

**BOARD OF COUNTY COMMISSIONERS**

**April 14, 2009**

A meeting was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida.

Members present were: Chairman Duffy, Commissioner Cummings, Commissioner Loftus, Commissioner Starr, Commissioner Skidmore, County Administrator Baltz, County Attorney Knowlton, Chief Deputy Board Services White, Executive Assistant Gant, Deputy Clerk Manley. The following members were absent: None

The meeting was called to order at **5:30 PM**

Invocation was given by Commissioner Tricia Duffy followed by the Pledge of Allegiance

Changes to the Agenda:

Change #1: Requested by: Administration - Z-1: Approve a Resolution providing authorization for artisans and handcrafters to camp at Bayshore Live Oak Park for the 13th Annual Florida Frontier Days Festival, May 6-9, 2009.

Change #2: Requested by: Growth Management - G-4: Change Smart Charlotte 2050 Workshop Date from April 14, 2009 to April 21, 2009, at 10:00 A.M.

Addition #1: Requested by: Administration - Z-3: Approval of a letter of support for the completion of the widening of the SIS (Strategic Intermodal System) facility, U.S. 17 (S.R. 35) through DeSoto and Hardee Counties.

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

**MOTION CARRIED 5:0.**

Special Recognition

Proclamations - **Commissioner Adam Cummings**

Arts and Humanities Council Artist of the Month Proclamation,  
Brenda Cordis, for the month of April 2009.

**COMMISSIONER LOFTUS MOVED TO APPROVE ARTS AND HUMANITIES COUNCIL  
ARTIST OF THE MONTH PROCLAMATION, BRENDA CORDIS, FOR THE MONTH  
OF APRIL 2009, SECONDED BY COMMISSIONER SKIDMORE.  
MOTION CARRIED 5:0.**

The Proclamation was accepted by Brenda Cordis.

Autism Awareness Month Proclamation the month of April 2009.

**COMMISSIONER SKIDMORE MOVED TO APPROVE AUTISM AWARENESS MONTH  
PROCLAMATION THE MONTH OF APRIL 2009, SECONDED BY COMMISSIONER  
LOFTUS.**

**MOTION CARRIED 5:0.**

The Proclamation was accepted by Maureen Morris, Outreach Chair,  
Walk Now for Autism.

Library Appreciation Month Proclamation the month of April 2009.

**COMMISSIONER LOFTUS MOVED TO APPROVE LIBRARY APPRECIATION MONTH  
PROCLAMATION THE MONTH OF APRIL 2009, SECONDED BY COMMISSIONER  
SKIDMORE.**

**MOTION CARRIED 5:0.**

The Proclamation was accepted by Angie Patteson and other  
members of Friends of the Libraries.

Employee Recognition - None

Award Presentations - None

**I. CITIZEN INPUT - AGENDA ITEMS ONLY**

Antoinette " Toni " Ruggieri, Tom Rice, Dr. Bill Coy, Carol  
Dunekirchen, Bertha Dunekirchen, Geri Milenski, Tom Moore,  
Pamela Keller, Alex Chanz, and Tess Canja spoke in support of  
agenda items N-1 and N-2. Carol Dunekirchen provided a brief  
history of Team Transit and its purpose.

John Robinson commented on agenda item F-2; stated he supports any grant but cautioned being careful of the grants we go after to be certain it is not a replacement to the police budget; indicated the grants are normally for new personnel and hopes that is how this will be spent; and that 100% should not be put in soft costs.

Bud Pearce spoke in support of agenda items N-1 and N-2; commented on the efforts of Team Transit; and advised that many of the churches can be involved in getting people to the fixed routes.

**Commissioner Cummings** advised that members of local Boy Scout Troop Pack 338 working on their communication badges are in the audience; and congratulated them for their attendance and taking part in their community.

## II. COMMITTEE VACANCIES

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

Ackerman Waterway Unit Advisory Committee is seeking one volunteer as a regular member. Must be a property owner and live within the unit.

Alligator Creek Waterway Advisory Committee is seeking one regular member to serve a three year term. Must own property and live within the unit.

Burnt Store Village Street and Drainage Unit Advisory Board is seeking two regular members; one for a three year term effective immediately. The second to replace a vacated term, term effective immediately and shall expire March 11, 2011. Must own property and live within the unit.

Construction Industry Licensing Board is seeking one volunteer to represent the "electrical contractor" category. Volunteer must be a resident of Charlotte County for at least two years and be a licensed electrical contractor. Term expires March 2012.

Englewood East Street & Drainage Advisory Committee is seeking two regular members to serve three year terms, effective immediately. Must own property and live within the unit.

Environmentally Sensitive Lands Oversight Committee is seeking two volunteers who are residents and electors of the County to represent the "environmental expertise" category. One term is for three years and the other one is until January 10, 2010.

Manasota / Sandpiper Key Advisory Committee is seeking one volunteer who must be a full time resident of the Key to represent the South Manasota Key Association and one volunteer who must be a business owner on the Charlotte County portion of the Key to represent commercial interests on the Key.

MPO Transportation Disadvantaged Local Coordinating Board (LCB) is seeking one Charlotte County resident to serve as a representative of: Elderly Representative. 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: 941-883-3535 Email: office@ccmpo.com

Metropolitan Planning Organization (MPO) Citizens' Advisory Committee (CAC) is seeking one Charlotte County resident to serve as a representative of: Handicapped Interest Representative. 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: 941-883-353 Email: office@ccmpo.com

Parks & Recreation Advisory Board is seeking one volunteer. Volunteer must be a resident of Charlotte County and reside within District 4. Length of term is until April, 2011.

Placida Street & Drainage Unit Advisory Committee is seeking one regular member and one alternate to serve a three year term and a two year term respectively, effective immediately. Must own property and live within the unit.

South Burnt Store Street & Drainage Advisory Committee is seeking a volunteer as the alternate. This is a two year term,

effective immediately and shall expire in 2011. Must own property and live within the unit.

**III. REPORTS RECEIVED AND FILED**

Charlotte Harbor CRA Advisory Committee Minutes for March 26, 2009

Murdock Village Community Redevelopment Agency Advisory Committee Minutes for March 13, 2009

**IV. CONSENT AGENDA**

**COMMISSIONER CUMMINGS MOVED TO APPROVE CONSENT AGENDA EXCEPT FOR AGENDA ITEMS F-2, J-1, AND L-1, SECONDED BY COMMISSIONER LOFTUS.**

**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 - FY 08/09

Memorandum #2 - Total Disbursements for the period March 17, 2009 through April 6, 2009 in the amount of \$24,645,969.20.

Memorandum #3 - Quarterly Report Unclaimed Excess Money

Memorandum #4 - Excess Funds on Tax Deed Applications

**B. Minutes Division**

(1) RECOMMENDED ACTION: BUDGETED ACTION: None - Approve Minutes for:

9:00 AM January 27, 2009 BCC Regular Meeting

6:00 PM January 29, 2009 Town Hall Meeting

6:00 PM February 4, 2009 Town Hall Meeting

9:00 AM February 10, 2009 BCC Regular Meeting

**Board of County Commissioners**

C. Commission Office

- (1) RECOMMENDED ACTION: Appoint Mr. Thomas Brock as the District III representative to the Beaches and Shores Advisory Committee to complete a vacated term that expires December 31, 2009. BUDGETED ACTION: None
- (2) RECOMMENDED ACTION: Appoint John G. Phillips to the Environmentally Sensitive Lands Oversight Committee representing the "environmental expertise" category. Length of term is 3 years. BUDGETED ACTION: None
- (3) RECOMMENDED ACTION: Approve the appointment of Michael D. Coalwell to the Housing Finance Authority to fill an unexpired term ending November 2012. BUDGETED ACTION: None
- (4) RECOMMENDED ACTION: Re-appoint Carolyn Dupree to represent the Hideaway Bay Beach Club on the Little Gasparilla Island Advisory Committee as recommended by the Board of Directors of Hideaway Bay Beach Club. BUDGETED ACTION: None

