

**BOARD OF COUNTY COMMISSIONERS**

**April 21, 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 Dillon, Deputy Clerk Lansing. The following members were absent: None

The meeting was called to order at **9:00 AM**

The Invocation was given by **Chairman Tricia Duffy** followed by the Pledge of Allegiance.

**Changes to the Agenda:**

**Addition #1** - Z-1 Re-set the public hearing, which was originally set for April 28, 2009, to May 12, 2009, at 10:00 AM, 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. Requested by: County Attorney

**Addition #2** - Z-2 Re-set the public hearing, which was originally set for April 28, 2009, to May 12, 2009, at 10:00 AM, or as soon thereafter as may be heard, to consider approving an ordinance implementing a Green Building Program for Charlotte County. Requested by: County Attorney

**Change #1** - Z-3 Appoint Thomas Dignam to the Manasota/Sandpiper Key Advisory Committee to fill the remainder of the unexpired term created by the resignation of J. Randy Dahl, who represents the South Manasota Key Association. Requested by: Commission

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

**MOTION CARRIED 5:0.**

Special Recognition: None

Proclamations - None

Employee Recognition - None

Award Presentations - None

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

Suzanne Graham expressed concern with the delay of two Public Hearings, noted the presentation was given on March 10th, said they tried to get them on the April 14th Agenda, indicated these delays have become a consistent pattern for Building Industry issues, asked how long the industry has to suffer, said public notifications must be made immediately, and urged the Board to correct this problem prior to a building moratorium.

**II. COMMITTEE VACANCIES - (Not read into the record)**

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

Construction Industry Licensing Board -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. Length of term - until March 2012

Environmentally Sensitive Lands Oversight Committee - seeking two volunteers who are residents and electors of the County to represent the "environmental expertise" category. Length of terms: 1 term is for 3 years and the other one is until Jan. 10, 2010.

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 Harborview Road, Suite 4, Port Charlotte, FL 33980. Fax:  
941-883-3534 Email: office@ccmpo.com

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 Harborview Road, Suite 4, Port Charlotte, FL 33980. Fax: 941-883-3534 Email: office@ccmpo.com

**III. REPORTS RECEIVED AND FILED - None**

**IV. CONSENT AGENDA**

**Clerk of the Circuit Court**

- A. Finance Division - No Items.
- B. Minutes Division - No Items.

**Board of County Commissioners**

- C. Commission Office - No Items.
- D. Administration - No Items.
- E. County Attorney - No Items.
- F. Budget Office - No Items.
- G. Growth Management - No Items.
- H. Economic Development - No Items.
- J. Environmental Services - No Items.
- K. Facilities Construction and Maintenance - No Items.
- L. Purchasing - No Items.

- 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 - No Items.
- S. Public Works - No Items.
- T. Real Estate Services - No Items.
- V. Tourism Development - No Items.
- W. Utilities - No Items.
- X. Building & Construction Services - No Items.
- Y. Other Agencies - No Items.

**VI. PUBLIC HEARING AGENDA - 9:00 AM**

(1) Growth Management - RECOMMENDED ACTION: Approve the revisions to Article XVIII of the County Code of Ordinances, Landscaping and Buffers. **ORD2009-017**

Jeff Ruggieri provided detail related to the proposed ordinance, read changes made into the record, and paralleled visual slides.

**Commissioner Starr** indicated he read the Planning & Zoning minutes, noted their exemption concerns, said landscaping came up because it was an issue at the jail, said the Board can have landscaping at public buildings if they should decide, and suggested the Board should have the flexibility to decide.

**COMMISSIONER STARR MOVED TO APPROVE THE REVISIONS TO THE LANDSCAPING AND BUFFERS ORDINANCE, SECONDED BY COMMISSIONER SKIDMORE**

**Commissioner Cummings** asked who the bonding requirements exemption applies to. Mr. Ruggieri said it applies to everyone across the board, noted it is not used often, said it allows people to delay if they have a schedule to meet, and mentioned the requirements they would need to meet to be granted a temporary Certificate of Occupancy (CO). **Commissioner Cummings** asked when the Bond is released. Mr. Ruggieri responded after the landscaping is installed. **Commissioner Cummings** asked additional questions related to enforcement and expressed his opposition to requiring the public to do something that the County is not required to do. **Commissioner Loftus** indicated we should have had the Public Hearing prior to the motion. **Chairman Duffy** agreed.

