

BOARD OF COUNTY COMMISSIONERS

September 15, 2009

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

Members present were: Chairman Duffy, Commissioner Cummings, Commissioner Starr, Commissioner Loftus, Commissioner Skidmore, County Administrator Baltz, Assistant County Attorney Browne, Deputy Clerk Lansing. The following members were absent: None

The Meeting was called to order at **9:00 A.M.** followed by the Pledge of Allegiance.

CHANGES TO THE AGENDA:

Deletion #1 - A-1 - Requested By: Commission Office - **RECOMMENDED ACTION:** Select by ballot a representative to serve on the Punta Gorda Community Redevelopment Agency for a four-year term.

Addition #1 - A-3 - Requested By: Attorney's Office - **RECOMMENDED ACTION:** 1) Appoint Bill Weller as 2nd Alternate on the Charter Review Commission in place of Richard Holden who has resigned; and 2) Select/Appoint a 3rd non-voting Alternate member.

Addition #2 - A-4 - Requested By: **Commissioner Loftus** - **RECOMMENDED ACTION:** Discussion of Local Preference.

COMMISSIONER LOFTUS MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER STARR

MOTION CARRIED 5:0.

CITIZEN INPUT - REGULAR AGENDA ITEMS ONLY

Attorney Geri Waksler spoke on behalf of the applicant in favor of agenda item A-2.

Jane Brenner provided the Board with proposed plans, and spoke in support of agenda item A-2.

Stacy Calvino, Marilyn Smith Mooney, Robert Dwyer, Heidi O'Gorman, Rufus Lazzell, Judy Malbaisson, and Dave Gerdel spoke in support of agenda item A-2.

Paul Calkins, Bruce Waldt, Gary Herrey, Bill Hauser, Kelly Calkins, Frank Price, and Joyce Masters spoke in opposition of agenda item A-2.

A. REGULAR AGENDA

(2) Park, Recreation & Cultural Resources RECOMMENDED ACTION: Discussion and direction from the Board on the Botanical Garden Development Agreement.

John Jackson provided a detailed history of the proposed petition. There was extensive Board discussion regarding the Garden with Ms. Waksler making comment. Commissioners Cummings and Loftus expressed support with suggestions. **Commissioner Starr** expressed opposition. Ms. Waksler and Mr. Redel fielded questions from the Board.

COMMISSIONER LOFTUS MOVED TO APPROVE AGREEMENT 2009-038, SECONDED BY COMMISSIONER SKIDMORE

Jie Shao and Attorney Waksler responded to a request by **Chairman Duffy** for a visual of the deed restrictions and property ownership. **Chairman Duffy** spoke in support of the project but not the location.

MOTION CARRIED 3:2. COMMISSIONER CUMMINGS, COMMISSIONER STARR OPPOSING.

Commissioner Cummings questioned the motion. Attorney Browne recommended a second motion to approve the Exhibit "C" lease management agreement which was attached to the document just approved and authorize the execution by the Chairman upon conveyance of any property to the County.

COMMISSIONER LOFTUS MOVED TO APPROVE THE LEASE MANAGEMENT AGREEMENT FOR PEACE RIVER BOTANICAL AND SCULPTURE GARDENS AND AUTHORIZE THE CHAIR TO SIGN SAME, SECONDED BY COMMISSIONER SKIDMORE

Commissioner Skidmore asked what would happen if the agreement was not authorized. Attorney Browne explained what the motion is intended to accomplish.

COMMISSIONER LOFTUS MOVED TO RECONSIDER THE MOTION IN REFERENCE TO MOVING FORWARD WITH THE BOTANICAL GARDEN AGREEMENT, SECONDED BY COMMISSIONER CUMMINGS

MOTION CARRIED 4:1. COMMISSIONER STARR OPPOSING.