D. Administration - No items.

E. County Attorney

- (1) RECOMMENDED ACTION: Set an Executive Session to be held on Tuesday, April 21, 2009 at 2:00 p.m. or as soon thereafter as possible, pursuant to Section 286.011(8), Florida Statutes, to discuss settlement negotiations and/or strategy related to litigation expenditures in the adversary federal lawsuit captioned Rotonda Project, LLC

v. Charlotte County; Federal Court Case No. 9:08-ap-00253-ALP. The subject matter of the meeting shall be confined to the pending litigation. BUDGETED ACTION: None

F. Budget Office

- (1) RECOMMENDED ACTION: Adopt the 2.55% annual price index set by the Public Service Commission for the regulated private water and wastewater utilities. BUDGETED ACTION: None
- (2) RECOMMENDED ACTION: Approval for the Sheriff's Office to apply for the COPS Hiring Recovery Program grant under the President Obama's American Recovery and Reinvestment Act of 2009 in the amount of \$1,900,130 for the 3-year grant period. BUDGETED ACTION: None

**Commissioner Starr** requested clarification from the Charlotte County Sheriff's Office (CCSO) that the grant would cover salaries of officers currently employed with the CCSO for a period of three years; and that the County would pick up the salary for the fourth year because there must be a one year grace period after the three years, which would be a normal cost anyway. Colonel Bosnall replied affirmatively. **Commissioner Starr** inquired if the Sheriff's budget would be reduced by \$1.9M if the grant is received. Colonel Bosnall explained the CCSO does not have a reserve and that the CCSO would use those dollars to offset cuts being made in order not to come back to the Board for insurance issues or other items. **Commissioner Cummings** inquired if it would be fair to state that if the grant is received the Sheriff's budget would be \$1.9M less than what the proposal otherwise would have been for those three years. Colonel Bosnall replied affirmatively.

**Commissioner Skidmore** requested confirmation that the grant may not be used for hiring of new officer positions; and that the Sheriff's Office is scheduling to lay off officers but by taking this grant those officer can remain. Colonel Bosnall replied affirmatively; and explained if the grant is not received the CCSO must address that in some other manner to find the dollars within its budget.

**COMMISSIONER CUMMINGS MOVED TO APPROVE GRANT 2009-011, SECONDED BY COMMISSIONER LOFTUS.**

**MOTION CARRIED 5:0.**

G. Growth Management

- (1) *RECOMMENDED ACTION: Set a joint City, County, & School Board Workshop for Monday, May 4, 2009, from 2 - 3:30 pm, in the Commission Chamber. BUDGETED ACTION: None*
- (2) *RECOMMENDED ACTION: Approve a resolution adopting a Certification of Sending Zone, petition #CSZ-09-03-01, for 54 units of density for Roll's Landing Condominium Association, Inc. BUDGETED ACTION: None*

**Resolution 2009-173**

- (3) *RECOMMENDED ACTION: Approve a resolution transferring twelve units of density to a receiving zone owned by Dugan Porter. BUDGETED ACTION: None*

**Resolution 2009-174**

- (4) *RECOMMENDED ACTION: Change Smart Charlotte 2050 Workshop date from April 14, 2009 to April 21, 2009, at 10:00 a.m. BUDGETED ACTION: None*

H. Economic Development - No items.

J. Environmental Services

- (1) *RECOMMENDED ACTION: Approve an Interlocal Agreement with the Charlotte County Sheriff's Office to provide a law enforcement deputy to prosecute environmental crimes, specifically illegal dumping as part of the Solid Waste Division's Illegal Dumping Task Force Program. BUDGETED ACTION: \$85,000 has been budgeted in Solid Waste FY08/09 - Illegal Dumping Professional Services. Funding for the cost of the actual expenditure will come from Solid Waste*

Fees.

**Commissioner Skidmore** indicated there is a decline in the need for a law enforcement deputy post hurricane Charley to prosecute environmental crimes; expressed concerns with cost; opined the CCSO has the ability to enforce; and that there is a better way to partner with the CCSO and protect the citizens without bearing the entire cost of a separate deputy.

**Commissioner Loftus** commented on costs involved to clean up illegal dumping; indicated there were citizens willing to participate, but that in order to enforce an officer must see the offense take place; stated this is needed for the community; and that an officer to enforce illegal dumping is necessary.

**Commissioner Starr** agreed with **Commissioner Skidmore**; commented on the fiscal impacts during the four-year period of the agreement; and agreed the deputy was needed in the past but now that trash can be placed in front of homes and a call made for pickup there is less illegal dumping.

**Commissioner Cummings** pointed out the agreement is given for four years so it does not have to come back for renewal each year, but that either party may give notice to terminate the contract after six months; indicated if this cost is in the Sheriff's budget versus the BOCC budget the Sheriff sets the priority of what that deputy does rather than the BOCC advising the Sheriff what it wants that person to do; that there has always been trash pickup but many still insisted on illegal dumping frequently enough that it was a major problem; that the need was there and hurricane Charley was the catalyst; that there are hot spots and someone must stake out those areas; and this is an important program that is still needed. **Commissioner Loftus** agreed.

**Commissioner Starr** opined the program should be non-existent and not in either budget; that most of those dumping illegally are landscapers who do not want to pay a dump fee; that the County cannot afford to spend this money; and that the Sheriff should be able to fund the position from his budget.

**Commissioner Skidmore** commented on the various transfer/recycle facilities that have been opened, which are free to Charlotte

County residents; and inquired if there has been a decline in illegal dumping since those facilities were opened. Mr. Thomson stated residents in West County have seen a decline; commented on strategies being looked at, including bulk pickup; and indicated that the Sheriff's deputy and Code Compliance were added as other tools to the program in an effort to combat illegal dumping and be responsive to what we believe the citizens wanted in regards to illegal dumping going on in their community. **Commissioner Skidmore** opined the County could use the tools it has available without the use of the deputy.

**Commissioner Skidmore** asked if a citizen could file a sworn complaint if they saw an illegal dumping occur. Colonel Bosnall explained a complaint could be filed and an investigation would happen; that there is not the same effectiveness of a citizen seeing it versus an environmental deputy seeing it; but agreed there would still be means for citizens to process complaints. **Chairman Duffy** asked if the deputy must personally see the incident. Colonel Bosnall explained it would depend on the nature of the offense; indicated if dealing with a felony there are ways to do follow up investigations; but a deputy witnessing an offense makes for a much stronger case. **Commissioner Skidmore** commented on the six arrests in FY08/09 versus the cost involved for the environmental deputy; indicated the power is in place with zone deputies and the County should be taken out of this process; and that a special environmental deputy who could not work 24 hrs. per day anyway is not necessary.

**Commissioner Cummings** recalled the environmental officer was involved in cases other than the felony arrests; and requested clarification. Mr. Thomson explained there were six third-degree felony arrests this year; that the environmental officer also teams up with the Code Compliance person and pursues civil cases in an effort to have the individuals clean up the mess without cost to the community; and commented on the savings of about \$130,000 by the teamwork between the environmental officer and Code Compliance. **Commissioner Cummings** opined this is still a community need and that no new information has been offered against it.

**COMMISSIONER STARR MOVED TO DENY AGENDA ITEM J-1, SECONDED BY COMMISSIONER SKIDMORE.**

**MOTION FAILED 2:3. CHAIRMAN DUFFY, COMMISSIONER LOFTUS AND COMMISSIONER CUMMINGS OPPOSING.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE AGREEMENT 2009-018, SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 3:2. COMMISSIONER STARR, COMMISSIONER SKIDMORE OPPOSING.**

K. Facilities Construction and Maintenance - No items.

L. Purchasing

- (1) **RECOMMENDED ACTION:** Approve Phase 2 of File #08-409, Business Plan - WTC Port Charlotte, to World Trade Center Palm Beach of Palm Beach, FL for the not-to-exceed amount of \$80,000, with a revised contract amount of \$90,000. **BUDGETED ACTION:** Funding for this item is in the Economic Incentive Development Fund. Funding of \$100,000 for this item is in the Economic Incentive Development Fund.

