

BOARD OF COUNTY COMMISSIONERS

NOVEMBER 25, 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: Interim Chairman Tricia Duffy, and Commissioners Richard Loftus, Robert Skidmore, and Robert Starr. Also in attendance were County Administrator Roger Baltz, County Attorney Janette Knowlton, Chief Deputy Board Services Tommy White, Executive Assistant Diane Gant, and Deputy Clerk Gail Manley. (**Commissioner Adam Cummings was not present for this portion of the meeting.**) The meeting was called to order at 9:00 AM.

Invocation was given by Father Leo Smith, St. Charles Borromeo Catholic Church, followed by the Pledge of Allegiance.

County Attorney Knowlton conducted this portion of the meeting for the purpose of electing Chairman and Vice-Chairman of the Board of County Commissioners.

Interim Chairman Duffy relinquished the gavel to Attorney Knowlton. Attorney Knowlton advised that the first order of business is election of the new Board of County Commissioners Chairman, followed by election of the new Vice Chairman, and opened the floor for nominations for Chairman of the Board of County Commissioners.

**COMMISSIONER LOFTUS NOMINATED COMMISSIONER DUFFY TO SERVE AS THE NEW CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS, SECONDED BY COMMISSIONER STARR. THERE BEING NO FURTHER NOMINATIONS, COMMISSIONER LOFTUS MOVED TO CLOSE THE NOMINATIONS, SECONDED BY COMMISSIONER STARR.**

**CALL ON THE MOTION FOR CHAIRMAN: MOTION CARRIED 4:0.**  
Commissioner Cummings absent.

Attorney Knowlton opened the floor for nominations for Vice Chairman of the Board of County Commissioners.

COMMISSIONER DUFFY NOMINATED COMMISSIONER LOFTUS TO SERVE AS THE NEW VICE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS, SECONDED BY COMMISSIONER SKIDMORE. THERE BEING NO FURTHER NOMINATIONS, COMMISSIONER STARR MOVED TO CLOSE THE NOMINATIONS, SECONDED BY COMMISSIONER SKIDMORE.

(Commissioner Cummings was present for the remainder of the meeting).

CALL ON THE MOTION FOR VICE CHAIRMAN: MOTION CARRIED 5:0.

Attorney Knowlton congratulated Chairman Duffy and Vice Chairman Loftus and relinquished the gavel to Chairman Duffy. Chairman Duffy accepted the gavel with appreciation.

Changes to the Agenda.

Change #1: Agenda Item X-2 - Requested by Building Constructions Services Department - RECOMMENDED ACTION: Set a Public Workshop for December 9th, at 2 p.m. to discuss further the implementation of a Green Building Ordinance and hear from subject matter experts on the topic.

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

Special Recognition

Proclamations - Chairman Duffy

Charlotte County Chamber of Commerce Christmas Parade Day Proclamation Saturday, December 6, 2008

COMMISSIONER LOFTUS MOVED TO APPROVE CHARLOTTE COUNTY CHAMBER OF COMMERCE CHRISTMAS PARADE DAY PROCLAMATION SATURDAY, DECEMBER 6, 2008, SECONDED BY COMMISSIONER STARR.  
Motion Carried 5:0.

The Proclamation was accepted by Ron Thomas on behalf of the Charlotte County Chamber of Commerce.

Human Rights Day Proclamation December 10, 2008.

COMMISSIONER LOFTUS MOVED TO APPROVE HUMAN RIGHTS DAY PROCLAMATION DECEMBER 10, 2008, SECONDED BY COMMISSIONER STARR.  
Motion Carried 5:0.

The Proclamation was accepted by Gerde Ramos, Celebrations Chairperson, and other members of the Church Women United of Charlotte County.

Pearl Harbor Remembrance Day Proclamation December 7, 2008.

COMMISSIONER LOFTUS MOVED TO APPROVE PEARL HARBOR REMEMBRANCE DAY PROCLAMATION DECEMBER 7, 2008, SECONDED BY COMMISSIONER STARR.  
Motion Carried 5:0.

The Proclamation was accepted by Beverly Cutter and Dave Owen.

Shop Charlotte Month Proclamation the month from November 24th through December 24th 2008.

COMMISSIONER LOFTUS MOVED TO APPROVE SHOP CHARLOTTE MONTH PROCLAMATION THE MONTH FROM NOVEMBER 24TH THROUGH DECEMBER 24TH 2008, SECONDED BY COMMISSIONER STARR.  
Motion Carried 5:0.

The Proclamation was accepted by Julie Mathis on behalf of the Board of Directors and Members of the Charlotte County Chamber of Commerce.

Employee Recognition - None

Award Presentations - None

I. CITIZEN INPUT - AGENDA ITEMS ONLY

Paula Hess, Chairman Emeritus of the Center for Abuse and Rape Emergencies (CARE) of Charlotte County, spoke on Agenda Item Z-5 in opposition of awarding a contract to Boston Culinary and requested the contract not be approved as presently written.

Linda Lusk, Board Chair for CARE, spoke on Agenda Item Z-5 in opposition of awarding a contract to Boston Culinary.

*Bill Wilcox spoke on Agenda Item Z-2 and commented on the challenges of managing Babcock Ranch.*

*Bill Dryburgh spoke on Agenda Item Z-5 in opposition of awarding a contract to Boston Culinary.*

*Ron Thomas spoke on Agenda Item Z-5 in support of awarding the contract to Boston Culinary.*

*Rob Humpel of Mathews Taylor commented on Agenda Item Z-3; advised many firms set up shadow offices in Charlotte County, not main offices, but technically qualify as a "local office"; indicated there is a big difference between a local office consisting only of an address versus a local office that has 20 or 30 employees and does local work in the community; and recommended not changing the local preference but re-evaluate how the points are awarded.*

*John Perez, General Manager of the Wyvern Hotel in Punta Gorda, spoke on Agenda Item Z-5 in support of awarding the contract to Boston Culinary.*

*Julie Mathis, Chairman of the Tourist Development Council, spoke on Agenda Item Z-5 in support of awarding the contract to Boston Culinary.*

*Peter vanBuskirk, Kimley - Horn and Associates, commented on Agenda Item Z-3 by stating the Purchasing staff has done a great job and the local preference has been working.*

*Gary Bain, Southwest Engineering and Design, spoke on Agenda Item Z-3 and commented on ways procurement tools can be changed.*

*Todd Rebol, Banks Engineering, spoke on Agenda Item Z-3; agreed the current local preference is a good policy that works but it needs to be re-evaluated to be more effective; suggested changes including formation of a panel to actively participate in reviewing and re-defining the local preference procurement process; and requested delay until the process is better defined.*

David Crane, Southwest Engineering and Design, agreed with Mr. Bain's and Mr. Rebol's comments on Agenda Item Z-3 and offered to participate in revising the Local Preference point process.

## **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 AM in Murdock.

Edgewater North Waterway Advisory Committee - is seeking one volunteer to serve as the alternate. Must reside within the boundary of the unit. Terms are for three years, effective immediately and expiring September 12, 2011.

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.

Transportation Disadvantaged Local Coordinating Board - is seeking one Charlotte County resident to serve as a representative of: At-Risk and Disabled Children. Your letter or email of interest stating the position for which you are qualified to represent should be sent to: Charlotte County-Punta Gorda MPO, 25550 Harbor View Road, Suite 4, Port Charlotte, FL 33980. Fax: 941-883-3534 Email: office@ccmpo.com

Lemon Bay Street & 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 - is seeking one volunteer to serve as a regular member on this newly formed committee. Must be a resident of the unit.*

*Placida Street & 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 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 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 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.*

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

*West Charlotte Stormwater Utility - is seeking one volunteer to serve as a regular member for a three year term, effective immediately. Must be a land owner and reside within the unit.*

### **III. REPORTS RECEIVED AND FILED**

*Resolution No 2002-185-Settlement of Claims Not to Exceed \$25,000*

### **IV. CONSENT AGENDA**

**COMMISSIONER LOFTUS MOVED TO APPROVE CONSENT AGENDA EXCEPT AGENDA ITEM L-5, SECONDED BY COMMISSIONER STARR.  
Motion Carried 5:0.**

### **Clerk of the Circuit Court**

#### **A. Finance Division**

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

Memorandum #1 - Status of Contingency Reserves - FY 07/08

Memorandum #1A - Status of Contingency Reserves - FY08/09

Memorandum #2 - Total Disbursements for the Period November 4, 2008 through November 17, 2008 in the amount of \$16,515,629.77.

