008-142**)

D. Administration - No Items

E. County Attorney

(1) RECOMMENDED ACTION: Request the Board of County Commissioners set a Public Hearing for November 25, 2008, at 10:00 AM, or as soon as can be heard, to consider a door-to-door selling ordinance amending sections 1-10-76 through 1-10-78 of the Charlotte County Code. BUDGETED ACTION: None

F. Budget Office

(1) RECOMMENDED ACTION: Set a public hearing on Tuesday, December 9, 2008 for a resolution of intent to use the uniform method of collection of non-ad valorem assessments for Manchester Water MSBU, Manchester Wastewater MSBU, East & West Spring Lake Wastewater MSBU, and Neal Road Street and Drainage MSBU. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Amendments and transfers which impact various funds and are required to complete Fiscal Year 2007/2008 budget closing process. a) Approve Budget Amendments at Attachment A totaling \$26,827,677 and b) Approve Budget Transfers at Attachment B for \$2,288,255. BUDGETED ACTION: None

G. Growth Management

(1) RECOMMENDED ACTION: Approve the Impact Fee Credit and Reimbursement Agreement between Babcock Property Holdings, LLC, Babcock Ranch Community Independent Special District, and Charlotte County. BUDGETED ACTION: None (Agreement 2008-054, XREF: Agreement 2006-013)

Commissioner Cummings said his primary concern is related to the agreement language that clarifies excess capacity and explained in detail. **Commissioner Loftus** read Paragraph "F" for the record and opined the language would clarify the excess capacity issue. **Jeff Ruggieri** stated there is a formula that calculated proportionate share, explained the agreement language and intent in response to **Commissioner Cummings** concerns, and stated he was comfortable with the agreement language. **Commissioner Cummings** said he met with the County Attorney related to this after pre-agenda, opined clarity will help strengthen the core issue, noted the law says they are only required to pay their proportionate share, said the agreement stated how they will be reimbursed, not if they will be reimbursed, and opined the need to take this opportunity to protect the taxpayers so the County will not pay millions for the roads in the future.

Commissioner Moore requested to hear from legal on this. **Chairman D'Aprile** expressed concern and stated he wants to see protection in the language. **Commissioner Cummings** discussed reimbursements not included. Attorney Browne responded. Attorney Knowlton advised there is no time constraint on this so they can continue to work on the language if they are not satisfied. Mr. Sandrock said he can assure the Board that this will not reduce their check. **Commissioner Cummings** again stated the language needs to be clear that the Community will not be responsible. Attorney Rob Berntsson spoke on behalf of Kitson and Partners, said excess road capacity (Paragraph 2-F) will come into play at the conclusion of all of the Development of Regional Impact (DRI) development, explained excess capacity as related to reimbursement, and said the County and the developer have negotiated this in good faith. **Chairman D'Aprile** thanked Attorney Berntsson but opined the County Attorney may disagree. Attorney Browne said he is satisfied with the contract. Attorney Knowlton spoke directly to Attorney Berntsson, asked if he agreed with the intent of the agreement, and urged him to change the language to address **Commissioner Cummings** concerns. Attorney Berntsson responded he does not fully agree, expressed his concern is for other development in the future, and opined the County is protected. **Commissioner Cummings** continued to make his point. Attorney Berntsson stated he would agree if Babcock would only be responsible for SR31 in front of their property and talked about the Master Development Order. The Attorneys continued to discuss language changes. **Commissioner Duffy** suggested language. **Commissioner Cummings** explained the risk involved with the suggestion. Attorney Berntsson opined it is not fair to require the developer to pay for other developers 30 years down the road.

Chairman D'Aprile commented his impression was that this issue had been settled after pre-agenda, indicated he was not willing to protect the developer, opined development will occur after Babcock develops, and noted he is not comfortable with taking the risk now. Attorney Browne suggested another language change. **Commissioner Cummings** agreed that the change would work for future negotiations. **Commissioner Moore** asked to hear from Growth Management. Mr. Ruggieri suggested they table the Item to discuss excess capacity further, said they were staying consistent with the previous agreements while positioning the County to be at the bargaining table when spending was

discussed. Attorney Berntsson provided the legalities related to excess capacity and reimbursements, read for the record the language causing the concerns, and explained. **Commissioner Loftus** stated this was the language our Attorney stated would provide ample protection to the County. Mr. Ruggieri mentioned the definition of excess capacity, explained **Commissioner Cummings** concerns, and advised this agreement does not clarify excess capacity. **Commissioner Cummings** read the sentences that concern him for the record. Attorney Berntsson responded, continued to make his case, and suggested language. Attorney Browne indicated he preferred his language change suggestion. **Commissioner Cummings** said the core issue is that excess capacity is not defined.