**Commissioner Skidmore** explained that this item is to approve a contract not-to-exceed \$90,000 for an economic-based consulting firm for a long-standing economic development project that our office has been working on; that in recent months support for this project has deteriorated on the State level; that new information has been received that one of the partners in this program may have some issues in their past which should be addressed; and that he recommends the BOCC hold off on this matter.

**Commissioner Starr** explained how the federal EB5 program works; advised he supports the program because it is a way to bring resources to Charlotte County; that we should go ahead with the program but do it locally as part of an in-house economic development program, make Charlotte County the EB5 center, and not spend the \$80,000; indicated he was advised by Economic Development Director Don Root it takes a long time to get that designation; that if it takes a government agency like Economic Development several years to get the designation it may be necessary to hire a broker; but before investing the money he

would like us to investigate the difficulty of us getting the designation.

**Commissioner Loftus** opined it is necessary to move forward because we have a possible candidate for the program and it would take time to get the designation here. Mr. Root explained the EB5 program in more detail; indicated vetting is not of the company coming here but of the investor and where their money comes from; that we are paying to get the program extended to Charlotte County; that \$80,000 is a one-time fee; that we would probably spend more to do it ourselves; pointed out we have a project that could produce 270 direct jobs and other indirect jobs; and that if we do not proceed Canada has made them an offer.

**Commissioner Cummings** inquired if Mr. Root had come up with the idea that Charlotte County needed an EB5 program. Mr. Root replied negatively; indicated that we have three projects with the WTC Palm Beach; that they achieved the center status and introduced us to the concept. **Commissioner Cummings** opined a critical element of being open for business is when ideas are shared you do not steal it and run off with it; and stated if we want people to come forward with their economic ideas there must be a level of good faith.

**Commissioner Starr** stated this is not a trade secret; that we had this rather far along before we heard of the WTC; but they got their certification and probably why they contacted us.

Mr. Root said we are trying to set up a regional center where we can aggregate investors to produce a large sum of money that can be utilized to finance a project in our county; and opined utilizing a setup that is already there for a one-time fee is a good deal. **Chairman Duffy** opined the Board should give Mr. Root its support. **Commissioner Skidmore** stated EB5 brings in alien investors to give visas to people who do not live here to work here; that he has no interest in bringing people into the United States to work before putting back to work those who are in the United States; and that he is not in favor of hiring this consulting firm.

**COMMISSIONER SKIDMORE MOVED TO DENY AGENDA ITEM L-1, SECONDED BY COMMISSIONER STARR.**

**MOTION FAILED 2:3. CHAIRMAN DUFFY, COMMISSIONER LOFTUS AND COMMISSIONER CUMMINGS OPPOSING.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE AGENDA ITEM L-1, SECONDED BY COMMISSIONER LOFTUS.**

**MOTION CARRIED 3:2. COMMISSIONER STARR, COMMISSIONER SKIDMORE OPPOSING.**

M. Human Resources - No items.

N. Human Services

- (1) **RECOMMENDED ACTION:** a) Approve the Federal Transit Administration Section 5307 ARRA (Stimulus Package) grant application. b) Authorize the County Attorney, the Metropolitan Planning Organization Director, and Transit Staff to enter their personal identification numbers to make the required electronic application. c) Authorize the Chairman to sign all necessary documents. d) Authorize staff to investigate the development of fixed route service along the Rt. 41 corridor including the required public input as to operating design. **BUDGETED ACTION:** Capital funding comes through Federal Transit Administration Section 5307 grant (ARRA) and is budgeted in the General Fund Dial-A-Ride cost center budget No budget action required at this time.

**Grant 2009-012**

- (2) **RECOMMENDED ACTION:** a) Approve the one time Section 5311 ARRA Stimulus Package) grant application, b) Approve the accompanying resolution; and c) Authorize the Chairman to sign all necessary documents. **BUDGETED ACTION:** None

**Grant 2009-013 and Resolution 2009-175**

P. Information Technology - No items.

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

R. Public Safety

- (1) *RECOMMENDED ACTION:* Approve a resolution adopting the attached Community Wildfire Protection Plan (CWPP) as the wildfire mitigation plan for Charlotte County. *BUDGETED ACTION:* None

**Resolution 2009-176**

S. Public Works

- (1) *RECOMMENDED ACTION:* Approve a Development Agreement with Charlotte Commons, LLC, which will require Charlotte Commons, LLC to assume responsibility for all FDOT permit requirements associated with roadway improvements at the Peachland Boulevard and Veterans Boulevard intersection and the Veterans Boulevard and Kings Highway intersection. *BUDGETED ACTION:* None

**Agreement 2009-019**

- (2) *RECOMMENDED ACTION:* Approve an amended Interlocal Agreement with the City of Punta Gorda for the proper maintenance and operation of traffic signal control devices and/or traffic signal systems. This amended Interlocal Agreement was approved and signed by the City of Punta Gorda on March 18, 2009. *BUDGETED ACTION:* None

**Amendment #1 to Agreement 960140A0**

- (3) *RECOMMENDED ACTION:* Set a public hearing for April 28, 2009, at 10:00 a.m., or as soon thereafter as may be heard, to consider approving an Ordinance amending the speed limit on Veterans Boulevard from US 41 to Kings Highway. The proposed speed limit is 45 mph from US 41 to Cochran Boulevard, 55 mph from Cochran Boulevard to Loveland Boulevard, 45 mph from Loveland Boulevard to .7 miles southeast and then 35 mph southeast to Kings Highway. *BUDGETED ACTION:* The cost of approximately \$1,500

to replace the speed limit signs is available in the Transportation Trust Fund. Funding for new signs is supplied from Gas Taxes.

**T. Real Estate Services**

- (1) **RECOMMENDED ACTION:** Approve the attached Resolution accepting two (2) Drainage Easements to be located on a portion of Lot 22 and Lot 23, Chadwick Subdivision (Owners: El Galeon South Condominium Association, Inc. and El Galeon East Condominium Association, Inc.) **BUDGETED ACTION:** None

**Resolution 2009-177**

- (2) **RECOMMENDED ACTION:** Approve the attached Resolution accepting a Drainage Easement to be located on a portion of Tract C and Lot 22, Block 3530, Port Charlotte Subdivision, Section Two (Owner: ALCO Florida Holdings II, L.L.C.) **BUDGETED ACTION:** None

**Resolution 2009-178**

- (3) **RECOMMENDED ACTION:** Approve the seven Resolutions of Necessity authorizing the acquisition of temporary construction easements interests by any legal means for the Midway Boulevard Corridor Project Phase 1. **BUDGETED ACTION:** None

**Resolution 2009-179, Resolution 2009-180, Resolution 2009-181, Resolution 2009-182, Resolution 2009-183, Resolution 2009-184, Resolution 2009-185**

- (4) **RECOMMENDED ACTION:** Approve the attached Resolution approving the release of two (2) six-foot (6') wide utility and drainage easements, a portion of a twenty-foot (20') wide maintenance easement, and a portion of a ten-foot (10') wide utility and drainage easement, all located in Tract "C" and/or Lot 22, Block 3530, Replat of Tract "G", Port Charlotte Subdivision, Section Two (ALCO Florida Holdings II, LLC, a Delaware limited liability company)

*BUDGETED ACTION: None*

**Resolution 2009-186**

- (5) *RECOMMENDED ACTION: Approve the attached Resolution authorizing the Chair of the Charlotte County Board of County Commissioners to approve the agreement for exchange of the County's interest in one platted lot for the interest in one privately owned platted lot owned by Andress Family Florida Limited Partnership, located in Charlotte County, Florida. BUDGETED ACTION: None*

**Resolution 2009-187 and Agreement 2009-022**

- (6) *RECOMMENDED ACTION: Approve the attached Resolution authorizing the Chair of the Charlotte County Board of County Commissioners to grant the Florida Power and Light Company a ten (10') foot wide permanent non-exclusive easement to extend its existing overhead line in Sections 19 & 20, Township 40 South, Range 23 East. BUDGETED ACTION: None*