B. Minutes Division

(1) **RECOMMENDED ACTION:** **BUDGETED ACTION:** None

08/26/08 9:00 AM BCC Regular

08/27/08 1:00 PM Executive Session - Edgewater 2000 cases

08/28/08 1:00 PM Executive Session - Sun River Utilities case

09/09/08 9:00 AM BCC Regular

Board of County Commissioners

C. Commission Office

(1) **RECOMMENDED ACTION:** Approve the appointment of Paul Holmes as the Little Gasparilla Property Owners Association representative on the Little Gasparilla Island Advisory Committee. Term will expire January 22, 2010. **BUDGETED ACTION:** None

(2) **RECOMMENDED ACTION:** Approve the reappointment of Paula Hess to the Planning and Zoning Board representing District #2. Length of term - until October, 2012. **BUDGETED ACTION:** None

(3) **RECOMMENDED ACTION:** Approve appointments of William Blackwell, Robin Leonard, Dennis McCulloch, Sharon White and Van Stockwell (as the alternate) to the Pirate Harbor Waterway Committee. Length of terms will be determined at their first meeting. **BUDGETED ACTION:** None

(4) **RECOMMENDED ACTION:** Approve the reappointment Herb Eldredge and Melody Shinner to serve as regular members of the Edgewater

North Waterway Advisory Committee. The terms are effective immediately and expire September 12, 2011. BUDGETED ACTION: None

(5) RECOMMENDED ACTION: Approve the reappointment of Arthur Jozwiak as a regular member for an additional three (3) year term on the Gulf Cove Waterway Unit Advisory Committee. This term is effective immediately and expires June 27, 2011. BUDGETED ACTION: None

(6) RECOMMENDED ACTION: Approve the reappointment of Granville L. Pennypacker as a regular member of the West Charlotte Stormwater Utility MSBU. He has been serving on this committee since 2005 and has requested reappointment. The new term shall expire on November, 13 2011. BUDGETED ACTION: None

(7) RECOMMENDED ACTION: Approve the Surety Bonds for Commissioner Robert Starr, Commissioner Robert Skidmore and Commissioner Tricia Duffy. BUDGETED ACTION:

(8) RECOMMENDED ACTION: Approve the appointment of Gary Mastry to the Environmentally Sensitive Lands Oversight Committee representing the business/land development category. Length of term - until January 23, 2010. BUDGETED ACTION: None

D. Administration

(1) RECOMMENDED ACTION: Approve cancellation of the December 23, 2008 Board of County Commissioners Regular meeting. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Set a meeting on Monday, December 8, 2008, at 11:30 a.m. to 1:00 p.m., for Board of County Commissioners discussion with Congressman Tom Rooney at the Port Charlotte Beach Recreation Center. BUDGETED ACTION: None

(3) RECOMMENDED ACTION: Approve the resolution authorizing the Chairman to sign and execute an Amendment to Lease Agreement between Florida State Representative Paige Kreegel and the Board of County Commissioners of Charlotte County, Florida. Mr. Kreegel occupied 1,340 square feet at 410 Taylor Street. BUDGETED ACTION: None. Revenues will be collected in the General Fund - Facilities Management.

**Resolution 2008-145 and Amendment #1 to Agreement 2007-041**

E. County Attorney

(1) *RECOMMENDED ACTION*: Set an Executive Session for November 25, 2008 at 2:00 PM, or as soon thereafter as possible, in the County Attorney's Conference Room, to discuss the federal lawsuit captioned Rotonda Project, LLC v. Charlotte County; Adversary Case No. 9:08-ap-00253-ALP. *BUDGETED ACTION*: None

F. Budget Office

(1) *RECOMMENDED ACTION*: Approve budget amendment #09-A08 to recognized excess fees returned by Tax Collector, Property Appraiser, Sheriff and Supervisor of Elections for FY07/08. *BUDGETED ACTION*: Approve budget amendment #09-A08 for \$5,697,750 to recognize excess fees returned by Tax Collector, Property Appraiser and Supervisor of Elections for FY07/08. These dollars are being recognized in the General Fund Reserve - Fiscal Stabilization.

(2) *RECOMMENDED ACTION*: Approve and authorize the BCC Chairman to sign a Resolution authorizing the borrowing of an amount not to exceed \$2 million from the Pooled Commercial Paper Loan Program of the Florida Local Government Finance Commission in order to re-finance a loan previously made to finance various capital improvements within the County. *BUDGETED ACTION*: Principal and interest payments are budgeted in FY09 in Road Improvements, the Pirate Harbor Waterway MSBU, and the Don Pedro Knight Island MSTU.

**Resolution 2008-146**

(3) *RECOMMENDED ACTION*: a) Approve budget transfer # 08-032 for \$59,638 and budget amendment # 08-A072 for \$59,638 to transfer dollars from the Tourist Development Fund to the General Fund to cover the Communications Service Tax that was used for the Stadium Debt Service payment; and b) Approve budget amendment #08-A071 to recognize actual revenues in the Stadium Debt Service Fund. *BUDGETED ACTION*: Revenues for budget transfer #08-032 and budget amendment # 08-A072 is the first 3% of the Tourist Tax. Revenues for budget amendment #08-A071 consist of interest, interfund transfers (from Tourist Development

Fund) and telecommunications revenues received in the Stadium Improvement Debt Service Fund.

G. Growth Management - No items.

H. Economic Development - No items.

J. Environmental Services

(1) *RECOMMENDED ACTION*: Approve a Resolution adopting the Solid Waste Services for Lee County residents on Gasparilla Island that were adopted by the Lee County Board of County Commissioners. *BUDGETED ACTION*: None

**Resolution 2008-147**

K. Facilities Construction and Maintenance - No items.

L. General Services

(1) *RECOMMENDED ACTION*: Approve Amendment #20 to Contract # 01-125, Sarasota-Charlotte County Beach Restoration Study, with Coastal Technology Corp., in the amount of \$123,460 for post-storm surveys, damage assessment, FEMA coordination, and various professional services. *BUDGETED ACTION*: The FY09 budget has \$124,000 available for this change order in the Stump Pass Beach Renourishment MSTU/BU.

(2) *RECOMMENDED ACTION*: Approve Change Order #7 for additional professional services to Contract #99-126, Manchester Waterway Lock Removal Ecosystem Management Permitting, with EarthBalance in the amount of \$87,150 for a total revised contract amount of \$604,975, for additional professional services: Survey for the Flamingo, Como, Knox, and Christopher Waterways from Edgewater Drive north to El Jobean Road; and Construction surveys from Charlotte Harbor into Lewis Creek, Ackerman Waterway, and Manchester Waterway. *BUDGETED ACTION*: The FY09 budget has \$87,500 available for this change order in the Manchester Waterway MSBU fund. CIP project c390701, Manchester Waterway Maintenance Dredging. The project total is \$550,000. Funds are supplied from the Manchester Waterway MSBU.

(3) RECOMMENDED ACTION: a) Approve award of the Request for Proposal #09-020, Surveying Services-Annual Contract, with the 3 top-ranked firms: WilsonMiller, Inc; DMK Associates, Inc.; and Johnson Engineering, Inc., from date of award up to and including September 30, 2009; and b) Authorize the Chairman to sign the Contracts; and c) Authorize the County Administrator to approve the renewal of two additional one-year terms, by mutual consent, at the same prices, terms and conditions. This proposal is to obtain the services from qualified surveying firms to supply on-going surveying services to Charlotte County for a defined period of time. BUDGETED ACTION: Survey work will be charged to Gas Taxes or the MSBU/TU where the work is performed depending on the specific project.

(4) RECOMMENDED ACTION: a) Approve Amendment #6 to Contract #06-190, Project Management - Dredge Projects, with Coastal Engineering Consultants in the amount of \$137,986.52; and b) Authorize Chairman to sign the Amendment to the Contract to cover changes for survey services, previous field work, line work, and construction/permitting plans. BUDGETED ACTION: The FY09 budget contains funding for this Amendment in the various waterway MSBUs affected. The projects are; c390403 NW Port Charlotte WW Dredging, project total \$600,000; c390705 Harbor Heights WW Maintenance Dredging, project total \$1,090,000; c390706 Hayward Canal Maintenance Dredging, project total \$457,000; c390702 Suncoast WW Maintenance Dredging, project total \$726,000; c390707 South Bridge WW Maintenance Dredging, project total \$927,000; c390603 Buena Vista WW Dredging, project total \$686,000.

(5) RECOMMENDED ACTION: Approve Change Order #2 to Contract #07-235, Rotonda WRF Expansion, with Adams Robinson Enterprises, Inc., in the amount of \$243,631.59 for a total revised Contract Amount of \$18,542,385.24, along with revised completion dates as follows: Phase I - 10/27/08; and Phase II - 07/13/09, for various field changes, all materials, labor, equipment, and incidentals required to successfully complete the plant expansion at the facility. BUDGETED ACTION: None, funding for this expenditure comes from Utilities Connection Fee Funds, in the Rotonda Waste Water Reclamation Facility Plant Expansion Project (#C350102).

**Commissioner Starr** said he understands the \$243,631.59 is within the 5% contingency, but expressed concern with many items that

were not included in the original bid; and inquired about the process, who reviews it before the Board is asked to approve the increases, and why they were not included in the original plan.

**Commissioner Loftus** agreed there should be fewer change orders; advised this has been done in the past for many years and he has major concerns with change orders that should have been done at the beginning; indicated responsibility lies with the engineers who did the specifications; and opined there should be due diligence with the initial drawings.

**Commissioner Skidmore** agreed with **Commissioners Loftus** and **Skidmore** that this change order is unacceptable; indicated that the Board needs a far better understanding before change orders are sent to the Board; that he understands much of this work has been done and the Board is just receiving a change order, and that this practice cannot continue; stated that he understands the project has been plagued with miscalculations of what was in the ground; and that he pulled this item to further discuss why this bundle of change orders occurred.

**Commissioner Cummings** clarified that the revised estimate that went out for bid was \$21,236,000 and that the bulk of the change orders is slightly over 1%; explained that the change orders would not have come before the Board if done one at a time rather than staff bundling them because it would have fallen under the \$100,000 limit and been approved by Administration; pointed out that this is within 1% of the bid on a \$22M project; and that there has been an effort by staff of forthrightness in deliberately collecting the change orders together so it would be over the threshold in order to be certain the Board had a chance to review it and make the decision it deems appropriate.

Mr. Baltz stated that the Board's message that scrutiny and accountability are priority and staff would respond to that; requested Purchasing Director Kim Corbett review the process used regarding change orders and how we procure services under the terms of our purchasing policy manual, which threshold amounts trigger bids, which amounts of change orders can be done administratively, and which ones come back to the Board; and pointed out that some change orders come forward because they have been anticipated in some of the contract language, such as

paving contracts where good prices are obtained for material or more money is available for projects.

Ms. Corbett advised that policy established in the purchasing manual is that there is a 5% contingency authorized for any construction project upon approval by the BOCC; that the money is not encumbered but gives staff the authorization to process change orders up to 5% of the contract as they come forward as long as it is not over the administrative approval, which currently is \$100,000, and which would then require it to go before the Board for approval.

**Commissioner Starr** clarified that the change orders could have been approved through Administration if in 3 separate orders, even if the 3 totaled \$100,000. Ms. Corbett replied affirmatively, if the change orders had come at separate times; explained who must sign off before this is approved administratively; and advised that the changes before the Board came at one time and requires Board approval.