COMMISSIONER MOORE MOVED TO TABLE THE TOPIC (IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT BETWEEN BABCOCK PROPERTY HOLDINGS ONE), SECONDED BY COMMISSIONER LOFTUS.

Chairman D'Aprile stated he is not comfortable voting on this today and opined this development must occur only when both parties agree. **Commissioner Duffy** disagreed, pointed out that if it is tabled today, it will be brought before a new Board that is not familiar with the issues, opined it will cause further delay, and mentioned what was discussed and agreed upon at pre-agenda. **Commissioner Cummings** strongly disagreed with **Commissioner Duffy's** comments. **Chairman D'Aprile** said it will be the new Board's responsibility to educate themselves on this Item.

Motion Carried 4:1. Commissioner Duffy opposing.

Mr. Ruggieri requested Board direction so staff can work to resolve the issues. **Chairman D'Aprile** provided his clarified understanding. Mr. Ruggieri explained the agreement further. **Commissioner Loftus** stated he was willing to withdraw and reconsider his vote after hearing the clarification just made. **Commissioner Moore** said Growth Management and the Attorneys have changed their minds since Monday, opined the need for consistent advise, and indicated it should be tabled. **Commissioner Loftus** disagreed and made the motion.

COMMISSIONER LOFTUS MOVED TO RECONSIDER THE VOTE TO TABLE THE IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT BETWEEN BABCOCK PROPERTY HOLDINGS, LLC, SECONDED BY COMMISSIONER DUFFY.

Commissioner Cummings said with a little more time, they could come to an agreement, discussed impact fees and excess capacity, noted there could be clear language that would cover Mr. Berntsson's concerns, but opined they would not get that language here today. Commissioner Duffy asked for detailed clarification from Mr. Ruggieri on several topics related to the issue, including a traffic analysis. Chairman D'Aprile called for a 15 minute recess and asked the Attorney's to take that time to discuss and reach an agreement on the language.

Motion Carried 3:2. Commissioner Cummings, and Commissioner Moore opposing.

RECESS: 10:38 AM - 10:55 AM

Chairman D'Aprile advised there was a reconsideration on the table and explained what took place prior to the Recess related to Item G-1. Attorney Berntsson advised revised language, read the changes into the record, and explained further. Commissioner Loftus asked if Growth Management was in agreement. Mr. Ruggieri stated they were satisfied and opined the new language is very clear. Attorney Browne agreed and explained his reasoning. Commissioner Cummings said they are putting the disagreement off to a later date.

COMMISSIONER LOFTUS MOVED TO APPROVE THE IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT BETWEEN BABCOCK PROPERTY HOLDINGS, LLC, AS REVISED AND READ INTO THE RECORD (AGREEMENT 2008-054, XREF: AGREEMENT 2006-013), SECONDED BY COMMISSIONER DUFFY.

Motion Carried 5:0.

(2) RECOMMENDED ACTION: Approve the DRC-PD-80-4VVV Partial Final Detail Plan Resolution permitting The Florida Department of Health to construct the Charlotte County Department of Health Facility. BUDGETED ACTION: None (Resolution 2008-143)

H. Economic Development - No Items

J. Environmental Services - No Items

K. Facilities Construction and Maintenance - No Items

L. General Services

(1) RECOMMENDED ACTION: a) Approve ranking of firms for Request for Proposal #08-345, for Charlotte Harbor Redevelopment Urban Design; 1st, Kimley-Horn & Associates; 2nd, WilsonMiller, Inc; and 3rd, Johnson Engineering; b) Approve start of negotiations; and c) Authorize the Chairman to sign the contract after completion of negotiations. BUDGETED ACTION: None

Chairman D'Aprile asked for clarification related to local preference. Purchasing Director, Kim Corbett advised they discussed it briefly at pre-agenda, indicated there will be an Agenda Item coming forward for discussion and Board direction on November 25, 2008, talked about the current policy, and explained the point system. Chairman D'Aprile expressed concern that non-residents would receive the same benefits as residents. Commissioner Loftus agreed and advised he had brought that up at pre-agenda. Commissioner Duffy mentioned suggestions already discussed at pre-agenda and assured Chairman D'Aprile that the Board would follow-up and support local businesses.

COMMISSIONER LOFTUS MOVED TO APPROVE RANKING OF FIRMS FOR REQUEST FOR PROPOSAL #08-345, SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.

(2) RECOMMENDED ACTION: Award Bid #08-390, Northwest Port Charlotte Bridge Rehabilitation, to American Earth Movers, Inc., of Miami Shores, FL in the amount of \$532,559.35. BUDGETED ACTION: The FY09 budget contains \$632,000 for this project in the NorthWest Port Charlotte Streets and Drainage MSBU. CIP project c410515, NW Port Charlotte Bridge Rehabilitation Program, Project total is \$2,125,000.