**Resolution 2009-188**

- V. *Tourism Development - No items.*
- W. *Utilities - No items.*
- X. *Building & Construction Services*

- (1) *RECOMMENDED ACTION: Approve the attached three addendums to allow Sarasota County, Longboat Key and the City of Punta Gorda to participate in employee sharing of building department personnel facilitated through the existing Interlocal Agreement between the City of North Port, the City of Venice, and Charlotte County. BUDGETED ACTION: None*

**Addendum, Second Addendum, and Third Addendum to Agreement 2008-039**

- (2) *RECOMMENDED ACTION: Approve Amended Developer's Agreement for Final Plat for C2-FS Coral Creek, LLC - Petition FP 05-12-13 to extend agreement to June 26, 2009. BUDGETED ACTION: None*

**Amendment #1 to Agreement 2006-059**

- (3) *RECOMMENDED ACTION: Approve the attached amendment to the contract between Charlotte County and Accela, Inc. to the delay implementation of the optimized routing component following the upgrade to the necessary version of the software. BUDGETED ACTION: None*

**Amendment to Bid # 2007000363**

- (4) *RECOMMENDED ACTION: Approve Final Plat for Kings Gate Phase 7a, Petition FP 07-05-11. Accept Developer's Agreement for Kings Gate Phase 7a, and surety Bond #929471640 in the amount of \$35,000.00 drawn on Western Surety Company to ensure completion of the infrastructure. BUDGETED ACTION: None*

**Agreement 2009-020**

- (5) *RECOMMENDED ACTION: Set a public hearing for April 28, 2009, at 10:00 a.m., or as soon thereafter as may be heard, to consider approving an ordinance relating to buildings and building regulations amending Chapter 3-2 contractor certificates of competency and related boards; providing for inclusion in the Charlotte County Code; providing for severability; and providing for an effective date. BUDGETED ACTION: None*
- (6) *RECOMMENDED ACTION: Set a Public Hearing for April 28, 2009 at 10:00 a.m. or as soon thereafter as may be heard to consider approving an ordinance to implementing a Green Building Program for Charlotte County. BUDGETED ACTION: None*

Y. Other Agencies - No items.

RECESS: 7:00 PM - 7:20 PM

VI. PUBLIC HEARING AGENDA - 5:30 PM

(1) Budget - Conduct a public hearing to consider approving an ordinance amending the territory of the Deep Creek Street & Drainage MSBU by adding additional properties to the MSBU, amending the membership provisions of the advisory board for the MSBU and providing for the removal of advisory board members by the Board of County Commissioners.

Marty Simone explained the purpose of the agenda item; and requested approval. No one appeared to speak.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2009-014, SECONDED BY COMMISSIONER CUMMINGS.**

**MOTION CARRIED 4:1. COMMISSIONER SKIDMORE OPPOSING.**

(2) Budget - Conduct a public hearing at 5:30 p.m., or as soon thereafter as may be heard, to consider approving an ordinance to include additional territory into the Punta Gorda Non-Urban Street & Drainage MSBU.

Marty Simone explained the purpose of the agenda item and requested approval. **Commissioner Starr** asked if the roads were up to standard. Mr. Simone replied affirmatively. No one appeared to speak.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2009-015, SECONDED BY COMMISSIONER CUMMINGS.**

**MOTION CARRIED 4:1. COMMISSIONER SKIDMORE OPPOSING.**

(3) Growth Management - Conduct a public hearing to consider approving an Ordinance amending Chapter 3-3.5 Impact Fees of the Charlotte County Code. Accept methodology and approve update to Charlotte County impact fees.

Jim Fendrick explained the purpose of the agenda item and the accomplishment anticipated; and indicated Jim Nicholas, who prepared the fee study, and Deputy County Attorney Dan Gallagher are available for questions. Mr. Fendrick advised the BOCC directed staff to put together a fee proposal implementing a per unit fee (instead of square footage basis) for single family households and implementing a tiered fee proposal in accordance with the Future Land Use Policy of the Comprehensive Plan, Policy 1.4.4. Mr. Fendrick gave a slide presentation; indicated Babcock is not affected by roadway impact fees because they committed to pay 100% of their impacts; stated we are currently in the rollback system; and commented on the differences.

**Commissioner Starr** asked if impact fees can be used for maintenance for existing structures or new construction only; questioned impact fee charges if there is no intent to build new fire stations or libraries. Mr. Fendrick advised the impact fee is a new capacity charge; that it is for funding new equipment as well; and that the fees are set up to maintain the current level of safety, roadway capacity, park provision, and public facilities per person. **Commissioner Starr** questioned the amounts reflected; and asked if impact fees could be used for Charlotte County Utility (CCU) infrastructure. Mr. Fendrick stated impact fees could not be used for water and sewer. **Commissioner Starr** opined we should not charge these amounts unless we are going into the building mode; and that we should begin with reasonable amounts. **Chairman Duffy** stated these are the maximum numbers and can be reduced. Mr. Fendrick stated the amounts are set to maintain the current level of service for a given population; indicated each category can be reduced; but opined because many roadway projects have been reduced the Board may not want to change that category.

**Commissioner Loftus** commented on concurrency concerns due to delay of roadway projects; indicated the Board should look more

carefully at libraries and parks; and opined the other areas should be reduced.

**Commissioner Cummings** stated more building will occur because past BOCC's have already approved development potentials the size of Tampa, Florida; and indicated if we want a different level of service it must be built into the Comp Plan.

**Chairman Duffy** thanked Mr. Fendrick, staff, and all participants for their efforts; agreed some categories are too high; stated that the Board has just begun its review and has not yet received input from the public; that it is an excellent start but needs tweaking; and suggested the rollback be continued for a while.

Russell Garrard asked about imposing impact fees on those that did not pay an impact fee; indicated there are no credits listed for the 50-60 years that people paid for schools, parks, fire and rescue on their vacant land; and asked that a moratorium be placed on impact fees until people get their jobs back.

Tom Rice said the Charlotte County Chamber of Commerce just saw the figures yesterday; and requested that the Board delay any action until it has been reviewed jointly by everyone.

T.J. Thornberry President of the Charlotte/DeSoto Building Industry Association (CDBIA), advised there was not sufficient time for the CDBIA Board to review the proposed impact fee revision; requested that the BOCC delay adopting the ordinance; and that the BOCC extend the rollback until December 31, 2009 until the impact fee issue can be fully addressed.

Bill Truex indicated since Charlotte County rolled back impact fees other counties have done the same or eliminated them until the construction industry can get back on its feet; opined there would not be a surge on new residential construction, but that the lower impact fees help on the remodeling side; and requested the Board delay the ordinance and continue the rollback.

Bill McCafferty indicated the Fire Service/EMS impact fees could only be used for new level of service, not replacement or maintenance; and opined the fees are very high for something that will not happen soon.

Suzanne Graham commented on concerns that have arisen; advised the CDBIA supports the concept of tiered impact fees; requested that the impact fee rollback be continued until December 31, 2009; and that the Board look at the tiered option for 2010 after the rollback expires.

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

**MOTION CARRIED 5:0.**

**Commissioner Cummings** opined when the economy comes back the framework should be in place because if a framework has not been maintained it would be legally more difficult to support when it is put back in place; indicated that this is an important part of our platted land strategy; commented on the need to reduce densities in the less developed parts of the urban service area; and stated the rural costs are so expensive because that is how much it costs to provide urban type service to a rural area.