COMMISSIONER LOFTUS MOVED TO APPROVE THE BOTANICAL GARDEN DEVELOPMENT AGREEMENT WITH THE CONDITION THAT THE FOUNDATION MEET WITH THE RESIDENTS AND ATTEMPT TO WORK OUT ANY PROBLEMS THAT THEY DO HAVE , SECONDED BY CHAIRMAN DUFFY

There was board discussion regarding the motion on the floor.

MOTION CARRIED 3:2. COMMISSIONER CUMMINGS, COMMISSIONER STARR OPPOSING.

COMMISSIONER LOFTUS MOVED TO APPROVE EXHIBIT C, THE LEASED MANAGEMENT AGREEMENT, FOR PEACE RIVER BOTANICAL AND SCULPTURE GARDENS AND AUTHORIZE ITS EXECUTION, SECONDED BY CHAIRMAN DUFFY

MOTION CARRIED 3:2. COMMISSIONER CUMMINGS, COMMISSIONER STARR OPPOSING.

RECESS 10:42 AM - 10:55 AM

(3) Attorney's Office RECOMMENDED ACTION: 1) Appoint Bill Weller as 2nd Alternate on the Charter Review Commission in place of Richard Holden who has resigned; and 2) Select/Appoint a 3rd non-voting Alternate member.

Attorney Knowlton reviewed the item and requested the Board submit their ballots.

COMMISSIONER SKIDMORE MOVED TO APPOINT BILL WELLER AS 2ND ALTERNATE ON THE CHARTER REVIEW COMMISSION IN PLACE OF RICHARD HOLDEN WHO HAS RESIGNED, SECONDED BY COMMISSIONER LOFTUS

MOTION CARRIED 5:0.

COMMISSIONER SKIDMORE MOVED TO APPROVE CONNIE KANTOR AS A 3RD NON-VOTING ALTERNATE MEMBER, SECONDED BY COMMISSIONER LOFTUS

MOTION CARRIED 5:0.

(4) **Commissioner Loftus** RECOMMENDED ACTION: Discussion of Local Preference.

Board discussion ensued regarding Charlotte County reciprocating and awarding Sarasota businesses with Local Preference.

Kim Corbett gave explanation for the request from Sarasota. There was brief discussion related to bringing the issue back in 2-4 weeks and related to advertising for the ordinance.

COMMISSIONER CUMMINGS MOVED TO DIRECT STAFF TO PROCEED WITH WORKING ON SUCH AN ORDINANCE AS DISCUSSED TODAY, SECONDED BY COMMISSIONER STARR

MOTION CARRIED 4:1. COMMISSIONER SKIDMORE OPPOSING.

Mr. Baltz advised that he would notify Sarasota County that the Board will reconsider what Kim Corbett explained, and that Charlotte County will not be matching what Sarasota County is doing and will only include Sarasota and Charlotte County.

B. PLANNING AND ZONING PUBLIC HEARING - 9:00 AM

(1) Land Use (Legislative) RECOMMENDED ACTION: Adopt an Ordinance of the Board of County Commissioners of Charlotte County Florida amending Chapter 3-5, Article XXIII, Excavation and Earth Moving; providing for revised exemptions; providing for other necessary clarifications; providing for conflict with other ordinances; providing for severability; and providing for an effective date. ORD2009-040

Jeff Ruggieri gave detailed explanation of the proposed Ordinance. **Commissioner Starr** inquired about bonding. Mr. Ruggieri responded in detail.

Sue Resky commented on dirt mines and expressed opposition.

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

MOTION CARRIED 5:0.

Commissioner Skidmore inquired as to why the permit issuance fee is being eliminated. Staff responded in detail.

**COMMISSIONER SKIDMORE MOVED TO APPROVE ORDINANCE 2009-040,
SECONDED BY COMMISSIONER LOFTUS**

MOTION CARRIED 5:0.

(2) Land Use RECOMMENDED ACTION: Open a public hearing for review and comment on the Smart Charlotte 2050 draft Natural Resources Element and draft Housing Element.