**Commissioner Skidmore** inquired if the change orders occurred at the same time or at separate times. Mr. Pearson advised they were spread over several months. **Commissioner Skidmore** indicated that just because there is a 5% contingency, it does not mean it must be used; and asked if Mr. Pearson had discussions with Mr. Baltz as these occurred. Mr. Baltz explained his normal meeting process with department directors, and stated that these particular change orders came to him at the end of the process. **Commissioner Skidmore** requested further explanation from Mr. Pearson.

Mr. Pearson explained there is a very specific scope of work and if the construction process is stopped to get change orders approved we would be liable for delays with the contractor because they have a specific date of completion; advised that in the past rather than processing one \$5,000 or \$8,000 change order they would wait until they had a number of them, and in the instant case staff brought a number of change orders that were above the \$100,000 to the Board for approval and to see what the change orders were; stated there is a very good explanation for each change order; that over \$5.5M has been saved; that we have managed the project well and made certain the taxpayer and ratepayer money is not wasted; commented on areas where funds

were saved on the project; and indicated that we have been good stewards on a very complex project, which utilized complex, relatively new, technology called the MBR process.

**Commissioner Cummings** stated the objective is to have a project as cost effective as possible and that flexibility contributes to the potential of having a cost effective project; that this project is 10% below earlier estimates, is now within 1% of the design bid, and we are trying to make adjustments that cropped up over the development of the project. **Commissioner Cummings** explained that the process to avoid change orders is the guaranteed maximum bid; commented on difficulties that could occur; and opined that the nature of the project determines which is best. **Commissioner Cummings** indicated that with the process chosen here the ability was needed for those managing the project to have some flexibility in the course of its design to find savings whenever possible and to respond to things not anticipated; that it is not as iron-clad as change orders are bad and guaranteed prices is good because it depends on the project and there are tradeoffs with each of those management decisions; but that with the process chosen if something crops up, whether anticipated or not, if it affects the critical path of the project and delays it, it would cost more to pretend the problem is not there than to manage it.

**Commissioner Loftus** reported he has worked in the field of water treatment plants; opined when a job is bid it should be bid fully; and stated he does not agree that these change orders should have occurred.

**Commissioner Starr** advised his question and concern is how much of what is included in the change orders the County asked for and how much was not included in the original bid.

Ronald Aubel, Project Manager of the Rotonda Project, stated that none of the changes came back from the contractor to us; that there were gaps in the contract documents; that these are not claims of the contractor wanting to do more work, but were issues identified during the 15 months that the changes accumulated that had to be modified to allow the project to be completed; and commented on the cost for new Florida Power and Light (FPL) service.

Curtis Kunihiro, of Boyle Engineering, commented on why other change orders were required; and indicated that some items were able to be resolved without the requirement of change orders.

**Commissioner Loftus** opined that what he has heard should have been in the scope of work when it went out for bid at the beginning.

**COMMISSIONER LOFTUS MOVED TO APPROVE AGENDA ITEM L-5, SECONDED BY COMMISSIONER CUMMINGS.**

**Motion Carried 3:2. Commissioner Starr, and Commissioner Skidmore opposing.**

Mr. Baltz stated that he wants to be certain of expectations regarding change orders and that perhaps the issue could be discussed at the retreat.

**Commissioner Cummings** stated that the goal is to have a cost-effective project; that the tool is the change order, which can be good or bad; and opined that having a goal of avoiding change orders confuses the goal with the tool and could cost more money over the long term.

**RECESS: 10:25 AM - 10:35 AM**

(6) **RECOMMENDED ACTION:** Approve Change Order #4 to Contract #06-378, Beautification Mowing-Landscape Maintenance, with Veteran's Lawn Service of Port Charlotte, Florida, in the amount of \$15,684, for a revised total amount of \$247,063.39. This is an annual contract for the services of a professional, licensed, and qualified contractor(s) capable of performing beautification mowing and landscape maintenance of roadway rights-of-way, easements, drainage facilities, medians, identification signs, and treescaped streets. **BUDGETED ACTION:** FY09 budget is available for this change order in the Transportation Trust Fund (\$8,075), Rotonda West Streets and Drainage MSBU (\$5,088), and the Placida Area Streets and Drainage MSBU (\$2,521). Funds are supplied from Gas Taxes (\$8,075), Rotonda West S & D MSBU(\$5,088) and Placida Area S & D MSBU (\$2,521).

(7) **RECOMMENDED ACTION:** 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; and b) Approve Start of Negotiations; and c) Authorize the Chairman to sign the contract after completion of negotiations to obtain the services of a qualified professional engineering consulting firm to provide Construction Engineering Inspection (CEI) Services during the construction phase of the Aqui Esta Drive Improvements project. BUDGETED ACTION: Budget of \$1,000,000 for CEI services is in the FY09 Road Improvements Fund. CIP project c419301 Aqui Esta/US 41 to Bal Harbor. Project total is \$11,666,000.

(8) RECOMMENDED ACTION: a) Approve Amendment #8 to Contract #07-008 Charlotte Sports Park Renovation & Expansion with Hunt/Mathews/Taylor for 1) fencing in the not to exceed amount of \$88,727 and b) Authorize the Chairman to sign the Amendment. BUDGETED ACTION: Budgeted amount in FY 09 is \$14,134,000 in CIP Project Charlotte Sports Park Stadium

M. Human Resources - No items.

N. Human Services - No items.

P. Information Technology - No items.

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

R. Public Safety

(1) RECOMMENDED ACTION: a) Approve the 2007-2010 State Homeland Security Grant Program (SHSGP) for HazMat Teams Agreement; and b) Approve Budget Amendment # 09-A07 in the amount of \$52,473 to allocate the grant funds in the Fire Rescue budget. BUDGETED ACTION: Approval of Budget Amendment 09-A07: Revenue: 52,473 1195.000000.334.501.0000, g220901.500.502State Grant - Expense: 28,000 1195.232601.522.46.0031, g220901.330.22009, R/M-Equip 24,473 1195.232601.522.54.0003, g220901.330.22010, Education. No County match is required. Grant funds to be allocated in the FY08/09 Fire Rescue budget.

**Grant 2008-035**

S. Public Works

(1) *RECOMMENDED ACTION*: Set a Public Hearing for December 9, 2008, at 10:00 a.m., or as soon thereafter as may be heard, to consider approving an ordinance to add additional territory to the Northwest Port Charlotte Street and Drainage MSBU. *BUDGETED ACTION*: Recording fees of approximately \$44 are available in the Northwest Port Charlotte Streets and Drainage MSBU fund.

(2) *RECOMMENDED ACTION*: Approve a Resolution, authorizing the Chair of the Board of County Commissioners to sign a Joint Project Agreement with the Florida Department of Transportation (FDOT), and approve the Joint Project Agreement with FDOT to add left-turn lanes at Murdock Circle and US 41. Authorize the Chair of the Board of County Commissioners to execute the Agreement and any future documents necessary for the completion of the project. *BUDGETED ACTION*: The FY09 budget contains County match dollars in the Road Improvements fund. CIP project c410744 US 41/Murdock Circle Intersection Improvements. The project match FY09 budget total is \$14,000. Funding for the County match is from Gas Taxes.

**Agreement 2008-056 and Resolution 2008-148**

(3) *RECOMMENDED ACTION*: a) Approve a Resolution accepting for maintenance portions of Westchester Boulevard and Oakview Drive as constructed by D.R. Horton, Inc.; and b) Approve a related Road Maintenance Agreement with D.R. Horton, Inc., for Westchester Boulevard and Oakview Drive; and c) Approve a related Right of Way Landscaping Agreement with River Club of Port Charlotte Homeowners Association for Oakview Drive. *BUDGETED ACTION*: None for FY09. In FY10 these roads will be added to the Greater Port Charlotte Streets and Drainage MSBU.

**Resolution 2008-149, Agreement Number 2008-057, Agreement # 2008-058**

T. Real Estate Services

(1) *RECOMMENDED ACTION*: Approve the attached Resolution approving the release of a portion of a ten-foot (10') wide utility and drainage easement located in Port Charlotte Subdivision, Section Thirty-Two, and further authorizing the Director of Real Estate Services to execute the County Deed releasing said portion of said easements (Owners: Abraham Binoy and Susan A Binoy, Co-

Trustees of the Binoy Family Trust dated September 11, 2008).  
BUDGETED ACTION:

**Resolution 2008-150**

(2) RECOMMENDED ACTION: Approve a resolution to rescind Resolution 2006-157, that authorized the acquisition by any legal means of a portion of Lot 4, Block 1 of the El Jobean Garden Truck Farms Subdivision for road improvements. BUDGETED ACTION: None

**Resolution 2008-151**

V. Tourism Development - No items.

W. Utilities

(1) RECOMMENDED ACTION: Approve an Encroachment Agreement for a proposed wall and landscaping to be located in Charlotte County Utilities' (CCU's) utility easement at a new development named Serendipity Villas, located on the corner of Luther Road and Tangerine Avenue, and authorize the Chairman to sign. BUDGETED ACTION: None

**Agreement 2008-059**

(2) RECOMMENDED ACTION: Approve Cooperative Funding Applications between the Southwest Florida Water Management District (SWFWMD) and Charlotte County Utilities (CCU) for four projects, as required each year by SWFWMD, to (1) continue funding for projects approved in previous years and (2) begin funding for new projects. BUDGETED ACTION: None

**Grant 2006-004, Agreement 2005-010 (Bid 07-427), Agreement 2007-067, Agreement 2008-060**

X. Building & Construction Services

(1) RECOMMENDED ACTION: a) Approve and accept the Developer's Agreement and Letter of Credit Number SLC500487 issued by Northern Trust in the amount of \$88,078.43 in the name of Brookwood Calusa Creek LLC for Final Plat Petition FP 05-04-06 - Calusa Creek subdivision and the Developer's Agreement and Letter

of Credit Number SLC 500486 issued by Northern Trust in the amount of \$56,423.13 for Final Plat Petition FP 07-02-05 - Calusa Creek Phase 1 subdivision in the name of Brookwood Calusa Creek LLC; and b) Approve release of surety document, # 0884570 drawn of Fidelity and Deposit Company of Maryland in the amount of \$88,078.43 (FP 05-04-06) and surety document #104787177 drawn on Travelers Casualty and Insurance Company in the amount of \$56,423.13 (FP 07-02-05) and posted by Beazer Homes for Calusa Creek and Calusa Creek Phase 1 subdivisions after recording of the new agreements and surety. BUDGETED ACTION: None, fees paid for these final plat approvals will be posted to the Public Safety Fund in the Land Development Division of the Building Construction Services Department.