**Chairman Duffy** asked if there is a time limit on this item. Jeff Ruggieri replied affirmatively; and indicated we are at a decision point of extending the rollback or allowing the higher 2006 rates to go back into effect. Attorney Gallagher advised the residential impact fee rollback expires July 22, 2009 and the commercial impact fee rollback expires August 12, 2009; that after those expire the rates that were approved in 2006 would go into effect if no action is taken by the Board; indicated there is a 90 day window before they become effective; that these could be approved in two or four weeks and the Board change the sunset date of the residential rollbacks to coincide with the 90 day requirement, all in the same ordinance. **Commissioner Skidmore** expressed concern of there being an instance of the rollback rate, the 2006 rate, and a new rate. Attorney Gallagher stated that would not occur if it were brought back in two weeks, but possibly could if it were longer than two weeks because the rates have a 90 day window to take effect. **Chairman Duffy** opined it would take more than two weeks. **Commissioner Skidmore** agreed; and requested further clarification of the timelines.

Mr. Ruggieri advised this issue was brought to the Board in late 2008 with a request to proceed in establishing a methodology; that Dr. Nicholas was contracted in January 2009 and the findings brought forward in January 2009 to the Board in a workshop; that direction was given to proceed with the ordinance and establish a per unit; and that we are here today with that. **Commissioner Skidmore** opined it would take more than 60 days. Mr. Ruggieri explained the rollback would expire before that time unless the rollback was extended. **Commissioner Loftus** stated he would be in favor of extending the rollback to December 2009; but that it should be addressed before that time.

**Commissioner Starr** pointed out that everyone appears to agree with the tiered impact fee but not the methodology; and indicated in 60 days perhaps the numbers could be re-evaluated and answers available to the questions that have been raised.

**COMMISSIONER LOFTUS MOVED TO DELAY THIS ITEM FOR SIXTY (60) DAYS, SECONDED BY COMMISSIONER STARR**

Mr. Ruggieri agreed 60 days is fine; indicated there is agreement in the tiered structure, the methodology is solid, and the Board is free to assess any amount below the numbers shown on today's presentation based upon State Statute. Mr. Ruggieri pointed out that the Parks number is based on the current level service we provide as reflected in the Comprehensive Plan; indicated we are going in a different direction and will not be providing that same level of service; and that there will be discussions and come back to the Board with a lower, more realistic, number.

**Chairman Duffy** asked if the level of service for Parks must be reduced in order to do this. Mr. Ruggieri replied affirmatively; and explained that it takes 8 months. **Commissioner Skidmore** expressed caution in collecting funds that we do not intend to use because the funds must be refunded if not used in the time period required. Mr. Ruggieri advised that he and Mr. Fendrick worked with Dr. Nicholas to establish how the methodology should be, how they wanted to defend it, and how to identify gaps in service; and indicated it is a methodology specific to Charlotte County.

**Commissioner Skidmore** asked what affect the Senate Bill being proposed to reduce impact fees for three years has on what the BOCC does. Mr. Ruggieri advised if it goes into affect we do not assess impact fees for three years. **Commissioner Skidmore** requested clarification that impact fees do not pay the full cost of a road being paved, engineered and designed. Mr. Ruggieri said the methodology is not to fully fund the entire cost of roads; that all revenue sources anticipated are factored in and what is left over is the impact fee. **Commissioner Skidmore** clarified that extending the rollbacks or passing a tiered system tonight does not mean all roads will be paved in Charlotte County or that the roads are not being taken care of.

**Commissioner Skidmore** commented on impacts to the organization if rollbacks were extended to the end of the year and building permits were constant. Mr. Ruggieri explained the revenue not received as a result of the existing rollback was about \$2M for a year and that another \$2M revenue loss could be anticipated. **Commissioner Skidmore** opined if people are not building at the existing impact fees he is not certain they would build in these economic conditions at a much higher rate.

**Commissioner Cummings** expressed concern of adopting a methodology but charging less than that amount and challenges to impact fees on the basis of choosing not to use the methodology that was said to be necessary; and stated we have always expended impact fees before the time ran out. Mr. Ruggieri explained the 2006 assessment we are currently working under is at 75% of what the full impact should be; that we are within our right to do so but whether or not it is done is up to the Board; opined what is challenged is the methodology itself; and stated our methodology is solid.

**MOTION FAILED 2:3.**

**Commissioner Cummings** advised he is fine with input as to level of service wanted and what is expected in terms of outcomes; but indicated the methodology in and of itself is not a matter of opinion and must be driven by numbers and supported because sooner or later someone will challenge. **Commissioner Skidmore** agreed we must be precise and give staff clear direction; opined the rollback should be extended to the end of the year and work

with the proposal; indicated the concept is great; but that the numbers bother him.

**COMMISSIONER SKIDMORE MOVED TO EXTEND THE ROLLEBACK TO DECEMBER 31, 2009 AND HAVE STAFF BRING THE TIERED IMPACT FEE BACK, SECONDED BY CHAIRMAN DUFFY.**

**Chairman Duffy** advised she supports the motion because she is concerned that in trying to lower the fees we must lower the level of service, which involves changes to the Comp Plan; and indicated she does not believe it can be done in two months.

**MOTION FAILED 2:3.**

**Commissioner Cummings** stated the goal was not to reduce impact fees but to properly maintain infrastructure and allocate all of the cost of new development to those that create the need and new growth; and recommended staff bring it back to the Board in two weeks with Attorney Gallagher's gap period. **Commissioner Cummings** stated he does not agree to continuing the rollback for another six months or putting it off indefinitely and indicated the Board needs to act on this framework because it is most legally supportable, has just been updated, and allocates cost most fairly; and suggested continuing the public hearing to a date certain. Attorney Gallagher advised the public hearing could be continued to April 28, 2009 if that is sufficient time for review and changes; indicated it would be re-noticed out of caution to comply with the ten-day notice; and that the sunset provision extension could be included in the ordinance when it is brought back. Mr. Fendrick agreed that would work from a technical standpoint but he would rely on Legal for the timing. **Commissioner Loftus** stated he prefers a thirty-day extension rather than two weeks and asked if it could still be moved forward if extended for thirty days. Attorney Gallagher stated the rollback date would have to be extended and opined it should be done in conjunction with a realistic date for the ordinance. **Commissioner Cummings** clarified that when this agenda item comes back there would be a tandem item on the agenda to extend the rollback thirty days. Attorney Gallagher said this is correct if the board wants to bring this back in thirty days; and that the time dates could be worked out. Mr. Fendrick explained level of service would not be changed within that period of time because it takes 8 months minimum for the level of service

change; that rates could be adjusted by a percentage to come to an equivalent; that we may not be able to calculate an exact level of service; but we may come to a more comfortable fee. **Commissioner Cummings** pointed out he was opposed to the rollback initially and continues to be opposed to it, but is agreeable to a thirty day extension.

**COMMISSIONER CUMMINGS MOVED TO RE-ADDRESS THE IMPACT FEES AT THE MAY 12, 2009 MEETING, PENDING TWEAKING, AND AT THAT TIME THE BOARD WILL EXTEND THE ROLLBACK FOR AN ADDITIONAL THIRTY DAYS, SECONDED BY COMMISSIONER STARR.**

**Chairman Duffy** questioned direction being given to staff because she is hearing some Commissioners say they want to reduce the fees. **Commissioner Cummings** said that is not part of the motion. **Chairman Duffy** stated that issue needs to be addressed. **Commissioner Skidmore** stated that part of the displeasure for some Commissioners here tonight is the feeling of being rushed into this; opined Mr. Fendrick and Mr. Ruggieri are not 100% comfortable with the thirty days; and requested clarification of timelines resulting on this item appearing on tonight's agenda with a need for the Board to react, to which Mr. Ruggieri and Attorney Gallagher responded.

**Commissioner Starr** advised he requested from the County Attorney's Office a chronological log rhythm of timelines. **Commissioner Skidmore** stated he had a copy, commented on items missing, and Attorney Gallagher responded. **Commissioner Cummings** stated none of this has any bearing on how the Board proceeds from this point forward and pointed out there is a motion on the floor. **Chairman Duffy** clarified the motion but indicated she heard hesitation from Growth Management staff. Mr. Fendrick stated sixty days is more realistic. **Chairman Duffy** asked if we could do this in sixty days or if we needed additional provision for the rollback. Attorney Gallagher explained if we do not want the 2006 rates to go into effect it would be necessary to push the rollbacks accordingly. **Chairman Duffy** asked if that could be done tonight.