(3) *RECOMMENDED ACTION*: Approve purchase of buses under Florida Department of Transportation Contract #FVPP-05-CA-4, with Getway Marketing, Inc. of Bradenton, FL (our file #09-053, Sunshine and Dial-A-Ride Buses) in the amounts listed as follows: a) purchase of two (2) Sunshine Ride Buses in the amount of \$15,798.80; and b) purchase of two (2) Dial-A-Ride Buses in the amount of \$156,246. *BUDGETED ACTION*: None

(5) *RECOMMENDED ACTION*: Approve Change Order #1 to Contract #03-442, Engineering Services for Winchester Boulevard-Phase 3 Improvements, with Wilbur Smith Associates, Inc., Port Charlotte, FL, for plan modifications, drainage analysis, permits, and environmental issues in the amount of \$344,427.16 and a revised contract amount of \$692,053.16. *BUDGETED ACTION*: The FY09 budget contains \$5.9 million for Engineering and Design in the Road Improvements fund. CIP project c419302, Winchester Blvd Phase 3 South, The project total is \$64,834,000.

Commissioner Duffy asked for additional information related to the Item so to address the concerns of the citizen.

Purchasing Director, Kim Corbett and County Engineer, Dan Quick provided a detailed response related to finalizing this project.

COMMISSIONER DUFFY MOVED TO APPROVE CHANGE ORDER #1 TO CONTRACT #03-442, ENGINEERING SERVICES FOR WINCHESTER BOULEVARD-PHASE 3 IMPROVEMENTS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

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

M. Human Resources - No Items

N. Human Services - No Items

P. Information Technology - No Items

Q. Parks, Recreation and Cultural Resources

(1) RECOMMENDED ACTION: Approve and authorize the Chair to sign an Agreement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida to allow the use of State Lands for the use of Cattedock Boat Ramp. BUDGETED ACTION: FY 2009 Budgeted amount \$375,000 for design and engineering. (Agreement 2008-055)

(2) RECOMMENDED ACTION: Approve the conversion of three part time employees and seasonal positions at the stadium to three full time maintenance workers to work the 80 acre grounds and six fields. BUDGETED ACTION: Budgeted Amount is \$923,593 within the Stadium M&O Fund. Funding for maintenance and operation of the stadium is identified in Schedule 2 of the Charlotte Sports Park agreement between Charlotte County and the Tampa Bay Rays. No new funds are requested; line item adjustment will occur.

R. Public Safety - No Items

S. Public Works - No Items

T. Real Estate Services

(1) RECOMMENDED ACTION: Approve the attached Resolution approving the release of a portion of a twenty-foot (20') wide canal maintenance easement, located in Port Charlotte Subdivision, Section Ninety-Three, and further authorizing the Director of Real Estate Services to execute the County Deed releasing said portion of said easement. (Owners: Glenn and Yvette Price) BUDGETED ACTION: None (Resolution# 2008-144)

V. Tourism Development - No Items

W. Utilities - No Items

X. Building & Construction Services - No Items

Y. Other Agencies - No Items

Commissioner Loftus asked for a Personal Privilege to discuss the Burnt Store Well Field Expansion. (Verbatim Excerpt)

Loftus: Mr. Chairman.

D'Aprile: Yes Sir?

Loftus: Ah could I have a point of personal privilege?

D'Aprile: Certainly.

Loftus: In reference to a motion on an agenda item in the last meeting on October 28th. We approved the Burnt Store Well Field Expansion and I've heard and I've seen some issues that have been raised since then, and I would like to take that up for reconsideration cause I did vote in the affirmative on that, and I just feel that um there were some issues there that need to be addressed and I feel that we need to look at it, um I wasn't satisfied with the procedures, and I think that ah we need to readdress this issue.

D'Aprile: Your suggestion is to bring it back for further discussion?

Loftus: Yes, for reconsideration.

D'Aprile: Is that okay?

Knowlton: That's alright, it was approved at the last Board meeting and I believe **Commissioner Loftus** voted in favor of it, so, yes you can reconsider the matter today.

D'Aprile: Okay.

Moore: Second.

D'Aprile: I have a motion and a second..

Moore: Second, for comment.

D'Aprile: to reconsider, alright, all those is favor signify by saying I.

COMMISSIONER LOFTUS MOVED TO RECONSIDER THE BURNT STORE WELL FIELD EXPANSION APPROVAL. (VERBATIUM EXCERPT), SECONDED BY COMMISSIONER MOORE.

Moore: Wait a minute.