**Agreement 2008-061**

(2) RECOMMENDED ACTION: Set a Public Workshop for December 9th at 2 p.m. to discuss further the implementation of a Green Building Ordinance and hear from subject matter experts on the topic. BUDGETED ACTION: None

Y. Other Agencies - No items.

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

(1) County - RECOMMENDED ACTION: Conduct a Public Hearing at 10:00 AM, or as soon thereafter as may be heard, to consider a door-to-door selling ordinance amending Sections 1-10-76 through 1-10-78 of the Charlotte County Code.

Attorney Knowlton stated when this item was last discussed it was noted there was duplicative provisions in the County Code as well as State Law and our County Code was not keeping up with the ever changing amendments that were made to the Florida Statutes; that the BOCC directed Legal to repeal the duplicative provisions in the Charlotte County Code to rely merely on whatever State Law already provides and to add time restrictions to address the resident's concerns about late night solicitations; and that is the Ordinance that is being brought to the Board today. Attorney Knowlton clarified misunderstandings that we are not allowing any additional solicitation or door-to-door selling that is not already authorized by State Statute; that we are just acknowledging what State Statute provides and adding in a

restriction for no soliciting between the hours of 9:00 PM and 9:00 AM; that this is more of a house cleaning matter, but adding in the restrictions that there will be no late night soliciting.

**Commissioner Cummings** clarified that what is before the Board today does not reduce any restrictions that currently exist on door-to-door solicitation, only adds additional protections limiting the amount of time that someone could go into an area; that this is no way reduces enforceability of any Deed Restrictions; that even if for some reason we thought we might be able to legally ban door-to-door solicitation in our local ordinances, which he does not think we could constitutionally do, but if that choice was made, nothing we are doing today would affect our ability to do that with a later ordinance; that there are absolutely no losses here as far as protections in terms of door-to-door; and that it is only adding restrictions. Attorney Knowlton replied affirmatively.

**Commissioner Skidmore** requested clarification that the no solicitation between 9PM and 8AM, which effectively allows solicitation between 8AM and 9PM, are not dictated by State Statute, but were determined by County Legal staff; and that the leeway of time between 8AM and 9PM could be set by this Board. Attorney Knowlton explained that it can, but you must be cognizant of the constitutional issues and the case authority that is out there. **Commissioner Skidmore** asked if the case authority was in front of the Board today. Assistant County Attorney Derek Rooney stated he had some of the cases available today.

**Commissioner Cummings** indicated what triggers the requirement to re-advertise is the title of the ordinance; that there is nothing in the title of the ordinance referring to the hours; and inquired if the Board wished to adjust the hours it could make that type of change today. Attorney Rooney explained it may have to be re-advertised if there are substantial changes to the text of the ordinance; commented on cases on restrictions of hours preventing door-to-door solicitations; that door-to-door solicitation is recognized by the Supreme Court as a legitimate business but reasonable regulations can be added to differentiate between lawful and unlawful behavior; that the court has left it open to the lower courts of appeal throughout the country to determine the time issue; that many cases say 8AM to dusk is

unacceptable because evening is when people are home; and opined that 9PM is safe.

**Commissioner Starr** asked how many permits are issued each year for door-to-door solicitations. Attorney Rooney explained the licensing requirements adopted by Charlotte County; indicated the permits are issued by the Clerk of Court; but that he did not know how many permits the Clerk issues. **Commissioner Starr** inquired if an opt-out provision could be included in the ordinance where if a property was posted with a "no solicitation" sign. Attorney Rooney explained a regulation could be created, but added that if a no solicitation sign is posted there would be a trespassing claim, which would be handled by the Sheriff or Code Enforcement; and commented further on the possibility of permits being withdrawn by the Clerk. Chief Deputy Board Services White commented on the number of permits that have been issued and stated he was not certain of the withdrawal process.

**Commissioner Skidmore** inquired if there was case law or challenges to a no solicitation ordinance since the federal law went into effect for residents to opt out of being called in their homes. Attorney Rooney explained that telecommunication laws are different than door-to-door; and commented on recent case law. **Chairman Duffy** reported she spoke to the Sheriff about enforcement; explained that if a resident has a no solicitation sign in the yard and requests a sales person who comes to the door to leave the homeowner can call the Sheriff's Office if that person refuses to leave; and indicated she would like to better protect the citizens where possible. **Commissioner Skidmore** agreed.

Attorney Rooney explained there is no case law on times, but that there is a Florida Supreme Court case that has held since 1938 that has never been challenged, which says you cannot put in a no solicitation ordinance; indicated regulations between lawful and unlawful behavior can be done with licensing requirements; and stated that there are layers of complicated issues. Attorney Rooney advised that going forward beyond what we are looking at today we must step back and take a closer look at it to avoid free speech boundaries; that we must contend with the state law which avoids an outright ban; but that it does not say anything about time.

**Commissioner Skidmore** stated that the mindset of elected bodies have changed to a more protective property rights being foremost. Attorney Rooney explained the portion we are discussing has not been challenged because it has been settled law since the 1930's; commented on the Federal do-not-call list; indicated he could continue looking into the issue, but that it may need to be addressed at the State level.

Jay Lyons, Manager of the Rotonda West Homeowners Association; advised the Association is not looking to do anything specific to its deed restrictions; indicated citizens have a right to quiet enjoyment; opined that it should not be legislated that solicitors have the ability to come into our homes from 8:00 AM until 9:00 PM; agrees with the Federal do-not-call registry; pointed out that many do not register with the Clerk of Court as legitimate businesses; stated that he understands the intent of the new language is to protect, but strongly suggested that the Board of County Commissioners re-consider the information, dare to be different when it comes to Charlotte County's laws versus the State or Federal government, and not deal with the basic, minimum requirement in this issue.

Rotonda West homeowner Claudette Romano advised she is a strong advocate against door-to-door solicitors; commented on her reasons why; and urged the Board to pass an ordinance prohibiting door-to-door solicitation.

President of the Rotonda West Homeowner Association Nick Gizzi advised the community has a deed restriction against solicitation and posted no solicitation signs at the main entrance and asked if that qualifies to prevent solicitors from coming into the community. Attorney Rooney explained some communities may qualify for a community-wide no solicitation but individual homeowners can put up a no solicitation sign, which is enforceable by the Sheriff as a trespass.

George Krabbe, Vice President of the Rotonda West Homeowners Association, commented on recent experiences in the neighborhood; indicated the Sheriff's Department advised there was nothing they could do because there was no ordinance; and stated the homeowners do not want solicitation in Rotonda West.

Douglas Tucker commented on differences between telecommunications and door-to-door solicitation restrictions; indicated citizens must also consider personal responsibility in that they do not have to open their door; indicated that 9:00 PM is too late and if the Board were to do some type of door-to-door hour restriction his recommendation is from 8:00 AM to 8:00 PM; and stated when talking about federal communications versus door-to-door solicitations he is not certain they can both be monitored the same.

**Commissioner Skidmore** asked if the purpose of the hearing is to essentially re-write the ordinance or hear public comment on the ordinance before us and ultimately vote on today's ordinance. **Chairman Duffy** advised it is up to the Board; that the Board asked that it be brought forward to see what could be done to help the citizens.

Rotonda West resident Gerry Townsend spoke in support of having no solicitation day or night; commented on never opening the door to people you do not know; and requested the Board try to work with the State Legislators to challenge the laws.

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

**Motion Carried 5:0.**

Attorney Rooney reported that as of today, with nothing being done, if someone is found to be soliciting door-to-door without a permit it is a fine punishable by State law.

**Commissioner Starr** pointed out that the County Attorney advised it is impossible to ban solicitors on the street of Charlotte County that there are many more out there selling than have permits; that he would like to see this go back with language for the opt out provision; and would like to see the time changed from 8:00 AM to 6:00 PM.

**Commissioner Cummings** said the question today is if we want to add an additional protection that does not currently exist; and that his answer is yes; explained that elected officials are required to uphold the Constitution of the United States and the State of Florida, which includes decisions by the Supreme Court of the various jurisdictions as to how that constitution is

interpreted; that he does not have the liberty of defying the State of Florida in creating laws and ordinances that are not legal and must live within the framework of the United States and the State of Florida; pointed out that we lose nothing by approving the ordinance before us today; that if we want to have the County Attorney do something further we can do it with another ordinance amending this ordinance after the homework is done; and explained that the opt out already exists within existing statutory law.

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2008-094 WITH A NO SOLICITATION PERIOD FROM 6:00 PM TO 9:00 AM, SECONDED BY CHAIRMAN DUFFY.**

**Chairman Duffy** commented on language under section 2, Severability, in the ordinance; indicated that deed restrictions in deed restricted communities supersedes anything else, but cannot be enforced by the Sheriff's Department. Attorney Rooney explained that a deed restriction is a private contract, not a provision of law, and that the County has no standing to enforce deed restrictions. **Chairman Duffy** clarified the change would not cause problems with the State of Florida. Attorney Rooney opined that additional restrictions could be added and believes the time period would be okay. **Chairman Duffy** asked about enforcement if signs were posted at the entrance to a community Attorney Rooney explained it would depend on facts and circumstances of that community, such as if it was a gated community with its own private roads and gated access or if the sales person was a member of the association. **Chairman Duffy** stated she would vote in favor of the current motion in order to give the citizens a layer of protection, but would like Legal to continue looking at other options.