**Commissioner Cummings** reiterated he does not go along with the rollbacks, pointed out money being received in exchange for the rollback is going to build affordable housing, not to build infrastructure for new growth, and that a hole for concurrency

is still being created, which is a separate issue entirely. (Discussion ensued further clarifying the deadline for extension.)

**COMMISSIONER CUMMINGS MOVED TO AMEND TO RE-ADDRESS THE IMPACT FEES AT THE MAY 12, 2009 MEETING, PENDING TWEAKING, AND AT THAT TIME THE BOARD WILL EXTEND THE ROLLBACK FOR AN ADDITIONAL SIXTY DAYS, SECONDED BY COMMISSIONER STARR.**

**MOTION CARRIED 4:1. COMMISSIONER SKIDMORE OPPOSING.**

(4) Growth Management - Conduct the Second Public Hearing to approve a Developer's Agreement between Punta Gorda of Charlotte County, LLC, a Florida limited liability company, and Charlotte County as authorized under the "Florida Local Government Development Agreement Act," Sections 163.3220 - 163.3243, Florida Statutes.

Jeff Ruggieri advised this is the second of two public hearings and gave a slide presentation; indicated the site is within the Enterprise Charlotte Airport Park (ECAP); that the agreement provides for extension of centralized water and sewer along Piper Road; that this capital investment of utilities is eligible for reimbursement under the ECAP infrastructure incentive rebate program, which is 20% of the project cost up to \$250,000 per project, and is at the discretion of the Board to grant upon request from the developer; that the agreement provides for construction of Piper Road through the project from the intersection along U.S. 17 south through the project to its southern boundary; that the construction of Piper Road is also eligible for impact fee credits, which are to stay on the site and are non-transferrable off the site; and that all access stays on the site for impact fee credits. Mr. Ruggieri explained that ECAP zoning code mandates that access shall be provided to adjacent properties when platting in the ECAP; that the preliminary plat for this item was on the Planning and Zoning (P&A) Board's agenda yesterday; and that there was an issue specific to access for the western project that fronts on I-75 and currently has limited access. Mr. Ruggieri stated that this developer's agreement does nothing to preclude the developer from providing access to those other sites; that this issue is taken up during the platting process, is a condition of preliminary plat approval by the P& Z Board, is currently being

addressed, and the applicant has pledged to work with us and the adjacent property owners to resolve the access issue. Mr. Ruggieri indicated if the access issue does not get resolved the plat does not get approved and ultimately the development does not go forward; and reiterated to the BOCC that this developer's agreement does nothing to preclude access to other adjacent properties.

Morris Massey spoke in support of approval of the developer's agreement; indicated the developer's agreement addresses the primary issue of how the developer will deal with the county relative to Piper Road as it bisects developer's site from the southern boundary of the site to U.S. 17; that the developer would convey the right-of-way and easements necessary for the Piper Road extension through the site and would likely build two or three lanes of Piper Road through the site without capital outlay from the County, but would receive road impact fee credits for doing this, which must be used by the developer within the site and are non-transferrable off the site. Mr. Massey explained that access to adjoining properties is not addressed in this agreement but the agreement states clearly that the developer agrees to adhere to all applicable County laws, zoning ordinances, regulations, including ECAP regulations; that developer is aware that ECAP regulations mandate that there be cross access provided to adjoining property owners; acknowledged there are a number of issues that still need to be worked out through the platting process. Mr. Massey indicated the only access issue addressed on Piper Road is that the applicant is asking for a waiver of one ECAP requirement which deals with a distant separation requirement between access drives off Piper Road to allow access to commercial pods that will front along U.S. 17 to help incentivize commercial retail development we believe will go along U.S. 17.

**Commissioner Skidmore** clarified that the developer would "likely" build a portion of Piper Road or "would" build a portion of Piper Road. Mr. Massey explained scenarios outlined in the development agreement. **Commissioner Skidmore** asked how quickly the developer anticipated being able to build out to 50,000 square feet. Mr. Massey stated that market conditions would dictate that; but opined if the commercial pods along U.S.

17 go fairly quickly the build out would go fairly quickly as well.

Jim Sanders spoke on behalf of the owners of property to the west of the subject site; spoke in support of the developer's agreement; and stated he believes it is important for access to their property and important for economic development of the County and ECAP area.

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

**MOTION CARRIED 5:0.**

**Commissioner Cummings** requested clarification of what the driving factor is in the access points; indicated he is certain the access points he sees meet the minimum standard requirements; but opined there is nothing extraordinary about this and not as good as it should be on a parcel this size. Mr. Ruggieri explained it is a team approach on the County side for a project like this and many departments worked with the applicant for a long time in an effort to get a better feel for the development and perhaps dictate some higher quality types of uses; but stated there is only so much that can be done within our existing codes and ordinances.

**Commissioner Cummings** asked if access points could be allowed the same here as on Veterans Boulevard. Dan Quick explained the existing ECAP ordinance does not have the criteria for the driveways that would mimic what currently is in the Veterans Boulevard ordinance; that there is in place in the existing ECAP ordinance for Piper Road spacing with the medians but not the driveway spacing; stated that the existing ECAP ordinance could be modified; or the BOCC could prescribe the change in the ordinance as a requirement tonight as a condition of approval for this developer's agreement. Mr. Quick advised the existing ECAP agreement gives the County Engineer the prerogative to make a recommendation to both median spacing and to look at it from the view point of what driveway spacing is needed to comply with a restricted roadway, which was done. **Commissioner Cummings** asked which driveway requires the exception to the ECAP. Mr. South stated that there is a criteria in ECAP that we have a median opening spacing of 600'; and what also coincides with

that is the driveway spacing of approximately 600' but this spacing here is a little over 200' which differs from what is in the ECAP ordinance. (**Discussion ensued with Mr. Quick providing additional information on driveway and median requirements and references by slide diagrams.**) **Commissioner Cummings** asked if Mr. Quick was comfortable with this taking into consideration that the whole purpose of Piper Road is to move industrial truck traffic quickly and efficiently in and out of the ECAP and over primarily to I-75 but also up U.S. 17. Mr. Quick replied affirmatively. **Commissioner Cummings** questioned driveways showing in an exhibit in the backup material. Mr. Quick explained there is a driveway on the west but not on the east. **Commissioner Cummings** said he is not happy that we have a limited access road that we are making exceptions for to put more access points on.

**Commissioner Skidmore** stated he wants to be clear that if this is approved the developer will pay for the cost of Piper Road at some point. Mr. Massey explained it becomes public right-of-way once constructed; that developer would convey the right-of-way to the County for Piper Road; and based on the scenarios he explained previously the developer would build all or a portion of Piper Road, which would be dedicated to and maintained by the County. Mr. Massey explained that the developer and staff have worked several months on the access issue; and that part of the consideration is that developer would do a traffic signal warranty study if required and pay its proportionate share of installing a traffic signal if one is warranted. Mr. Massey stated the waiver is being requested so the developer can incentivize commercial development along U.S. 17, which would help fund the balance of the development and the construction of Piper Road and the wastewater utilities south of Henry Street. Mr. Massey stated that the developer is mandated by a certain point in time under the development agreement to convey the right-of-way to the County and build Piper Road if the development levels in the agreement are met.

**Commissioner Cummings** stated the developer would almost certainly build the first 600 feet of Piper Road, commented on development at the reduced rollback impact fee rate versus the impact fees being returned to a normal rate before the area is fully built out; and stated that the County would be gaining

efficiencies, not a free road because the impact fees are being discounted proportionately.