D'Aprile: Excuse me. I'm sorry?

Moore: I have a question of the motion-maker.

D'Aprile: Okay.

Moore: Um you want to reconsider it then are we going to talk about how you want to go about reconsidering it or what?

Loftus: I think what we need to do, yes, we need to open up for re-bidding, I think.

Moore: Okay I just want to know when that's gonna get on the record. Thank you, thank you Sir.

D'Aprile: Now we have motion are you going to second it again?

Moore: I did.

D'Aprile: I beg your pardon?

Knowlton: He did.

D'Aprile: You did, thank you, okay, motion and second, any discussion? If not, we'll call for the motion, all those in favor signify by saying I. (Board Consensus) Motion carries..

Motion Carried 5:0.

D'Aprile: Is that going to happen right at this moment?

Knowlton: Yes.

COMMISSIONER LOFTUS MOVED TO CANCEL CONTRACT, REJECT ALL THE BIDS ON THE BURNT STORE EXPANSION WELLS, AND REISSUE A NEW REQUEST FOR BID, SECONDED BY COMMISSIONER MOORE.

D'Aprile: Okay, Commissioner..

Loftus: Mr. Chairman, I just feel that with the ambiguities that have occurred on this particular one, ah I feel that we need to ah stop the contract that we awarded last month and open up for re-bidding. I think it's appropriate for us.

Knowlton: And that would be to reject all the bids on that project, on the Burnt Store Well Field Expansion um and to reissue a new request for bids and cancelling the previous award.

Cummings: What's the time frame on starting that over?

Moore: Second.

D'Aprile: We have a question here first. **Commissioner Cummings?**

Cummings: What's the time frame on starting that over and what's that do to our critical path?

Corbett: Um the project, if it is re-bid, it will be approximately a 90 day process and brought back to the Board for re-award or for award of the new bid. So it will be brought back to the Board sometime in January.

Cummings: And we anticipate this is on our critical path so we anticipate it's going to delay the project by 90 days.

Knowlton: Um I checked with CCU before we brought this back to the Board and yes, I believe it was, well, yes they said it was okay, but I see Mr. Pearson is here, if you want to speak to the re-bidding of the Burnt, he just walked in so the Burnt Store Well Expansion, the 90 day delay, Mr. Pearson, is that going to cause you a problem?

Pearson: For the record, Jeff Pearson, Charlotte County Utilities Director, ah currently um that project had a completion date of June, 2009, ah which would in fact ah back that up to approximately 90 to 120 days depending on the purchasing process. Um we have sufficient capacity at the plant right now, I don't foresee any ah issues with ah at this time with ah development the way it is with not having enough capacity um at that facility.

Cummings: Very well, thank you.

D'Aprile: Thank you. Now we have a motion and we do have a second, correct?

Loftus: Yes.

D'Aprile: Okay... to ah reject all the bids on the Burnt Store Expansion Wells, is that the right term?

Moore: Close enough.

D'Aprile: Yea, close enough. Any further discussion? All those in favor signify by saying I. (Board Consensus) Motion carries...

Loftus: Thank you Mr. Chairman.

D'Aprile: Thank you sir.

Motion Carried 5:0.

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

(1) Growth Management **RECOMMENDED ACTION:** Adopt the annual update to the Charlotte County Comprehensive Plan Capital Improvements Element, including changes to 5-year Schedule of Capital Improvements and changes to the Future Land Use, Infrastructure and Transportation Elements of the Comprehensive Plan. (Ordinance 2008-092)

Jim Fendrick, Concurrency Manager, explained the reason for the change and stated all backup information was in their packets.

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

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO ADOPT THE ANNUAL UPDATE TO THE CHARLOTTE COUNTY COMPREHENSIVE PLAN CAPITAL IMPROVEMENTS ELEMENT (ORDINANCE 2008-092), SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

(2) Environmental and Extension Services RECOMMENDED ACTION: Conduct a Public Hearing to consider an ordinance amending Chapter 4-4 of the County Code to include agricultural lands with residential dwelling units in the Charlotte County Sanitation Unit. (Ordinance 2008-093, XREF: Ordinance 2004-006)

Jim Thompson, Director, Environmental and Extension Services, provided detail related to the proposed amendment.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO CONDUCT A PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 4-4 OF THE COUNTY CODE (ORDINANCE 2008-093, XREF: ORDINANCE 2004-006), SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.

V. REGULAR AGENDA

Z. Regular Agenda

(1) Commission Office RECOMMENDED ACTION: Select by ballot one member to serve on the Housing Finance Authority. This member will fill the unexpired term of Mr. Rex Koch, who resigned. Vacancy has been advertised and the term is four years.