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

**MOTION CARRIED 5:0.**

Mr. Baltz clarified the exemption for Public Safety Buildings by reading the language on Page 14 into the record, advised if the Board moves forward there are future buildings and projects that may see as much as \$20,000 added cost, and gave examples of projects that would not be exempt under the current language. Mr. Ruggieri agreed.

**Commissioner Loftus** stated he is in favor of landscaping but noted the costs are too high, suggested they spend less on certain buildings such as tanks, and asked if an amendment could be added today. Mr. Ruggieri recommended they give Public Facility buildings the opportunity to request Board approval for exemption to reduce the level of landscaping. Attorney Browne agreed with the recommendation. **Commissioner Loftus** said he prefers that language. **Commissioner Starr** indicated his understanding is that the language is not limited to certain buildings and suggested the Board could decide when a new building request comes in. Mr. Ruggieri said that was not specified in the Ordinance. **Commissioner Cummings** opined it would still need to be deemed Public Safety Buildings. **Chairman Duffy** suggested the term "County Owned Facilities." **Commissioner Loftus** said he still prefers the last language recommendation. Mr. Ruggieri mentioned costs related to

landscape plans and architects. Attorney Browne provided alternate language.

**COMMISSIONER STARR MOVED TO AMEND THE MOTION TO CHANGE THE LANGUAGE TO READ PUBLIC BUILDINGS AT THE DISCRETION OF THE BOARD, SECONDED BY COMMISSIONER SKIDMORE**

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

(2) Land Use - **RECOMMENDED ACTION:** Approve PP 08-08-04 - Preliminary Plat for Santa Lucia Estates with four (4) conditions.

Barbara Jeffries provided detail related to the Preliminary Plat and paralleled visual slides and packet information. Ms. Jeffries advised approval was recommended with four (4) conditions and proceeded to read the conditions into the record.

**Chairman Duffy** polled the Board for ex parte disclosures. **Commissioner Skidmore** had two (2). Deputy Clerk Lansing administered the oath to prospective witnesses.

Gary Bayne represented the applicant, described the property in detail, discussed applicant intent, and noted they agree with staff recommendations.

Karen Price provided a brief history of the South Gulf Cove Homeowners Association, noted authority to enforce their deed restrictions, mentioned they are currently updating the language, and said they are not opposed, but are requesting a delay until the deed restriction updates are completed.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE PP 08-08-04 - PRELIMINARY PLAT FOR SANTA LUCIA ESTATES WITH FOUR (4) CONDITIONS, SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

(3) Land Use - RECOMMENDED ACTION: Approve PP 09-01-01 - Preliminary Plat Winchester Lake with nineteen (19) conditions.

Ms. Jeffries provided detail related to the Preliminary Plat which paralleled visual slides and packet information, explained and read eighteen (18) conditions into the record, and advised the Planning and Zoning Board recommendation did not include the last condition which was with respect to the street name.

Attorney Berntsson represented the applicant, provided historical information related to the plat, discussed the timeline of events to date, and requested approval.

**Chairman Duffy** polled the Board for ex parte disclosures and all Commissioners had one (1).

**Commissioner Skidmore** questioned the access points. **Chairman Duffy** asked if the excavation will continue. Attorney Berntsson responded. **Commissioner Starr** questioned the zoning related to a working mine. Ms. Jeffries provided detail related to zoning. **Chairman Duffy** mentioned all mines have historically been zoned Agriculture (AG), noted the Board created a new land use category specifically for mining, and explained they attempted to move the existing mines into that category but were defeated in December, 2008. **Commissioner Starr** commented a change should be made in the future, said a business should be zoned business and should pay taxes based on their income. Attorney Berntsson pointed out this is a Group Two excavation, explained its criteria, and noted the historical mining timeline for this property.

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

**MOTION CARRIED 5:0.**

**Commissioner Cummings** questioned the lot sizes, mining, and cluster development. Ms. Jeffries and Attorney Berntsson responded in detail. **Commissioner Skidmore** noted the plat has met the requirements, but expressed concern with approving so many conditions, and asked for Public Works recommendation. Attorney Berntsson explained the reason for the conditions and provided Public Works review outcome.