**COMMISSIONER LOFTUS MOVED TO APPROVE AGREEMENT 2009-021, WITH THE CONDITION THAT DEVELOPER FOLLOWS ECAP REGULATIONS ON ACCESS TO ADJACENT PROPERTY, SECONDED BY COMMISSIONER STARR.**

**MOTION CARRIED 4:1. COMMISSIONER CUMMINGS OPPOSING.**

**RECESS: 9:05 PM - 9:15 PM**

(5) County Attorney - Conduct a public hearing to consider approving an ordinance affirming the authority and composition of the Industrial Development Authority ("IDA") and providing for the removal of related provisions from the Code of Laws and Ordinances ("Code").

Attorney Gallagher explained the purpose of this item; and indicated it is a housekeeping issue.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE ORDINANCE 2009-016, SECONDED BY COMMISSIONER LOFTUS.**

**MOTION CARRIED 5:0.**

**VII.     PRESENTATION AGENDA - No items.**

**VIII.    PUBLIC WORKSHOP AGENDA - No items.**

**IX.     BOARD WORKSHOP AGENDA - 5:30 P.M. - No items.**

**V.     REGULAR AGENDA**

Z.     Regular Agenda

(1) Requested by: Parks, Recreation and Cultural Resources - Approve a Resolution providing authorization for artisans and

handcrafters to camp at Bayshore Live Oak Park for the 13th Annual Florida Frontier Days Festival, May 6-9, 2009.

Angie Patterson explained the purpose of the agenda item; and requested approval.

**COMMISSIONER CUMMINGS MOVED TO APPROVE RESOLUTION 2009-189, SECONDED BY COMMISSIONER SKIDMORE.**

**MOTION CARRIED 5:0.**

(2) Requested by: Environmental and Extension Services - Seeking Board direction regarding a Scrub-jay Habitat Conservation Plan application posted March 16, 2009 on the Federal Register.

Andy Stevens explained the Visually Impaired Persons of Charlotte County submitted a Habitat Conservation Plan (HCP) to the Fish and Wildlife Service for potential Scrub-Jay habitat impacts as they develop their training facility for the visually impaired; indicated that within the HCP they asked the County to take ownership of 4.3 acres of mitigation property that abuts the County's Deep Creek property near the Peace River.

**COMMISSIONER CUMMINGS MOVED TO APPROVE AGENDA ITEM Z-2 AS SUBMITTED BY ANDY STEVENS, SECONDED BY COMMISSIONER LOFTUS.**

**MOTION CARRIED 5:0.**

(3) Requested by: Administration - Approval of a letter of support for the completion of the widening of the SIS (Strategic Intermodal System) facility, U.S. 17 (S.R. 35) through DeSoto and Hardee Counties.

Mr. Baltz advised that DeSoto County has requested that the Charlotte County BOCC support its efforts to obtain money to four-lane U.S. 17 through DeSoto and Hardee counties; that a letter of support was drafted and furnished in the packet material; and that approval for the Chair to sign the letter is requested.

**COMMISSIONER CUMMINGS MOVED TO APPROVE THE CHAIR SIGNING A LETTER OF SUPPORT FOR THE COMPLETION OF THE WIDENING OF THE SIS**

**FACILITY, U.S. 17 (S.R. 35) THROUGH DESOTO AND HARDEE COUNTIES, AGENDA ITEM Z-3, SECONDED BY COMMISSIONER STARR.**

**MOTION CARRIED 5:0.**

**X. CITIZEN INPUT - ANY SUBJECT**

Calvin N. LeBuffe commented on the cost of dredging Stump Pass and concerns of not being able to use funds that were available to incorporate the Salt Water Catch Basin at the same time; reported on results of meetings with West Coast Inland Navigational District (WCIND) and the Florida Department of Environmental Protection (FDEP); and expressed concern that he receive no response from telephone calls and emails to the Commissioners.

Russell Garrard expressed concern with impact fee rate increases; and indicated that impacts are a tax, not a fee.

Suzanne Graham advised that the building industry has been working with Growth Management to support the tiered impact fees; expressed concerned that the departments have not worked well together; and stated she hopes that will change.

Donald Aldredge advised he works for the Charlotte County Sheriff's Office (CCSO) and is attending tonight's meeting as a class and is amazed at what he learned and the weight of responsibility the BOCC has.

AA. County Administrator:

Mr. Baltz advised he has received letters from the Sheriff, Clerk and Supervisor of Elections requesting extensions to June 1st for filing their budgets. Mr. Sandrock stated that the budget is due in Tallahassee the middle of July; that there is a lot to be completed before that date; and not knowing the impacts is significant. **Chairman Duffy** asked if granting the extension would cause harm. Mr. Sandrock stated it would not, but that it would be more difficult because of the large shortfall. **Chairman Duffy** suggested asking for a tentative number to work with. **Commissioner Loftus** said we are short on time and need sufficient time to examine the budget and discuss

the constitutional officer's budgets with them; and opined the Board should be very careful extending time.

**COMMISSIONER STARR MOVED TO DENY THE REQUEST FROM THE SHERIFF, CLERK AND SUPERVISOR OF ELECTIONS FOR EXTENSION OF TIME TO SUBMIT THEIR BUDGETS, SECONDED BY COMMISSIONER SKIDMORE.**

**MOTION CARRIED 4:1. CHAIRMAN DUFFY OPPOSING.**

Mr. Baltz advised that a request is being made for the BOCC to approve or disapprove allowing the contractor doing the Manchester dredging project awarded in February 2009 for an estimated 8,842 cubic yards of spoils to store some of the spoil material on appropriate areas that are already paved in Murdock Village property; that doing so would keep the cost on the project down and it is possible the County may have a future use for the fill material. Mr. Baltz stated there is a contract in place and this is an effort on our part to accommodate the contractor for the disposition of spoils material. Mr. Quick provided additional detail; and advised that the material is good, clean fill material, which has an intrinsic value and could be used in the future by any developer of Murdock Village. **Commissioner Loftus** expressed concern that for 20 years spoil sites have been used for dredging projects; that it has been the common practice for 20 years of Public Works to inform the advisory boards to search for lots that the spoil materials could be placed on; that the ongoing practice was changed by the Building Department without proper notification to Public Works or other departments involved; and that the contractor will have additional expense by having to truck the spoils to Murdock Village. **Commissioner Skidmore** indicated he had conflicting information and requested clarification.

Mr. Baltz explained research indicates that we have had a past practice at different time of allowing dredged spoil material to be placed on different lots; that the rules we have now tied to a dredge and fill permit that is required to be obtained and to a flood plain ordinance in effect restricts the amount of fill that is allowed to go on the lots; that we have some dredging work going on now that these rules are being applied to; that this contractor had a meeting with Public Works and Purchasing a few days ago to find a solution for this dredging project that is ongoing now to be as much as possible a win-win for both

parties. Mr. Baltz stated that Purchasing advised him that in the change order for this work that was approved in February 2009 there is language that the contractor agreed to no additional mobilization and to waive trucking and spoil site rehabilitation costs; and contractually that is the County's relationship with the contractor. Mr. Baltz said the contractor has concern that had he been told by the County as in the past that he would have to take this material to another location there would be substantial distance and cost to do so; that in this particular case there were some issues that came up regarding scrub jays that were working their way through some of the lots that the contractor wanted to use; and that Public Works was creative in trying to work out a solution to allow the spoil material to go onto the Murdock Village site if the Commissioners concur. Mr. Baltz advised that he would like to resolve this issue and that it would be appropriate to hear from the Commissioners what they want to do from here on out regarding future dredging projects and whether you want to see some type exemption for people who are doing dredging work in Charlotte County to allow them more flexibility with the spoils material being staged in different areas.

**Commissioner Loftus** explained that the contractor waived the trucking fee because he was told by Public Works he could put the spoils on lots, which has been the standard practice of the County for over 20 years; and that it is morally and ethically wrong to put additional cost on the contractor. Mr. Baltz requested confirmation that there are other dredging projects going on and that the contractors for those jobs are being held to the same rules of spoils material, obeying the flood plain ordinance, and essentially what our contract says about required permits, rules and regulations. Mr. Quick replied affirmatively. Mr. Baltz stated response from staff to inquiry is that no one on staff indicated to the contractor that he was allowed to take spoils material and put it on private lots; that he understands **Commissioner Loftus** believes past practice weighs heavily in this situation; that perhaps a solution for this issue has been found; but reiterated there needs to be additional conversation and direction on how to handle dredging in the future.