Attorney Knowlton reminded the Board that we can do this, but there is a risk of it being subject to challenge. **Chairman Duffy** expressed concern of charitable organizations. Attorney Rooney explained that our regulation is commercial only and including charitable organizations would be struck down rather quickly.

**Chairman Duffy** clarified that the current motion is to approve Ordinance 2008-094 with restrictions from 6:00 PM to 9:00 AM.

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

V. REGULAR AGENDA

Z. Regular Agenda

(1) Commission Office - RECOMMENDED ACTION: Select by ballot one member to serve on the Greater Port Charlotte Street and Drainage Unit Advisory Committee. Position has been advertised and term is for three years.

Chairman Duffy requested submittal of ballots. Commissioner Cummings advised he had no ballot and verbally cast his vote for Grover Mudd. Mr. Baltz advised the tally is four votes for Grover Mudd and one for David (Skip) Harshman.

COMMISSIONER CUMMINGS MOVED TO APPROVE SELECTION OF GROVER MUDD TO SERVE ON THE GREATER PORT CHARLOTTE STREET AND DRAINAGE UNIT ADVISORY COMMITTEE, SECONDED BY COMMISSIONER STARR.

Motion Carried 5:0.

(2) Commission Office - RECOMMENDED ACTION: Select by ballot one person to serve on the Babcock Ranch, Inc. Board of Directors.

Mr. Baltz advised the tally is three votes for William H. Wilcox, Ph. D. and two votes for Kenton R. Keiling.

COMMISSIONER LOFTUS MOVED TO APPROVE SELECTION OF WILLIAM H. WILCOX, PH. D. TO SERVE ON THE BABCOCK RANCH, INC. BOARD OF DIRECTORS, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 5:0.

(3) Purchasing - RECOMMENDED ACTION: Discussion and direction on Local Preference as it relates to the Request for Proposal Process. Purchasing

Chairman Duffy explained that at the request of some citizens we asked staff a few weeks ago to look into ways to encourage more of the county's business to be done by local county businesses. Purchasing Director Kim Corbett advised that at pre-agenda on November 10, 2009 the Board discussed options regarding local preference as it relates to the request for proposal

process (RFP); provided some background information as referenced on the goldenrod in the Board packet material; and commented on the current procedure of rating RFP's. Ms. Corbett advised that some of the Commissioners have made varied suggestions and that staff requests direction on policy change, which can be brought back at a future Board meeting.

**Commissioner Loftus** recommended delaying this matter until the December 9, 2008 meeting after the group of professionals who offered to sit with administration to work this out have the opportunity to get together. Ms. Corbett advised that the delay would not affect any RFP's that have already been released for solicitation.

Ms. Corbett pointed out that in order to do the agenda item for December 9, 2008 it would have to be finalized tomorrow; and suggested it be delayed until January to give staff sufficient time. **Commissioner Skidmore** inquired if there were any RFP's scheduled between now and that meeting. Ms. Corbett advised she would have to check; explained the time element; and stated she does not believe a good report could be obtained by December 9, 2008. **Commissioner Cummings** indicated his concern is not so much with the day-to-day RFP's; stated he wants to be certain no major RFP's are affected; commented on his personal preference; offered suggestions; and said to be careful of the nature of the job when outside expertise is needed.

**Commissioner Skidmore** agreed with **Commissioner Cummings** that an emphasis on residency needs to be placed here in Charlotte County; indicated he would rather see this issue taken up sooner rather than later; and offered to be involved in the discussions. **Chairman Duffy** stated that this could be placed on the agenda just as it appears now, have the group meet next week and come back with suggestions, and vote on it at the December 9, 2008 meeting. (**Board Consensus to table this agenda item until the December 9, 2008 meeting.**)

(4) Administration - RECOMMENDED ACTION: Discussion and direction of proposed state legislative agenda.

Assistant County Administrator Kelly Shoemaker commented on what was provided to the Commissioners in the packet material, including ideas staff was looking at for the upcoming year;

indicated we do not have a lobbyist on the State level; that the items are handled by staff and the Commission; and we work through the Florida Association of Counties (FAC) and industry associations. Ms. Shoemaker explained that an email was received from Representative Kreegel's office to set up the local delegation meeting on January 12, 2009.; pointed out that in the email was notification that no Community Budget Issue Requests (CBIRs), which are the requests used when asking for money, are not being accepted this year. Ms. Shoemaker advised that the County works with a regional group of counties and cities in its geographical location to advocate for like positions, with the thought that power in numbers works when we go to Tallahassee; stated that she is not certain that has worked out to be as beneficial as our original intent was; but opined it is always helpful to pass on information to others that feel the same way as we do so they can advocate on our behalf.

**Commissioner Loftus** advised he feels strongly about bringing to the attention of our State Legislators the issue of how beaurocracy slows things down and the need to get regulatory agencies working more effectively to expedite the regulations. Ms. Shoemaker proposed something along the lines of requiring state permitting agencies to provide permit application response times, and indicated she would get with the Attorney's office on wordsmithing.

Ms. Shoemaker advised that **Commissioner Cummings** commented on property tax reforms at pre-agenda; that ideas she came up with was to not restrict local county government's ability to address community priorities through revenue and expenditure caps or an unfair taxing system and/or, in reference to property tax reforms, ensure any further reforms establish a fairer tax system for all taxpayers and preserve county ability to provide services. **Commissioner Cummings** stated that either speaks to the issue, which is of local control; opined we would not have success this year but is something that we need to keep the pressure on every year; and pointed out we are not talking about the referendum the people voted on, but the legislative act that created a cap that limits what can be charged in ad valorem taxes based on last year's budget.

Ms. Shoemaker addressed **Chairman Duffy's** pre-agenda concerns of state mandates; indicated that of the items that came before the

Board over the last year or so she found only the discussion as to whether or not county funds would be used to fund the Regional Conflict Councils; and that her statement would be something along the lines of "fulfill state obligation to use state funds to fund the Regional Conflict Councils." **Chairman Duffy** stated she was thinking of unfunded mandates such as the \$115 septic tank permit or the no solicitation ordinance; and opined that bureaucracy and mandates that comes down to the counties need to be reduced.

**Commissioner Skidmore** inquired about a closed bid process. Ms. Shoemaker pointed out it was the first item listed. Mr. Baltz requested that Ms. Shoemaker review the listed items individually and that the Commissioners comment on each item.

**Commissioner Cummings** opined unfunded mandates should be approached in a broad discussion; and commented on when this usually happens and how it affects the County budgets.

Ms. Shoemaker explained the time with the delegation is very short and they try to determine our priorities, not a laundry list; and inquired if there were items that could be grouped together in an overall statement. **Commissioner Cummings** explained that in the past state-wide issues such as unfunded mandates are worked through the FAC and you focus your priorities on your county specific. **Commissioner Loftus** agreed many should be grouped together. **Chairman Duffy** agreed the FAC has some leverage but opined if unfunded mandates are very important to us we should bring it up. **Commissioner Cummings** stated that unfunded mandate issues can be brought up individually as the opportunity presents itself, but that Ms. Shoemaker is suggesting that in the setting of going as a group representing Charlotte County you want to focus on unique things; and agreed that the FAC has little pull with the Legislature and has a hard time getting things approved.

**Commissioner Skidmore** stated that the Board members are lobbyists and the personal and professional relationships with our State Legislators will come into play; indicated there may be better results if we are clear, concise and consistent; agreed that our points must be highlighted when we go to the delegation; and opined that unfunded mandates and the bid

process are our local projects this year because of the message coming out of Tallahassee before the session has even begun.

Ms. Shoemaker reviewed the list of Topics for State Legislative Agenda 2009 for Board consensus to keep the items, group together, or remove as follows: Administration: bullets 1 and 2 (**Board consensus to keep on the agenda**) Building & Construction Services: bullet 1 (**Board consensus to keep on the agenda**) Environmental & Extension Services: bullets 1 and 3 (**Board consensus to keep on the agenda and work on grouping together**) bullet 2 regarding fertilizer regulations: discussion ensued about the current fertilizer ordinance adopted by the County; **Commissioner Cummings** opined the County fertilizer ordinance could be better; pointed out the Southwest Florida Regional Planning Council had a recommended fertilizer ordinance; and opined that the County should model that ordinance (**Board consensus to keep the County's current fertilizer ordinance and remove bullet 2 from the agenda.**)

Ms. Shoemaker continued review of the Topics for State Legislative Agenda 2009 with Housing: (**Board consensus to keep bullets 1 and 2, keep bullet 3, continue to advocate for this program as we are on the list to receive some Neighborhood Stabilization funds, and work on re-wording**); Housing: bullet 4: Ms. Shoemaker opined it is important to continue on this item. **Commissioner Cummings** stated he wants to advocate for the money but does not want it to be a permanent program. **Commissioner Loftus** stated he supports what is advocated on the agenda. **Chairman Duffy** opined in order to qualify we would probably have to extend the reductions; and agreed with **Commissioner Loftus** (**Board consensus to keep bullet 4 on the agenda.**)

Ms. Shoemaker continued review of the Topics for State Legislative Agenda 2009 with Senior Services: bullets 1,2,3,4 (**Board consensus to keep on the agenda, work on grouping together, and continue advocating**); State Mandated Programs: (**Board consensus to keep on the agenda**); Transit: (**Board consensus to keep on the agenda**) Veterans: bullets 1 and 2 (**Board consensus to keep on the agenda**); Charlotte County Utilities: has heard through their meetings and want us to support the four bullets, which will be worked on for grouping together (**Board consensus**). **Commissioner Cummings** opined it

would be useful to have a stronger statement and push for water reservations to keep Charlotte Harbor healthy.