Chairman D'Aprile asked the Commissioners to vote and forward their completed ballot to him. County Administrator Baltz read the votes for the record and they were as follows: Bobbi Daughtry (4) four votes, Michael Coalwell (1) one vote.

COMMISSIONER LOFTUS MOVED TO ELECT BOBBI DAUGHTRY TO SERVE ON THE HOUSING FINANCE AUTHORITY. THIS MEMBER WILL FILL THE UNEXPIRED TERM OF MR. REX KOCH, WHO RESIGNED, SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.

(2) Human Services RECOMMENDED ACTION: a) Receive Affordable Housing Advisory Committee (AHAC) Annual Report to be presented by Committee Chair Mike Mansfield; b) Consider the 13 recommendations brought forward by the AHAC; and c) Direct staff to review these recommendations for potential inclusion in County planning documents and plans.

Mike Mansfield, Chairman of the Affordable Housing Committee, presented each recommendation in detail, discussed the meetings held so far, mentioned state statute regulations, requested follow up, inclusion, and approval.

Chairman D'Aprile said the Commissioners had already had the opportunity to read the recommendations and commended the committee for their creation. **Commissioner Duffy** appreciated the great job, opined spending less on sidewalks, and commented on several other ideas she was in favor of. **Commissioner Moore** commended the work and expressed concern with State Mandates related to using the words "should" versus "consider". Mr. Mansfield agreed and noted they were very mindful about the funds. **Chairman D'Aprile** advised the recommendations will be reviewed and brought back for approval.

(3) Human Services RECOMMENDED ACTION: a) Receive PowerPoint Presentation from Housing Division representing a total accounting of the Hurricane Housing Recovery Grant b) Review and approve reallocation of remaining Program Funds c) Review and approve reallocation of remaining Administrative Funds d) Approve the request for an extension of two projects under this grant as noted e) Authorize Chair to execute appropriate documents as needed to accomplish the above. (XREF: Grant 2005-025)

Robert Hebert, Housing Manager, gave a Power Point presentation which paralleled packet information related to the use of the Hurricane Housing Recovery Funds, described completed and committed projects, and provided the cost of each. Mr. Hebert advised they are still earning interest on unused money, noted projects in need of additional funds, and proposed they use 25% of the administrative funds available to open the safe house so the County will not need to pay the Grant funds back based on their terms. Mr. Hebert detailed a request he received to delay an item today and explained why his recommendations stand. Mr. Hebert outlined his requests and noted Board approval was needed to extend 2 (two) items.

Commissioner Duffy commended the work, asked for cost detail related to the Homeless Coalition. Mr. Hebert briefly responded and introduced Coalition staff members Kevin Russell, Angela Hogan, and Becky Flynn. Ms. Flynn provided budget detail. **Commissioner Loftus** thanked **Chairman D'Aprile** for his tireless efforts in securing funding after the hurricane, expressed concern related to the homeless, affordable housing, foreclosures and their maintenance, opined the importance of oversight and improved management, and indicated the need to move forward with impact fees. Mr. Hebert took personal privilege to commend staff for their work and support.

COMMISSIONER MOORE MOVED TO APPROVE B) REALLOCATION OF REMAINING PROGRAM FUNDS; C) REALLOCATION OF REMAINING ADMINISTRATIVE FUNDS; D) AN EXTENSION OF TWO PROJECTS UNDER THIS GRANT AS NOTED; AND E) EXECUTE APPROPRIATE DOCUMENTS AS NEEDED TO ACCOMPLISH THE ABOVE. (XREF: GRANT 2005-025), SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

(4) County Attorney **RECOMMENDED ACTION:** Discussion/direction and possible approval of the October 29, 2008 revised Relocation Settlement Agreement and Release concerning Dan Cugini d/b/a Billboards USA and Freeland Moore Nissan, Inc. v. Charlotte County - Bert Harris Claim.

Attorney Knowlton explained and provided the timeline of events related to the Bert Harris claim brought against the County, opined the County has a good defense to the claim, discussed Settlement Agreement changes, and furnished options to the Commissioners. **Commissioner Loftus** indicated Board direction had requested the Attorney try and resolve this, opined the status is appropriate, discussed the reasons for the ordinance, and suggested they move forward. **Commissioner Moore** asked for detail related to paragraph "F" and whether it can be removed. Attorney Geri Waksler spoke on behalf of Billboards USA, explained the history of the sign, advised their paragraph "F" is an alternative to the existing paragraph "F", explained the differences between the two, and continued to discuss the case in detail. Attorney Knowlton said removing paragraph "F" would open the possibility for challenging of the ordinance, future litigation, and the possibility they may not remove the sign. **Commissioner Moore** opined Board direction was for our