Attorney Knowlton stated she cannot speak to past practices; but commented on language in County Code Section 3-5-91, which has

been in effect since 1998, and concerns raised by Commissioners if estoppel would be an issue here.

**Commissioner Starr** opined placing the fill on Murdock Village is logical and it would have a productive use; but asked who would manage the piles of dirt. Mr. Quick stated that once the material is placed on the roadway by the dredging contractor Public Works personnel would appropriately grade the spoil piles and strip sod and/or grass the spoil piles; and indicated the value of the fill would far exceed cost expended by the County for grading. **Commissioner Starr** recommended putting the fill on Murdock Village.

**Commissioner Cummings** said he is okay with the recommended action; recalled that some of the spoils had gone to the landfill, that the last time he personally saw fill put on the lots was prior to 1998, but could not speak to it happening between then and now; indicated that the law was put in place because of storm water issues and now it is being enforced; and stated the contract and law is clear, there has been a reasonable alternative submitted, and it should be used. **(Consensus by a majority of the Board to approve recommended action.)** **Commissioner Loftus** said he had no comment.

Mr. Baltz requested direction from the BOCC on the issue of temporary special event permits and our ordinance; and stated he has received feedback from some Commissioners indicating a desire to amend the ordinance due to concerns of the amount being charged for the permit and possibly allowing non-profit organizations some exempt status from the conditions of the ordinance. **Commissioner Starr** explained this was prompted by emails from not-for-profits that prior to the ordinance had not been charged for events and have now been charged for collector car shows and the air show; and opined that bonafide not-for-profit having an event to raise money specifically for that organization should be exempt from those fees.

**Commissioner Cummings** inquired if this was part of the tent sales issue. Mr. Baltz replied affirmatively; and indicated it also got into the issue of auto sales. **Commissioner Cummings** said he was not in favor of it initially and is okay with changing it. **Chairman Duffy** said she thought it was a good idea because of so many car dealerships coming in from out of town,

having several tent sales per year, and the County receiving no revenue; indicated it had unintended consequences that affected the not-for-profits; that she is in favor of exempting the not-for-profits; and that she does not understand why there was a charge for the air show. **Commissioner Starr** opined car dealers should be limited to one show per year. **Chairman Duffy** explained why that could not be done.

**Commissioner Cummings** stated that not-for-profits were part of the conversation with the tent sales and they were deliberately included because the out-of-town car dealers were coming in, sponsoring a not-for-profit, and having their for-profit car sale; and commented on unconstitutional protections. Attorney Knowlton agreed the Board had this discussion at the time the tent sale ordinance was done; and that under the current framework it would be improper to distinguish between a not-for-profit and any other person having a car show; that the problem we had with the revision of the ordinance was in road impacts; that staff would be willing to look at it again; but she does not anticipate a change in the outcome. **Commissioner Skidmore** stated the concern is the increase of the charge from \$100 to \$1,000; that he is not in favor of exempting it altogether; but he is in favor of bringing it to a more reasonable fee. **Commissioner Cummings** opined the fee charged should be that which you can show cost incurred to process that fee, not have punitive fee assessments.

Mr. Baltz said he is not certain he heard a majority of the Commissioners indicate staff should do anything. **Commissioner Starr** recommended staff look further at the ordinance to determine if the fees could be made more equitable for the not-for-profits. Attorney Knowlton said it would be lowering the fee across the board. **(Consensus by the Board to review the entire ordinance.)**

Mr. Baltz stated the Budget Workshop last week was not as productive as he wanted it to be; commented on changes he has discussed with staff; and asked that the Commissioners let him know of anything additional they want included. **Commissioner Cummings** opined there should be greater emphasis and perfect clarity on the anticipated impacts of the cuts and that they be incorporated better into the main part of the presentation.

**Commissioner Skidmore** stated he would like to see the Directors better prepared to anticipate and answer the Board's questions.

Mr. Baltz advised he is making a structural change with our land development functions that are tied to excavations and land development activities; and that within the next few days he would shift those functions to give them more oversight and accountability and allow us to perform better with those functions.

Mr. Baltz stated that questions were raised about different staff receiving senior management classification with FRS; indicated a sheet was furnished listing the positions classified that way under the County Commission and a selection of constitutional officers; and asked if the BOCC had comments. **Commissioner Skidmore** said he was surprised that the former Supervisor of Elections put four members of his staff into the senior executive management FRS status and used slots that were allotted to the BOCC; opined the BOCC should write a letter requesting those individuals be removed from the senior management classification and returned to the normal classification; and commented on the criteria determining how that status is achieved.

**Commissioner Loftus** stated he also is concerned about the list. **Commissioner Starr** agreed the letter should be written. **Commissioner Cummings** indicated that the BOCC's authority is in setting the overall budget level of the constitutional officers; and that directing how the organization would be structured or operated reaches beyond the Board's authority. **Commissioner Skidmore** disagreed; and indicated the Supervisor of Elections is under the BOCC for Human Resources (HR); and opined there is some room for the BOCC to make the request. Attorney Knowlton provided some background information; indicated the Supervisor of Elections comes under the County umbrella; that State Statute provides qualification requirements; agreed she was comfortable the letter could be written; and made recommendations of phrasing. **Commissioner Skidmore** requested that the letter be written. **Chairman Duffy** agreed. Mr. White advised that the Clerk of Court established her senior management positions years ago directly under the Florida Retirement System guidelines; that despite the increase in cost for those positions the Clerk's budget has reflected the continual decrease from her managing

that; that the guidelines under the retirement system is by entity; and opined the Clerk's response would be that although she has made that management decision she has still decreased the budget and would be quite defensive about someone else making that management decision for her. **Chairman Duffy** asked if Mr. White was suggesting it is not necessary to send a letter to the Clerk of the Court. Mr. White replied affirmatively. **Chairman Duffy** suggested the letter contain phrasing that officials who meet the FRS guidelines need not be concerned but if they do not they should address the issue. **Commissioner Cummings** asked if the authority for this comes from the fact that the BOCC and Supervisor of Elections share HR resources. Attorney Knowlton said no, but indicated for some reason under the FRS process the Supervisor of Election comes within our designated grouping. **(Consensus of the Board for the Chair to write a letter.)**

BB. County Attorney: - None

CC. Commissioner Comments:

**Commissioner Loftus** expressed concern with lights at various facilities being left on continuously with no activity going on.

**Commissioner Skidmore** thanked the Commissioners for having a night meeting and indicated he favors doing it again; thanked Detective Aldredge for coming; welcomed the Stone Crabs, indicated it was a great opening night, and said he had spoken to Mr. Baltz about doing a Proclamation for them; thanked Mr. Ruggieri, staff and others involved on the impact fee ordinance for their efforts; stated he received a call from the IFF advising they went out to one of their charitable funds and from the sale of license plates they have helped fund the entire impact fees for New Operation Cooper Street Recreation Center; indicated that the Murdock Village advisory board met last night, that his current position is a voting member but is being changed to an advisory board member, and indicated to Attorney Knowlton that he needs to be re-appointed; advised that the Murdock Village advisory board has one opening for a real estate appraisal finance specialist, which will be advertised; and commended Parks and Recreation for a good job on the Easter egg hunt.

**Chairman Duffy** advised a letter was received from the North Port Commission Chair asking the BOCC to attend an economic development discussion meeting with North Port, Sarasota, and Punta Gorda; that the letter was received rather late and no Commissioner was available to attend; that Mayor Friedman attended and requested a representative from the BOCC to serve on the committee, which is a result of the economic development summit that the Charlotte Sun sponsored last month. **Commissioner Skidmore** said he would do so but needs an alternate. **Commissioner Loftus** said he would serve as alternate.

**Chairman Duffy** thanked all in attendance and to staff for staying so late.

**AJOURNED: 10:30 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