**COMMISSIONER LOFTUS MOVED TO APPROVE PP 09-01-01 - PRELIMINARY PLAT WINCHESTER LAKE WITH NINETEEN (19) CONDITIONS, SECONDED BY COMMISSIONER STARR**

*Commissioner Cummings* said he is obligated to vote for this since the plat has met the requirements and commented on problems with property rights and related cluster development.

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

(4) Land Use - RECOMMENDED ACTION: Approve PV 09-01-01 - Plat Vacation of Suncoast Office Park with one (1) condition.  
**ORD2009-190**

*Ms. Jeffries* provided detail related to the Plat Vacation which paralleled visual slides and packet information, described the result of the change if approved, presented an historical timeline related to the property, requested approval with one condition, and read the condition into the record.

*Commissioner Skidmore* asked for the process if the applicant wanted to further develop the property in the future and questioned whether the applicant is aware of the condition. *Ms. Jeffries* explained the applicant would first need to meet the lot split criteria; noted if he wanted to build one additional building, he would have to sub-divide and come before the Board; and confirmed the applicant is aware of the condition. Attorney *Berntsson* spoke on behalf of Charlotte County School Board, provided additional history associated with the special exception for the property, talked about the procedures related to future development, and clarified the final outcome of ownership once the Plat is vacated.

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

**MOTION CARRIED 5:0.**

*Commissioner Starr* asked if the vacation affected the tax base. *Ms. Jeffries* advised it did not.

COMMISSIONER SKIDMORE MOVED TO APPROVE PV 09-01-01 PLAT VACATION OF SUNCOAST OFFICE PARK WITH ONE (1) CONDITION, SECONDED BY COMMISSIONER LOFTUS

Chairman Duffy polled the Board for ex parte disclosures and there were none.

MOTION CARRIED 5:0.

Ms. Jeffries advised they are issuing the Certificate of Occupancy (CO) on the building prior to recording.

RECESS: 10:03 AM - 10:13 AM

VII.     PRESENTATION AGENDA - No Items.

VIII.    PUBLIC WORKSHOP AGENDA - No Items.

IX.      BOARD WORKSHOP AGENDA - 10:00 AM

(1) Growth Management - Staff will present and seek Board guidance about the initial redrafting of the 1997-2010 County Comprehensive Plan Recreation and Open Space Element. (Smart Charlotte 2050)

Jim Fendrick introduced the first of several workshops designed to cover each of the Comprehensive Plan Elements, said the purpose today is to provide an update, noted no decisions were required, and asked Roxanne Reed to present Parks, Recreation and Cultural Resources. Ms. Reeves explained they refer to each section of the plan as an element, described the documents provided, said the Parks and Recreation Managers are available to answer questions, noted the plan is in draft form, mentioned its history, described the plan and proposed changes, and paralleled visual slides. David Milligan discussed the level of service and its new rating system. Ms. Reeves opened the webpage so goals, objections, and policies can be viewed and welcomed questions. **Commissioner Starr** asked if the point system is our creation or a standard system and questioned the formulation. Mr. Milligan said Parks and Recreation created the system to address the needs of the County and explained how it was based. **Commissioner Starr** said we should have a plan to utilize water mass parks as an amenity. Mr. Milligan said they

have addressed the water in the point system. Ms. Reeves explained the website further and pointed out how to leave comments. **Commissioner Loftus** commented on the need for additional boat ramps and expressed concern related to adding points for bodies of water and State and Federally owned lands. **Chairman Duffy** asked how we can increase beach access, said there are so many private residential beach owners, and asked for available options. Mr. Milligan said they have identified a few right of ways, sunrise and sunset viewing areas and launches, and mentioned working with other private development. **Commissioner Starr** noted options and the difficulty in claiming the land. **Chairman Duffy** mentioned some Manasota Key residents rope off their property and opined the issue needs to be dealt with. Mr. Ruggieri mentioned addressing the issue and discussed its progress to date. The Commissioners discussed property lines, setbacks, and regulations. **Commissioner Skidmore** asked if the Smart Charlotte polices for Parks and Recreation included the use of private and public partnerships and remarked one had been done in the past. Mr. Baltz said it may have been for Sunrise Park or near Pirate Harbor. Mr. Milligan addressed several points within the materials related to sponsorships and partnerships. **Commissioner Skidmore** asked about policies related the possibility of creating self sustaining revenue funding for the Event Center and overall operations of the beaches. Michael Koenig read funding options into the record, discussed grants, donation, concession agreements and their services, and talked about the policy. **Commissioner Skidmore** said it should be a policy goal and should also include our libraries.