Legal Department to negotiate and resolve this Bert Harris Claim, said he did not see clear negotiation, stated it looks like they want to litigate, noted he is not in favor of the County's legal language, said Billboards USA was caught in the middle and should not be expected to follow different rules. **Commissioner Duffy** agreed and said they should be held accountable as all other sign owners in Charlotte Harbor. **Commissioner Cummings** agree and stated they should be allowed to move their billboard and remove it in 2012. **Chairman D'Aprile** asked if anyone can challenge the ordinance in 2012. Attorney Knowlton advised all present billboard owners can challenge. **Chairman D'Aprile** discussed his understanding of the events to date and stated it would not be fair if they were not allowed to challenge the ordinance in 2012 as everyone else. **Commissioner Cummings** clarified the facts further. **Commissioner Loftus** pointed out that Nissan made the choice not to build it and move it and indicated most of the businesses in that area rebuild in less than three years. Attorney Waksler clarified Nissan could have built it and moved it forward onto the same property, but noted they would have had to close the business for three years during the time it was being rebuild, explained instead they made the choice to stay open, purchase additional property next door to build on, not lay off their employees, and continue to contribute to the economy of the County. Attorney Waksler opined asking a business to close down for three years is not the message Charlotte County wants to give to their business owners. Attorney Knowlton indicated they had made the changes per Ms. Waksler's request and advised Nissan could have requested a variance or special exception to avoid having to move the building up.

Commissioner Duffy said the County needs to be open for business and stop playing "got ya". **Commissioner Loftus** agreed with the need to be open for business, but stated there are ordinances that need to be followed and commented he wants assurance that they will not sue the County in 2012. **Commissioner Duffy** asked if Nissan was willing to agree in writing not to sue. Attorney Waksler said Nissan does not want to give up the same rights given to all other billboard owners, stated this is a settlement on moving the billboard, and noted the client should have the right to challenge if they choose in 2012. **Commissioner Moore** asked for detail related to paragraph "F". Attorney Waksler read her suggested paragraph into the record.

COMMISSIONER MOORE MOVED TO APPROVE THE REPLACEMENT OF THE "CURRENT PARAGRAPH F LANGUAGE" WITH "ATTORNEY WAKSLER'S PARAGRAPH F LANGUAGE", AS READ INTO THE RECORD BY ATTORNEY KNOWLTON, SECONDED BY COMMISSIONER DUFFY.

Commissioner Cummings opined it is a novel argument for someone to come before us and state they are not asking for anything, noting if that were the case, we would not be having this conversation and noted they are getting something and the County is receiving nothing in exchange. Chairman D'Aprile reminded the Board that this has come up many times before and discussed his assumption.

Motion Carried 3:2. Commissioner Cummings, and Commissioner Loftus opposing.

(5) Economic Development RECOMMENDED ACTION: Approve Agreement A with Southwest Land Developers, Inc. and Budget Transfer (#09-002) and Budget Amendment (#09-A05) in the amount of \$72,400 or Approve Agreement B with Southwest Land Developers, Inc. and Budget Transfer (#09-002) and Budget Amendment (#09- A05) in the amount of \$314,330. (XREF: AGREEMENT 2006-001)

Debrah Forester, Redevelopment Manager, provided background information related to the project, presented two options available for approval, and explained each in great detail.

COMMISSIONER CUMMINGS MOVED TO APPROVE AGREEMENT B WITH SOUTHWEST LAND DEVELOPERS, INC., BUDGET TRANSFER (#09-002), AND BUDGET AMENDMENT (#09-A05) IN THE AMOUNT OF \$314,330, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

(6) County Attorney RECOMMENDED ACTION: Elect a Chair Pro Tem and Vice-Chair Pro Tem of the Board of County Commissioners to serve from November 18 until the regular election occurs on November 25, 2008.

COMMISSIONER LOFTUS MOVED TO ELECT COMMISSIONER DUFFY AS CHAIR PRO TEM OF THE BOARD OF COUNTY COMMISSIONERS TO SERVE FROM NOVEMBER 18 UNTIL THE REGULAR ELECTION OCCURS ON NOVEMBER 25, 2008, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO ELECT COMMISSIONER CUMMINGS AS VICE-CHAIR PRO TEM OF THE BOARD OF COUNTY COMMISSIONERS TO SERVE FROM NOVEMBER 18 UNTIL THE REGULAR ELECTION OCCURS ON NOVEMBER 25, 2008, SECONDED BY CHAIRMAN D'APRILE.

Motion Carried 5:0.

Citizen Input was taken out of order prior to the 2:00 PM Presentation.