**Commissioner Cummings** opined it would be useful to have a stronger statement and push for water reservations to keep Charlotte Harbor healthy; and clarified his concerns and made wording recommendations; and indicated Wayne Daughtry, Smart Growth Director for Lee County, could furnish additional information on water reservations. **Chairman Duffy** opined it is important that we work on alternative water supplies but keep in mind when talking about our Land Development Regulations (LDRs) that we do not require commercial businesses to put in sprinkler irrigation systems and restrict its use; and that when looking at our LDR's it is important we do not make requirements that cannot be used. **Commissioner Cummings** agreed we need to do more on our LDRs to promote better water conservation.

Ms. Shoemaker continued review of the Topics for State Legislative Agenda 2009 with Water Management Districts: bullets 1,2,3,4,5,6 (**Board consensus to keep bullets 1-6 on the agenda**); Public Works: bullets 1 and 2 (**Board consensus to keep bullets 1 and 2 on the agenda.**)

**Commissioner Cummings** indicated there should be something in the State funding increases for local road projects that we get some reasonable return on our gas tax. Ms. Shoemaker advised that we have had a lot of resistance with that and that perhaps some other ideas through the Metropolitan Planning Organization (MPO) would work better. **Commissioner Cummings** stated we must keep the chant up; that it is important for the public to know we are subsidizing all the metropolitan areas through this county; and we need our delegation to get some of that money back in some manner.

(5) Purchasing - RECOMMENDED ACTION: a) Approve Contract #2008000248, Food and Beverage Services-Event Center, with Boston Culinary Group, Inc. for the term December 1, 2008 up to and including November 30, 2011, with option to renew for two additional one-year terms; and b) Authorize the Chairman to sign the Contract. This is for a firm to provide food and beverage services, sell alcoholic beverages under certain conditions, operate the main kitchen facilities, operate fixed and mobile

concession stands, cater food and beverage to meeting functions, and vend various refreshments and other items.

Purchasing Director Kim Corbett provided background information, explained the purpose of the agenda item, and commented on some of the considerations allowed for Charitable Organizations that are identified in the Contract as reflected in the packet material provided.

Mr. Baltz requested Ms. Corbett to explain the broader context of what the Contract establishes in terms of the relationship between Boston Culinary and the County. Ms. Corbett advised the Contract is for three years, through November 30, 2011; commented on payment obligations, renewal options, guarantees, and responsibilities of Boston Culinary. Mr. Baltz explained that also contained in the Contract is a provision that Boston Culinary must provide an exhibit of tableware products of about \$150,000.

**Chairman Duffy** requested clarification that the contractor agrees to buy the small wares for \$150,000, but if the cost of the small wares listed in Exhibit "B" is less than \$150,000 the contractor is to make additional purchases and provide the County with a list. Ms. Corbett explained that Boston Culinary agreed in negotiations to commit to \$150,000 toward the Event Center for the small wares and that if there were funds left over they would purchase other items to make up the difference to \$150,000. **Commissioner Skidmore** opined this was the clause that priced out most of the local firms from being able to competitively compete with the large organizations from out of town; and indicated there was additional language about the County buying back the small wares after three years. Ms. Corbett explained the original Request For Proposal (RFP) and the addenda with new language for negotiation at time of contract if the County would purchase the small wares and at what cost; and pointed out that was directly related to concerns of the local providers.

**Commissioner Skidmore** indicated that most of the upcoming events do not require food; and inquired if there are concessions for Boston Culinary to work with those that have a very limited budget and if there was an exit clause. Ms. Corbett stated that Boston Culinary would work with any size event; and confirmed there was an exit clause and termination of agreement.

**Commissioner Skidmore** requested clarification of the number of firms responding to the RFP. Ms. Corbett reported was sent to about four national companies and several local companies, and that only Boston Culinary placed a bid. Ms. Corbett commented on the concerns of the local businesses and explained how the bidding process works.

Mr. Baltz advised that section 4.9.3 in the Contract has a provision that local civic groups and organizations may bring in food and not be charged the food waiver fee, providing the total value of the food does not exceed Two Hundred Fifty Dollars (\$250.00). **Chairman Duffy** requested clarification that a charitable organization could bring in their own caterer but would not be allowed to use the kitchen. Ms. Corbett stated that section 4.9.1 of the Contract allows any organization to bring in their own caterer; and that if they do bring in their own caterer there is a fee of "buying Boston Culinary off the floor" of \$7.50 per person served. **Chairman Duffy** asked if they would have the right to serve their own alcohol. Ms. Corbett advised that Boston Culinary would have to do the alcohol; that Scope of Work, Section G of the Contract reads: Contractor is the exclusive provider of all wine, beer, and other alcoholic beverages consumed in the Center and all other licensed areas. **Chairman Duffy** inquired about the \$75,000 revenue to the Event Center budget. Ms. Corbett stated that is the annual minimum guarantee.

**Chairman Duffy** advised that the initial concern for having a national caterer was that there could be up to eight events going on inside and outside at the Event Center simultaneously; and that according to the event calendar she has for 2009 that would only happen two times so far. **Commissioner Loftus** inquired if Boston Culinary had been approached about increasing the percentage to go back to charitable organizations and the County dropping the maximum of charitable organizations from 15% to 5%. Mr. Baltz stated that there had been no further discussion with Boston Culinary since **Commissioner Loftus** spoke to Mr. Baltz at pre-agenda because Boston Culinary made it clear during his last communication with them that what is in front of the Commissioners is the final and best proposal they can provide and that they would like a decision on the document presented to the Commissioners at this time.

**Commissioner Skidmore** inquired if any event scheduled on the calendar is attributed to Boston Culinary. Director of Tourist Development Becky Bovell explained there are some events and conferences under negotiation which would require multi-venue food requirements, but the negotiations cannot be concluded until it is known if there is a professional management company. Parks, Recreation and Cultural Resources Recreation Program Supervisor James Finch stated that because we are still in negotiations with Boston Culinary we have not told any of the current individuals that we are dealing with Boston Culinary is your caterer, so the answer is that no one has booked as a result of Boston Culinary. **Commissioner Skidmore** inquired if staff is confident there is no more local interest out there. **Chairman Duffy** explained that this went up for vote about a month or so ago with the previous Commission; that the Commission voted to accept the contract with Boston Culinary with direction to protect the interest of charitable organizations, which is what is being discussed now; that at this time other caterers are unable to come forward because the decision had already been voted on; that at this time Boston Culinary has done all it can do and wants a decision of accepting this contract or voting against it and put the RFP out again; and stated that although there are capable local caterers, she is not certain local caterers are financially able to do this.

**Chairman Duffy** agreed the Event Center must generate revenue and be profitable, but opined it is being done at the expense of the non-profits; stated that the revenue we are trying to generate is being forced on Boston Culinary and taken away from the non-profits; and that if the non-profits, which provide a valuable community service, cannot make sufficient money to run their business, they will look to the County to provide services they can no longer provide.

**Commissioner Starr** stated that most contracts for places such as the Event Center do not have provisions for non-profits such as are included in the proposed contract; that he would have liked a local business to have gotten the contract and to be able to offer it to the non-profits for free; but indicated we are in competition with other counties and big centers in this area, and the Event Center must be treated like a business and be a revenue producer. **Commissioner Starr** reported there are four or five venues available now, such as Kings Gate, Benedettos, and the

Cultural Center, which are suitable for the non-profits; opined that the contract is reasonable; and advised he is in favor of it. **Commissioner Skidmore** agreed we need to keep the Event Center profitable, believes we did not have our best foot forward on the RFP, and stated he is not in favor of the contract.

**Commissioner Loftus** explained when the BOCC approved moving forward with contract negotiations it was made clear we wanted the charitable organizations that help the County so much taken care of; that he is familiar with the bidding process and everyone was properly apprised; that the decision was made about four years ago this would be a combination event and conference center with the intent of generating economic development; and that in order to do that there needed to be one reliable vendor rather than multiples, which was recognized by many local restaurant owners.

**COMMISSIONER LOFTUS MOVED TO APPROVE AGREEMENT 2008-062, SECONDED BY COMMISSIONER CUMMINGS.**

**Chairman Duffy** stated the only way she could vote in favor of the contract is if Boston Culinary exempts the charitable organizations from alcohol and allows them to serve their own alcohol with their own license in the manner it was done in the past. Ms. Corbett stated that we requested the charities be exempted in its entirety and it was not acceptable to Boston Culinary.

**Motion Carried 3:2. Chairman Duffy, and Commissioner Skidmore opposing.**

**RECESS: 12:45 PM - 1:30 PM**

(6) Budget - **RECOMMENDED ACTION:** Provide a financial/budget update to the Board of County Commissioners.

Budget Director Ray Sandrock gave a Charlotte County Fiscal/Budget update slide presentation and indicated in order to talk about methodology for managing next year's budget it is necessary to review challenges we had in the past. Mr. Sandrock commented on recent budget challenges and the cost of Hurricane Charley; indicated the process regarding Hurricane Charley is ongoing; that we are seeking \$5M immediately; and that there

is possibly opportunity for additional funds as project work sheets are closed out.

**Commissioner Loftus** pointed out the County had not yet received anything from Federal Emergency Management Association (FEMA) on the stumps. Mr. Sandrock stated there is still an opportunity there as well as on the issue of endangered trees that had to be cut down; and indicated positive headway has been made. Mr. Sandrock commented on how funds were funneled toward rebuilding infrastructure. **Chairman Duffy** asked how the County had money to do work right away. Mr. Sandrock explained we internally used our ability to finance some of the things that had to be done immediately; advised that we would still be able to employ that same strategy if something happened today; explained that some larger counties had set up reserves specific for this type situation or fiscal shortfalls; and commented on funds that could be used for revenue shortfalls or hurricanes.

**Commissioner Starr** asked of the \$62.6M what the revenue stream increase was in the post Hurricane Charley period after all the prices went up. Mr. Sandrock said the ad valorem property tax was \$60M; that we had increases in sales tax due to local spending associated with rebuilding; and that property tax was equal to the \$60M.