**Commissioner Cummings** commended the matrix concept and asked for clarification of the proposed policies within the backup materials. Mr. Milligan confirmed the correct version and explained the related point system. **Commissioner Cummings** talked about scores, mentioned how credit is being given, and asked how they decided the system. Mr. Milligan stated they started where it was reasonable and talked further about the creation of the point system. **Commissioner Cummings** said it will be interesting to see the system work, especially with concurrency, asked if the matrix will be incorporated into the Comprehensive Plan, and opined the State may agree this system is a better way to go. Mr. Milligan responded and discussed future concurrency. **Commissioner Loftus** was happy with the

inclusion of future development within the matrix system and expressed the importance of increasing the use of volunteers. **Commissioner Starr** talked about the funding policy related to the trust fund. Mr. Koenig said the Board directed them to establish a camp and recreation scholarship fund, noted the Tampa Bay Rays initial donation of \$5,000, said the active fund is separate from the general revenue fund, and explained it is run on specific tax deductible donations. **Commissioner Starr** asked about the library budget, questioned a dedicated library funding source, and expressed his opposition to a library MSBU. Mr. Milligan explained why a dedicated library millage rate was being included for consideration and explained the history of library funding. **Commissioner Starr** asked about the use of impact fees to purchase books and wondered what we spend on books. Mr. Fendrick explained they can use impact fees to purchase durable books. Mr. Milligan mentioned impact fees were first used when we had a smaller book budget, said they later had a larger book budget, and indicated the issue is being addressed. **Chairman Duffy** stated her interest in looking further into the point system, expressed hope that Department of Community Affairs (DCA) will agree with the system, noted the County must be careful not to set their expectations too high, said they need to expand beach access in Charlotte County, noted our waterways are great if you have a boat, and suggested the use of commercial boats to provide boating access to those who do not own a boat.

Mr. Ruggieri said these ideas are the first step in updating the comprehensive plan, noted Ms. Reeve has entered Board comments throughout the discussion, and explained the process for the next step. Mr. Ruggieri pointed out when they receive negative comments, such as **Commissioner Starr's** opposition related to library funding, they would appreciate specific Board direction. **Commissioner Skidmore** agreed with **Commissioner Starr** related to a new library funding tax, suggested staff provide the Board with additional background information before adding such to the Comprehensive Plan, and opined the language could tie Board hands for many years to come. **Commissioner Cummings** said he does not have a problem with exploring a dedicated millage rate for the library and provided detail related to the possibility. **Commissioner Loftus** requested additional information. **Chairman Duffy** agreed. **Commissioner Cummings** pointed out the discussion related to water and beach access, talked about the difference

between our beaches, mentioned providing ferry service to Don Pedro State Park has failed to date, discussed Stump Pass Beach parking, and noted operating costs. **Commissioner Starr** opined the State will eventually provide ferry service to Don Pedro State Park, mentioned the potential for a boater park on Thorton Key and the use of volunteers for clean up, said there are many ways to provide beach and water access, noted our beaches are our best asset, and mentioned they may consider reducing many related access fees in the future. **Commissioner Cummings** talked about the blue belting plan and land development. **Commissioner Skidmore** talked about private partnership opportunities. **Commissioner Cummings** talked about our land development. **Chairman Duffy** thanked staff for the presentation. Ms. Reeves stated the comments will be viewable after approval and urged the Board to continue to provide their suggestions. **Commissioner Skidmore** encouraged the public to add their comments. Mr. Fendrick explained some of the prompts, noted comments are confidential, urged feedback and comments, said the first of four Public Workshops will begin tomorrow, mentioned how the plan is being advertised, and provided the website address: [www.smartcharlotte2050.com](http://www.smartcharlotte2050.com). **Chairman Duffy** invited residents without internet access to utilize library computers.

**X. CITIZEN INPUT - ANY SUBJECT - None**

**V. REGULAR AGENDA**

Z. Regular Agenda

Z-1 - Re-set the public hearing, which was originally set for April 28, 2009, to May 12, 2009, at 10:00 AM, 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.