IX. BOARD WORKSHOP AGENDA - No Items

X. CITIZEN INPUT - ANY SUBJECT

Suzanne Graham spoke on behalf of the Charlotte DeSoto Building Industry Association, thanked **Commissioner Moore** and **Chairman D'Aprile** for their service to the County and the Building Industry and thanked **Chairman D'Aprile** for establishing the Building Industry Oversight Committee (BIOC), mentioned its accomplishments, and opined its continued success.

AA. County Administrator:

County Administrator Baltz advised nine (9) employees were affected by the thirteen (13) positions eliminated from the Building Construction Services Department this week and mentioned negotiations were continuing on the catering contract with Boston Culinary and were close to completion.

Mr. Ruggieri provided related information and timelines for final and preliminary Development Review Committee (DRC) approvals at Mr. Baltz request. County Attorney Knowlton advised they do have the ability to update and amend the code. **Commissioner Loftus** opined the Board needs to give direction as soon as possible. Ms. Knowlton noted it would need to be considered and come back to the Board at a later date. **Chairman D'Aprile** received Board consensus to move forward. Mr. Ruggieri said he will work with the Legal Department and advise.

Mr. Baltz mentioned conversations with Mr. Rooney, Mr. Kreegle, and Mr. Roberson related to their office space needs and noted the County's cooperation. Mr. Baltz explained they are considering rearranging the Commissioners administration area to better serve them and noted it will be a work in progress over the next few weeks. Mr. Baltz said **Commissioner**

Duffy suggested holding joint meetings with the City of Punta Gorda in Punta Gorda and asked for Board direction. Commissioner Cummings mentioned City Council had requested they be held here. Commissioner Moore asked if there was recording capabilities at the Event Center. Mr. Baltz explained they had not anticipated holding these meeting there but could look into it. Commissioner Loftus expressed concern with the costs related to setting up broadcasting. Commissioner Duffy explained her reasons.

BB. County Attorney: None

CC. Commissioner Comments:

Commissioner Duffy pointed out for Commissioner Cummings that although she keeps her comments short, she does understand the complexity of the issues. Commissioner Loftus thanked Commissioner Moore and Chairman D'Aprile for their service to the Community. Commissioner Moore thanked the County for allowing him the opportunity to serve with two Boards, opined now is the time to rebuild Charlotte County, commended staff for their support and the Community for its spirit and determination, and thanked his wife for her patience.

Chairman D'Aprile said it has been a great eight (8) years, announced he will miss everyone and appreciated his time here, expressed hope that the viewers will be supportive of the new Board, talked about the economy and how it has affected the County and citizens opinion of the Commissioners, and noted it is the time for change.

RECESS: 12:45 PM - 2:00 PM

VII. PRESENTATION AGENDA - 2:00 P.M.

Presentation by Calvin LeBuff regarding Salt Water Catch Basin Design

Wendy Berg advised Wayne Conga, Manager, would be available to answer any technical questions, expressed sadness that Chairman D'Aprile was being replaced, opined his absence will be a great loss to the County, indicated they have come this far because of his insight, and pointed out if the project is approved, Chairman D'Aprile will be responsibility for saving the County

more money than any other Commissioner before him. Ms. Berg explained why they chose Stump Pass, gave a brief presentation, and introduced Mr. Conga.

Commissioner Duffy asked for detail related to the Jupiter Inlet reference. Mr. Conga provided the information, explained the Salt Water Catch Basin is generally a permanent dredge, described the procedures, and noted it will pump sand onto the beach. **Commissioner Duffy** said her understanding was that the cost was approximately \$40,000 for the pump equipment. Mr. Conga confirmed that was the cost of the pump, explained how it works, and said it will last longer since it is only pumping water. **Commissioner Duffy** asked if this system has ever been used anywhere else. Mr. Conga advised it had not, noted it was patented three (3) years ago, advised the timeline of events to date, future plans, and mentioned there were engineers interested in seeing a working model. **Commissioner Moore** asked if the pump sees the sand. Mr. Conga explained the pump does not, noted it only pumps water into the basin, and indicated the return line goes to where the sand will be left. **Commissioner Moore** asked about Stump Pass and questioned if there was a law related to sand and State Parks. Mr. Conga noted projects he worked on in the past and advised the sand can be stored and transported to beaches or anywhere throughout the County.

Commissioner Duffy asked if the sand needs to be dried. Mr. Conga gave a few options, said the water will naturally run off, and noted it can be transported by truck. **Commissioner Loftus** commented they would need a spoil site, asked for operation costs, and asked how many cubic feet of sand could be moved. Mr. Conga mentioned costs had been identified, submitted to the Board on October 15, 2008, and explained sand removal in great detail. **Commissioner Loftus** asked for status related to conversations with the Department of Environmental Protection (DEP) and with Army Corps of Engineers. Mr. Conga said Mr. LeBuff would provide detail related to the progress with those organizations.