Mr. Sandrock reviewed Tax Reform Legislation referenced on page 5 of the handout material; indicated House Bill 1B, which had two impacts of mandated reductions to counties; that Charlotte County had to reduce its ad valorem property taxes by 90%; that it defined ad valorem allowable increases and put forth a formula in which counties can grow their property taxes in the future; that it starts by going to roll back rate, which is a tax rate that produces the same revenue as the year before; that you can add a percentage growth in personal income, which is dictated by the State, and can add new properties for a new business or new home being built; indicated that is important because going forward when you think of concurrency, general growth, or mandated issues, we are significantly being capped while still dealing with those issues. **Commissioner Cummings** inquired if it is reasonable to conclude that the reason the State chose those standards is that it produces the result of having the same number of real dollars per capita over the long term; and that actual spending power per individual is permanently capped at

whatever level it is at now, and if you do not go to the maximum cap spending power per person is reduced forever. Mr. Sandrock replied affirmatively. Mr. Sandrock reviewed impacts of Amendment 1; and indicated that the second \$25K exemption influenced us the most, which equated to about an \$8M reduction in ad valorem revenue.

Mr. Sandrock reviewed Revenue Shortfalls reflected on page 6, which shows some of the other revenues and the shortfalls compared to budget; indicated that State Shared Sales Tax, Communications Tax, and Franchise Fees help fund the General Fund; indicated that we budget for about \$12M for Gas Tax and came up short by \$1.6M. Mr. Sandrock reviewed the graph on page 7, which shows how property taxes are used; commented on where focus has been on reductions over the past years; and pointed out there has been no emphasis put on reduction on the essential services side.

**Commissioner Skidmore** asked how much of the Board of County Commissioner (BOCC) portion of the graph was Fire/EMS. Mr. Sandrock advised that EMS was about \$8M and that Fire is funded through fire assessments. **Commissioner Cummings** corrected a prior comment.

Mr. Sandrock said over \$40M is our forecasted shortfall next year, which would come from the BCC side if approached in the traditional route as in the past, which is the point where you begin really looking at services you would not be delivering. Mr. Sandrock commented on the forecast of FY09/10 revenue shortfalls reflected on page 8; and indicated that under this environment as it is fine-tuned we need to look at it week to week.

Mr. Sandrock reviewed how previous shortfalls have been addressed; explained that in FY 07/08 the 9% reduction mandated by the State equated to a \$12.9M reduction; that we used a more traditional approach of looking at historical spending to budget requests to be certain budget was in line with what true spending had been; and that a hiring freeze was implemented. Mr. Sandrock stated that in FY08/09 there was a \$32.5M reduction, which were significantly from BOCC Departments; that Dr. Herb Marlowe was involved at the beginning of the budget season; and that there is a likeness to what was done through that process to zero-based budgeting. Mr. Sandrock explained that departments did extensive

work of identifying mandated services they perform, what our current level of service is, and tiered reductions beyond that; and pointed out that we have done work in the past that laid foundation for another methodology.

Mr. Sandrock advised that page 11 is a listing of the final strategy used; pointed out reductions by Constitutional Offices; and advised that we implemented everything on the list. Mr. Sandrock reported that at the last couple public hearings the Board put into place a Fiscal Stabilization Reserve to handle revenue instability and hurricane recovery, which was the result of going to the roll back rate; and reviewed amounts and funds in the Fiscal Stabilization Reserves reflected on pages 12 and 13. Mr. Sandrock reviewed Alternative Budget Methods reflected on page 14; reported that a survey of 26 other Florida counties indicated that 50% use continuation and 50% use zero based or performance budget methods; and stated that whatever method is used the meaning must be clearly defined.

Mr. Sandrock reviewed Continuation or Incremental Budgeting, Zero Based Budgeting, and Performance Budgeting reflected on pages 15 through 21; indicated if we go to a process such as Zero Based Budgeting concurrency, mandated costs, grant matches, etc., must always be kept in mind; and pointed out that Zero Based Budgeting is an exhaustive process. **Commissioner Cummings** commented on why the disadvantages to Zero Based Budgeting matters.

**Commissioner Skidmore** asked what makes Zero Based Budgeting work. Mr. Sandrock opined it would be defining the process, going through the process, making certain the expectations are clear, the forms, level of detail we will go to, and what would be provided to the Board as decision makers; and stated that honesty is critical. Mr. Sandrock commented further as to the simplified approach. **Commissioner Cummings** opined if there is no level of mutual trust you would never get through the Zero Based Budgeting; and indicated there is too much volume to do line-by-line and then let the multi-million dollars items fall through. **Commissioner Loftus** stated he did not have the trust he needed in the former Administrator to avoid doing the line-by-line. **Chairman Duffy** opined it is the Board's responsibility to scrutinize and eliminate positions or programs.

**Commissioner Cummings** explained with Zero Based Budgeting you must look at what needs be done in order to proactively address your issues and minimize your expenses over the long run, determine what it will cost to do that, and build your budget from that; but indicated that sometimes it means you go through a Zero Based Budgeting process and find out there are some things you should be doing but are not; and we need to allow for the full range of possibility.

**Commissioner Starr** opined we need to start thinking outside the box; that we need transparency and accountability so it is clearly understand where responsibilities are; that perhaps a new process that provides the Board the tools to be more informed would be useful; and that we need to go in a new direction.

Mr. Sandroock reviewed Performance Budgeting shown on page 21 and commented on the process; and indicated it could be viewed as a step above, or enhancement, to Zero Based Budgeting. Mr. Sandroock reviewed Comments page 22; indicated the process we went through last year provided a foundation for Zero Based or Performance Based Budgeting; and reviewed recommendations listed on page 23.

**Commissioner Loftus** stated he prefers the Performance Based Budgeting process; stated we must be certain anything we provide a service for is up to the highest standard; and that we must evaluate the performance of each and every service. **Commissioner Skidmore** advised that budget is the overriding concern to the County and its citizens; recommended setting a budget workshop as a priority and not wait until January 2009; stated he prefers Zero Based Budgeting over Performance Based Budgeting; opined that prior Boards have not determined where we want staff to go; indicated this is our biggest concern and liability; but that it could be our biggest asset as well.

**Commissioner Cummings** agreed there is no more important issue than the budget situation to deal with; indicated the Board would be having workshops all year long; opined that the better we all collectively know the entire organization the more fruitful the workshops would be; and stated that he finds one-on-one conversations to be more helpful in the environment of determining how departments function.

**Chairman Duffy** stated that performance budgeting is similar to a strategic plan; that you decide on a mission, state the goals, and then the objectives, which is how you accomplish the goals and what should drive a budget. **Chairman Duffy** stated she supports Mr. Baltz' recommendation to have a retreat; recalled that the Board has previously had a goal setting workshop and that the budget process came from a result of that; but pointed out that we have now been doing the budget without taking into consideration the goals and objectives. **Chairman Duffy** stated that the Sheriff's Department has a very good five-year strategic plan; but pointed out that doing a strategic plan is a huge undertaking. **Commissioner Skidmore** stated there would be further mandates coming from the State and we need to proceed with molding where we want to go in the budget in late December or early January and cannot wait for a consultant to write a strategic plan; opined that the way we have done it in the past will not work; and that we need to find ways to save revenues today.

**Commissioner Starr** agreed we do not want to wait longer than necessary but suggested rather than having a workshop the Board provide direction to the Budget Department of where we want them to go with the hope they will be able to give us transparency; and indicated that in the meantime the Board must still be vigilant with the current system.

Mr. Sandrock agreed that time is of the essence and in order to make a switch-over it must be well defined. **Commissioner Loftus** stated he would like to move forward with Performance Based Budgeting. **Commissioners Skidmore** and **Starr** agreed. **Commissioner Cummings** stated the objective is to address issues as cost effectively over the long term; that we do the Performance Based Budgeting, and make our goals clear; and opined the beginning point of the goals must be driven by the County's Comprehensive Plan and concurrency as mandated by the State. Mr. Sandrock stated we have heard loud and clear that we will go toward Performance Based Budgeting, but the next step would be to define the process, the forms, what you expect to see, what your decision points will be, and number of meetings we will have, so we can go back to staff and get the process started.

**Commissioner Loftus** opined a retreat is needed as soon as possible so the Board can gather needed information and then have

a meeting with Budget as quickly as possible thereafter. **Chairman Duffy** asked if that could be done in December 2008. Mr. Baltz advised no decision is required today but ideas are being introduced; that he wants to put a process in place to move forward with; and indicated the end result is important as is the process to get to the end result. **Commissioner Cummings** commented on a study done during the tax reform discussion era by Fishkind for the Florida Association of Counties that appeared on the Budget website.

VII. PRESENTATION AGENDA - No items.

VIII. PUBLIC WORKSHOP AGENDA - Public Input permitted. - No items

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

X. CITIZEN INPUT - ANY SUBJECT

Candace Webbe commented on the monies that would be coming in for neighborhood revitalization projects; indicated we are competing on the Event Center as a destination; that economic development funds would be some of the first to go; and opined that many of the small housing units in the Charlotte Harbor area, especially near Bayshore Park would be appropriate for the neighborhood revitalization program.

AA. County Administrator:

Mr. Baltz requested that Robert Hebert, Housing Manager, give an update on the neighborhood stabilization program and on funding set aside possibly for affordable housing grants to be applied for provided we have impact fees rolled back for a certain period of time.

Mr. Hebert updated the Board on the Neighborhood Stabilization Program application status, advised if accepted by the Federal Department of Housing and Urban Development (HUD) the County may be eligible to receive about \$5.3M; stated that the uses are clearly defined; and reviewed requirements. Mr. Hebert stated there is a contingency fund with another \$2M that the County could apply for if it qualifies and commented on requirements; pointed out there is a requirement that the monies be spent or encumbered within eighteen months of approval from HUD of the

Department of Community Affairs (DCA) contracts; advised that staff has begun discussions and developing a plan where the monies could be turned over quickly; and that more would be brought before the Board soon.