**COMMISSIONER CUMMINGS MOVED TO RE-SET THE PUBLIC HEARING TO CONSIDER APPROVING AN ORDINANCE RELATING TO BUILDINGS AND BUILDING REGULATIONS AMENDING CHAPTER 3-2, SECONDED BY COMMISSIONER STARR**

**MOTION CARRIED 5:0.**

Z-2 - Re-set the public hearing, which was originally set for April 28, 2009, to May 12, 2009, at 10:00 AM, or as soon thereafter as may be heard, to consider approving an ordinance implementing a Green Building Program for Charlotte County.

**COMMISSIONER SKIDMORE MOVED TO RE-SET THE PUBLIC HEARING TO CONSIDER APPROVING AN ORDINANCE IMPLEMENTING A GREEN BUILDING PROGRAM FOR CHARLOTTE COUNTY, SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

Z-3 - Appoint Thomas Dignam to the Manasota/Sandpiper Key Advisory Committee to fill the remainder of the unexpired term created by the resignation of J. Randy Dahl, who represents the South Manasota Key Association.

**COMMISSIONER SKIDMORE MOVED TO APPOINT THOMAS DIGNAM TO THE MANASOTA/SANDPIPER KEY ADVISORY COMMITTEE, SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

AA. County Administrator: None

BB. County Attorney: None

CC. Commissioner Comments:

**Commissioner Skidmore** advised he is holding a Town Hall Meetings tonight at 6:00 PM in this room and invited all to attend, addressed Ms. Graham's comments related to late advertisements, and urged the Attorney's Office to notice the meetings on time in the future. **Commissioner Loftus** is also very upset with the legal department. **Commissioner Starr** commended Mr. Ruggieri and staff for the work put into the Comprehensive Plan and its concepts. **Chairman Duffy** noted they have been asked to write a letter of support to our legislators to encourage legislation to allow the new Solar Energy Plant for Babcock Ranch to be constructed.

**COMMISSIONER STARR MOVED TO WRITE A LETTER OF SUPPORT TO ENCOURAGE LEGISLATION TO ALLOW THE NEW SOLAR ENERGY PLANT FOR BABCOCK RANCH TO BE CONSTRUCTED, SECONDED BY COMMISSIONER CUMMINGS**

**MOTION CARRIED 5:0.**

**Chairman Duffy** also expressed concern with advertising delays, disappointed that these two public hearings have been put off again, commented on waiting almost two (2) years for the green building ordinance especially since it is a positive incentive, opined the whole process has been ridiculously too long, indicated she expressed her concern to County Attorney Knowlton yesterday, and announced the impact fee rollback should be extended sixty (60) days to coincide with the delay.

**Commissioner Loftus** asked if they can make a motion today to roll it back the sixty (60) days. Attorney Browne indicated it would need to be advertised for ten (10) days. **Chairman Duffy** said it would need to be advertised for the May 12th meeting. Mr. Ruggieri clarified the rollback is in effect, expires in July, and confirmed they want to extend it to September. **Commissioner Loftus** asked that it be put on the May 12th agenda. **Chairman Duffy** agreed. **Commissioner Cummings** said the deadline remains the same, said they have months to extend the deadline, and noted there is no reason why it could not come back later. **Chairman Duffy** agreed but opined they cannot rely on the Attorney's office. **Commissioner Cummings** requested they stop the conversation and take the vote. **Commissioner Skidmore** asked for confirmation of the issue and the vote.

**COMMISSIONER LOFTUS MOVED TO PUT THE ROLLBACK EXTENTION ON THE MAY 12, 2009 AGENDA, SECONDED BY CHAIRMAN DUFFY**

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

**ADJOURNED 11:37 AM**

An Executive Session was held this date at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following were in attendance: Commissioners Cummings, Loftus, and Starr. Also in attendance were County Attorney Janette S. Knowlton and Deputy Clerk Lansing. The Session was called to order at **2:00 PM**. Attorney Knowlton announced the opening of the public portion of the Executive Session, advised the attorney/client portion of the Executive Session will be held in the County Attorney's Conference Room, noted its purpose is 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/New Court Case No. 07-4374-CA. The following will be in attendance: Chairman Duffy, Commissioners Cummings, Loftus, Skidmore, and Starr, Assistant County Attorney Philip Fairman, County Administrator Baltz, and herself.

**RECESS: 2:05 PM - 2:40 PM**

The Executive Session was reconvened and closed in Room 119 with Chairman Duffy, Commissioner Loftus, Commissioner Starr, County Attorney Knowlton, and Deputy Clerk Lansing present.

**ADJOURNED: 2:45 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**

**j1**