Jim Fendrick gave presentation related to Smart Charlotte 2050 and paralleled visual slides. Bob Hebert discussed the housing element in detail.

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

MOTION CARRIED 5:0.

Mr. Fendrick presented the Natural Resources Element. Inga Williams discussed the Natural Resources Element, its purpose, related issues, implementations, goals, public input, hot topics, and density. Ms. Williams responded to questions by **Chairman Duffy** regarding impervious surfaces.

Extensive Board discussion ensued regarding intent of the development, land use regulations, development rights, scrub jay regulations and property owner rights to which Andy Stevenson responded, opposition to taking 25% of resident property to protect animals with **board consensus** to change the language to 5%, 50' buffers, panther overlay, taxpayer costs, property regulations, water district buffer and its costly layers, wetlands, Water Management's Plan, permits, 25' minimum larger width, off-shore excavations, Policy 251, exotic plant removal, OEM costs and funding, ad valorem funds put aside for preservation plan, Policy 1.4.9 - specifically the 75' buffer, septic tank requirements, Potable Water Overlay District, the Half Mile in Best Practices.

There was **board consensus** to leave the matter of the drinking water up to the Water District. Ms. Williams asked for direction related to the potable water overlay. Attorney Derek Rooney asked for Board direction whether to remove all water protections other than the water management overlays, and stated he will get back to the Board with suggestions. **Chairman Duffy** questioned buffer widths under Wetland Categories 3.1.3. Ms. Williams responded in detail.

Lawrence Martin spoke in support of the protection overlay district, and provided notes for the Board.

Diane Davies discussed three points of Environmental Policy 1.4.9.

Andy Dodd proposed changes to the Potable Water Protection Overlay District.

Rick Fried spoke in opposition to SWFWMD objectives.

HM Ridgely read an excerpt from the East County Planning Guide into the record and spoke in opposition to the Natural Resources Element.

Sue Resky spoke in support of the Natural Resource Element.

Debra Highsmith spoke in opposition to the SWFWMD objectives and agreed with the half mile buffer.

Park Pilikian commented on flexibility, property owner rights, drinking water quality, tortoise protection, canal/boater access, and spoke in favor of wildlife but stressed the importance of research.

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

MOTION CARRIED 5:0.

Jeff Ruggieri addressed concerns of the public. Jie Shao commented on residential density issues.

Attorney Rooney commented on agricultural use of Best Management Practices. Mr. Ruggieri commented on his department's achievements regarding protecting the environment.

CC. Commissioner Comments:

Commissioner Loftus moved to reconsider August 18, 2009 vote and requested a response from the applicant.

COMMISSIONER LOFTUS MOVED TO RECONSIDER THE VOTE TAKEN ON AUGUST 18, 2009 ON APPLICATION PP-09-02-02, SECONDED BY COMMISSIONER SKIDMORE

Attorney Charlie Bailey and Dale Johnson were present. Mr. Bailey explained that his client has agreed to an easement and intends to pay for the internal road to support the project. **Chairman Duffy** asked for clarification on whether the applicant is sharing the cost or paying for the road construction. Ms. Johnson responded that the client will pay for the installation of the road. **Chairman Duffy** commented on the Copley Drive plan in regard to the turning radius. Attorney Rooney said Commissioner Loftus has a motion on the floor. Mr. Browne stated the option should be looked at.

MOTION CARRIED 5:0.

Bruce Waldt discussed Toys for Tots and commented on the Sheriff Dept.'s refusal to help with traffic control at events. **Chairman Duffy** advised that budget constraints eliminated this service for all organizations. Mr. Chaplin advised that his organization pays for this service, asked for Board Support, commented on the economy, the importance of toys for the community's children, and the importance of support from community leaders and the Sheriff.

AA. County Administrator:

BB. County Attorney:

ADJOURNED: 1:43 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**