Chairman D'Aprile indicated his belief that this project could work and save the County a great deal of money over the years, talked about State Park meetings he has attended related to geo tubes, opined they worked, said this may be a great opportunity for the County, asked the Board to be open to the information, and asked for cost and dredging timeline for Stump Pass. Dan

Quick advised dredging should be done in a year at an estimated cost of anywhere between \$3 and \$5 Million. **Chairman D'Aprile** asked if dredging would be required once this product was installed. Mr. Quick was unable to answer positively based on the presentation and opined it would be the call of DEP.

Chairman D'Aprile asked for the basin size. Mr. LeBuff responded 15' x 15' x 30', explained where it should be located and why, discussed why this is a long term solution, and opined it will work. **Commissioner Loftus** stressed the importance of DEP and Army Corp approval. Mr. LeBuff provided detail related to conversations and meetings, discussed regulations, and said he was advised approval needed to be at County level. **Commissioner Loftus** expressed concern with DEP approval, time, and money. Mr. LeBuff noted DEP advised him the first step would be to have a County apply and discussed his working model. Mr. Conga offered to help with the permitting, advised this would be an application for a maintenance and continual dredge, and advised the County would need to be the end customer on the permit. **Commissioner Loftus** asked that they provide a presentation to DEP and West Coast Inland Navigation District (WCIND), said those organizations would need to advise their support, and stressed he would need an affirmative confirmation from DEP prior to a decision to move forward. **Commissioner Moore** agreed, suggested they give WCIND a presentation, and opined it is the natural next step since they have strong ties to DEP and could bring in all surrounding counties as well. Mr. Conga stated his proposal is that he would like to do the presentation on a formal front and apply for the permit on behalf of the County. **Commissioner Duffy** wondered if the Board could make a formal request to the WCIND Committee asking them to view the presentation. **Commissioner Loftus** again advised a presentation must be done prior to applying for permits. **Chairman D'Aprile** explained the position of the Board and said he is interested in saving the County millions of dollars. Mr. LeBuff asked if the Board could furnish a letter advising DEP and WCIND of the County's interest.

Commissioner Cummings said he has heard this conversation before, noted the importance of keeping the existing dredging project on track since this is not proven technology and most likely would not be approved prior to the next dredge, commented that the last presentation suggested a working model on a smaller scale, explained their applicant is not required to be a county

and could be any entity, suggested removing County risk by finding alternative funding other than WCIND grant funding, and said he would need something more solid before he would consider using taxpayer dollars.

Chairman D'Aprile commended this group for bringing this project forward, indicated the County does require more information prior to a \$1 Million investment, opined it could work, indicated the potential savings, asked Mr. LeBuff to follow through, and asked legal to advise him on providing an interest letter. County Attorney Knowlton responded. Mr. LeBuff pointed out he is only the inventor, noted he did not have the support of Mr. Congo and others at the previous presentations, advised they would not be involved if they did not believe in the project, and indicated they would need a letter to move forward. **Chairman D'Aprile** advised Mr. LeBuff to contact Administration for the letter. Ms. Knowlton indicated the need for three (3) Commissioners to agree to the letter. **Commissioner Duffy** said she agreed, suggested they write WCIND and express their support for the presentation, indicated they advise DEP of the presentation, express their interest in the project, note the County's request for DEP review and feedback, and also mentioned the need for grant funding. The Commissioners gave Board consensus to allow the letter. Mr. LeBuff thanked the Board for their time and support.

Presentation by Vanus, Inc., for the Florida Department of Transportation, District 1, to review the I-75 Freeway Management System (FMS) in Charlotte County.

Dan Quick, Public Works introduced Robert Skaggs, Traffic Operations Director, VANUS, Inc. who provided a brief Power Point presentation which included Project Summary, Project Benefits, Project Layout-Typical Device Layout, Project Budget, Schedule, and paralleled packet information related to the I-75 corridor. **Commissioner Cummings** asked if this system would work with GPS units that receive traffic information and suggest an alternate route. Mr. Skaggs indicated it did not, explained the current process, and noted future technology potential. **Commissioner Moore** asked what the cameras can see. Mr. Skaggs said they have a 35X zoom and described their view. Mark Roberson explained these are for incident management only and described their uses and intent in detail. **Commissioner Moore** asked who provided the \$17

Million. Mr. Roberson advised it was strictly State ITS dollars and provided additional information related to future funding and intent. Commissioner Cummings pointed out this is a very good project that will save lives. Chairman D'Aprile agreed it is a worthwhile project.

VIII. PUBLIC WORKSHOP AGENDA - No Items

ADJOURNED: 3:07 PM

Signature of 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