Mr. Hebert explained that in October 2007 the Board approved a reduction in impact fees; that a Bill was introduced that resulted in a funding of \$20M statewide to communities that reduced their impact fees by at least 25% across-the-board for a period of eighteen months; that Charlotte County did a twelve month enactment of the ordinance; and that the maximum amount of money currently being offered is \$2M per community. Mr. Hebert commented on foreclosure filing information being gathered; stated that the intent of the Board when the impact fee reduction was initially enacted was to stimulate construction; but because of the market down-turn that did not occur. Mr. Hebert reported on the anticipated loss and actual loss by reducing the impact fee; stated that if the impact fee reduction is extended in January 2009 for another six months we could potentially get \$2M back. Mr. Hebert explained that the funds cannot be used to replace money that was foregone because of the impact reduction; that the purposes are to incentivize building again, work on affordable housing programs, land banks, etc., and is all affordable housing tie-in; that the funds would be administered through the Florida Housing Corporation and treated the same as State Housing Initiatives Partnership (SHIP) funds, which is for low to moderate income housing; and can be used as we can with the Neighborhood Stabilization for foreclosure prevention programs. Mr. Hebert commented on the solidity of the data base and information being gathered; and stated it is hoped some of the money can be used to head off foreclosures. **Commissioner Cummings** asked how many were homesteaded. Mr. Hebert did not know. **Commissioner Loftus** opined there are quite a few and stated he would like to see assistance before homeowners had to get out of their homes. Mr. Hebert stated that is the push, particularly for this money, because it would be helpful in prevention; pointed out that prevention is being done now through the Housing Corporation with some of the existing SHIP funds and Hurricane Housing Recovery money that was re-allocated last month; advised that the counselors are seeing about fifteen people per day in the foreclosure prevention programs; and that they have been pretty successful re-negotiating loans and mortgage programs. Mr. Hebert advised that in the CRA area and

the area around Charlotte Harbor there are many homes that have been abandoned and foreclosed that we might be able to pick up and get rid of the health and safety issues by demolishing them if we can somehow take title to them and put them in a land bank to draw on for future needs.

Mr. Hebert explained that the neighborhood stabilization monies must be shared with the City of Punta Gorda and that they are working to identify areas they have where these funds could be used; and pointed out that this is similar to the original hurricane recovery grant the County shared with the City, but not on a 50/50 basis. **(Board Consensus)** **Commissioner Loftus** stated he would like the Board to consider extension of the low impact fees for six months, but wants staff to continue looking at tiered impact fees. Mr. Hebert advised that a letter of request for the impact fee must be submitted and that a consensus by the Board is needed to submit the letter; and stated that it can be withdrawn if the Board does not extend the impact fee reductions. **Commissioner Cummings** expressed concern on the implementation because it would be difficult to determine if the foreclosures are investors who are walking away or homeowners who are losing their homes; and pointed out the only thing he thinks can be done is increase funding through the Homeless Coalition program and hope people voluntarily show up before the foreclosure process begins. Mr. Hebert stated that this is being done through the Charlotte County Housing Corporation with assistance through the Homeless Coalition; that the best opportunity is to get the list of persons and addresses and physically contact them as soon as they are listed. Chief Deputy White pointed out that by the time the foreclosure law suit is filed the homeowner may have missed eight payments, have left, and are unable to be reached. Mr. Hebert opined that some of this money can be reached for outreach to let people know the program is available; indicated that we have started doing that with some of the hurricane recovery money that was given to the Housing Corporation to work with; and that additional staff was hired.

**Commissioner Cummings** commented on how the funds would be distributed. Mr. Hebert stated we must first get the money and develop the programs and then address the Board as to where the money is directed; and agreed with **Commissioner Cummings** that it is not an equal balance because it is taken out of one fund

and put into another. **Chairman Duffy** confirmed Board consensus for sending the letter. (**Board Consensus**).

**Chairman Duffy** inquired when the Board could have the discussion on impact fees. Growth Management Director Jeff Ruggieri advised staff is prepared to go forward; commented on timetable concerns; and advised how he moves forward would depend on whether we move forward with the rollback. **Commissioner Skidmore** asked if Mr. Ruggieri recommends a six month extension and then consider the tiered impact fee. Mr. Ruggieri replied affirmatively. **Commissioner Cummings** inquired if there must be eighteen contiguous months to qualify for funding. Attorney Knowlton explained the criteria and advised the only opportunity to do this is the January 13, 2009 meeting. **Commissioner Cummings** explained if the Board wants to apply for the money we must do the six months extension; stated he still wants the tiered system; and indicated growth needs to pay its fair share.

**Chairman Duffy** stated she wants to be certain there is a plan in place after the six month extension is done. Mr. Ruggieri advised he would present options to the Board in January.

Mr. Baltz advised if the Board wants to go forward with a retreat that schedules are open for that to be held December 11, 2008; recommended letting him work with the Chair to put together an agenda; that he would speak to the Board members individually beforehand; and that he does not believe a facilitator is needed. (**Board consensus**) **Commissioner Loftus** stated he would like to see the Board members meet first and bring the Directors in later.

Mr. Baltz advised that the Environmental and Extension Services Department is looking into ramifications of a Memorandum of Understanding (MOU) the Nature Conservancy entered into with U.S. Fish and Wildlife that allows mitigation payments to be made into a fund for Scrub Jay issues as to what could be beneficial to Charlotte County. **Chairman Duffy** said she thought the Charlotte Harbor Environmental Center, Inc. (CHEC) was involved in this and that funding was coming back to Charlotte County. **Commissioner Loftus** said he also thought that was the case. Mr. Baltz said he would check with Al Cheatham. **Chairman Duffy** recommended Mr. Baltz speak to Al Cheatham with CHEC and George Dennis with U.S. Fish and Wildlife.

Mr. Baltz advised that we are updating and re-writing the Land Development Regulations (LDRs) and Comprehensive Plan (Comp Plan); indicated that the LDRs are used to implement the Comp Plan; that concerns were raised that it is difficult to take the LDR product that was produced and determine what it says currently and compare it to the proposed changes; and indicated he is only alerting the Board that concerns are being addressed and both projects are moving forward.

Mr. Baltz commented on a letter received from the Englewood Planning Advisory Board expressing concerns of staff support pullback from Charlotte and Sarasota Counties; advised that he has spoken to Mr. Ruggieri; that they plan to continue providing some basic staff support, as does Sarasota County; and that communications regarding this matter could be referred to him.

Mr. Baltz reminded the Board that the next Joint Meeting of the BOCC and the City of Punta Gorda is scheduled for December 12, 2008; that he usually works with the Chair on items the County wants included on the agenda; and requested Board members let him know of items they wish included.

Mr. Baltz stated that some months ago the BOCC approved an incentive in the effort to encourage economic development in Charlotte County, which allows a developer to apply for up to \$250,000 as an incentive for the County when they put infrastructure in; that our staff has talked to City staff about the City possibly participating in some kind of incentive program as well in Enterprise Charlotte Airport Park (ECAP), to the effect that when the County approves that \$250,000 incentive to ask the City if they would consider also assisting with economic development incentives through reimbursing connection fees; and indicated that although ECAP is in the incorporated County their utilities are served by the City of Punta Gorda. Mr. Baltz stated this has not proven fruitful from the staff level; that he does not know if the City would be interested; and asked if the Board wants it added to the agenda for further discussion.  
(Board consensus)

BB. County Attorney:

Attorney Knowlton updated the Board on the Omni Waste case; advised that oral argument was held last Wednesday on Omni's Writ petition regarding the citing of their landfill in Charlotte County; that the proposed Order is due in court tomorrow; and a ruling from the court should be forthcoming in a couple weeks.

CC. Commissioner Comments:

**Commissioner Skidmore** advised he received correspondence from Jack Donkel expressing concern with the Englewood Water District forcing sewers on those outside the district; and indicated there would be a Town Hall Meeting in December 2008 to provide assurance to the public that sewers would not be forced upon anyone. **Commissioner Skidmore** brought to the Board's attention that the residents of Little Gasparilla are interested in creating a fire district specific to their island; that meetings are ongoing; but that there is no clear consensus yet. **Commissioner Skidmore** stated that he would like a Budget Workshop and to continue working with Legal on a no solicitation ordinance; and advised he met with the property owners of Pirate Harbor and would be meeting with Mr. Baltz about that discussion.

**Commissioner Loftus** welcomed **Commissioners Skidmore** and **Starr** and congratulated **Chairman Duffy** on her appointment. **Commissioner Cummings** advised he handed out a copy of a Lower Westcoast Watersheds Subcommittee Stormwater Retrofit Resolution submitted by the Southwest Florida Regional Planning Council (SWFRPC); summarized the main points of the Resolution; and requested approval by the BOCC for County staff to review it and bring something back in the development of that Resolution; advised that the SWFRPC hopes to look at this in January 2009 and would like input from member counties before that time.

**Commissioner Starr** issued thanks for all the help, congratulations to **Chairman Duffy** and **Vice Chairman Loftus**, and a Happy Thanksgiving to all. **Chairman Duffy** thanked the Board for its confidence; asked that the Board think about their preferences on the format of future meetings; pointed out that all Board members serve on various committees and that it is important to bring information from those committees, which has traditionally been done during Commissioner Comments, but often do not get heard by everyone because of the meetings going to long and many leaving; stated that she and Mr. Baltz have

spoken about possibly putting that in the middle of the agenda for feedback from committees; and asked that the Board give consideration to that.

Chairman Duffy pointed out that the list of committees has grown and asked the Board to think about what committees they want to be on, which would be discussed at the next BOCC meeting; indicated it is important that the Board provide staff clear, concise direction by vote or consensus; stated that the Board follows Roberts Rules of Orders for meetings; opined it is productive to have back and forth discussion. still following the rules, but that it facilitates better decision making rather than each making speeches; and indicated it would be done in whatever manner the Board prefers.

ADJOURNED: 3:15 PM

Signature on file in Commission Minutes  
Chairman

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

By: Signature on file in Commission Minutes  
Deputy Clerk

gm