

**BOARD OF COUNTY COMMISSIONERS**

December 15, 2009

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

Members present were: Chairman Starr, Commissioner Cummings, Commissioner Loftus, Commissioner Skidmore, Commissioner Duffy, County Administrator Baltz, Assistant County Attorney Browne, Minutes Supervisor Manley. The following members were absent: None. The meeting was called to order at **9:00 A.M.** followed by the Pledge of Allegiance.

**Chairman Starr** stated the applicant requested that agenda items 1 and 6 be combined and heard in sequence.

**COMMISSIONER LOFTUS MOVED TO MOVE ITEM #6 TO #2 ON THE AGENDA, SECONDED BY COMMISSIONER SKIDMORE**

**MOTION CARRIED 5:0.**

**A. PLANNING AND ZONING PUBLIC HEARING**

(1) **RECOMMENDED ACTION:** Approve transmittal of Petition #PA-09-08-10-LS to the Department of Community Affairs for an Objections, Recommendations, and Comments Report, amending the Charlotte County Comprehensive Plan from Low Density Residential, Medium Density Residential, High Density Residential, Commercial Center, and Preservation to Mixed Use Development of Regional Impact [DRI], for property located north of the Peace River, south of Harborview Road, east of Danforth Drive, west of Interstate 75, in the Punta Gorda area, containing 138.4± acres; Applicant: Peace River Associates, LLC,(et. al.); Commission District I; Legislative. **BUDGETED ACTION:** None

Seann Smith presented petition PA-09-08-10-LS for transmittal to the Department of Community Affairs (DCA) for an Objections, Recommendations, and Comments (ORC) Report, which paralleled packet material and PowerPoint slides.

Attorney Geri Waksler spoke on behalf of the petitioner in support of transmittal.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE AGENDA ITEM A-1, SECONDED  
BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

(6) *RECOMMENDED ACTION: Adopt amendments to the Victoria Estates Development of Regional Impact (DRI) Development Agreement. BUDGETED ACTION: None required.*

Gary Grossman gave a presentation that paralleled packet material.

Geri Waksler spoke in support of approval.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE FIRST AMENDMENT TO  
AGREEMENT 2008-010 AND TO SET A PUBLIC HEARING FOR APRIL 20,  
2010 FOR THIS MATTER, SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

Attorney Browne requested clarification and stated that the hearing on April 20 is for agenda item 7. The motion took care of both agenda items 6 and 7.

(7) *RECOMMENDED ACTION: Set a public hearing for April 20, 2010, at 10 AM or as soon thereafter as it may be heard, to review the Major Modification of the Harborview Development of Regional Impact. BUDGETED ACTION: None*

This item was taken care of with A-6's motion according to **Chairman Starr.**

(2) *RECOMMENDED ACTION: Approve Chairman's execution of a Memorandum of Understanding between Charlotte County and MSKP Town & Country Utility Company (TCU) to establish a bonding*

methodology for the wastewater treatment facility planned for the Babcock Ranch Community. BUDGETED ACTION: None

Seann Smith gave the presentation, explained the purpose of the item, and indicated Staff recommends approval.

Attorney Rob Berntsson spoke in support of the item on behalf of the petitioner.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE AGREEMENT 2009-051, SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

(3) RECOMMENDED ACTION: Approve a resolution adopting Petition #NOPC-09-09-12, amending the Babcock Charlotte Master Development Order to: address traffic monitoring, the boundary of Increment One, and correct scrivener's errors; for property located north of the Lee County line, south of County Road 74, east of State Road 31, and west of the Glades County line, in the East County area, containing 13,630 ± acres; Applicant: Babcock Property Holdings, LLC, A Delaware Limited Liability Company; Commission District I. This is a Legislative hearing. BUDGETED ACTION: None

**Chairman Starr** stated that the item is Quasi-Judicial and called for ex parte. All Board members declared contact and had forms. Seann Smith explained the handouts from the applicant. **Commissioner Cummings** asked for clarification that it is Quasi-Judicial hearing. Seann Smith replied that it was legislative. Attorney Browne stated that it is best to err on the side of caution and requested witnesses be sworn in and explained the need. Minutes Supervisor Manley administered the oath to prospective witnesses.

Seann Smith gave his presentation and explained the purpose of the item.

Attorney Rob Berntsson spoke on behalf of petitioner in support of the item, explained the need for the amendment, commented on handouts, and distributed a letter from the DCA that the

applicant and attorney will address. Attorney Browne requested that discussion be saved for the next item because it does not affect the NOPC and indicated there is some cross-over between items 3 and 4. Mr. Berntsson stated that the primary purpose is to address the future master traffic study updates.

Susie Hackett and Bill Wilcox spoke in support of approval.

Steven Brodken (oath was administered by Minutes Supervisor Manley) spoke in opposition of agenda items 3 and 4.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE RESOLUTION 2090-283,  
SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

(4) **RECOMMENDED ACTION:** Approve a resolution adopting Petition #DO-09-02-01, establishing Increment One for the Babcock Charlotte Development of Regional Impact, north of the Lee County line, south of State Road 74, east of State Road 31, west of the Glades County line, in the East County area, containing 3,051.36± acres; Applicant: Babcock Property Holdings, LLC, A Delaware Limited Liability Company (et. al.); Commission District I. This is a Legislative action. **BUDGETED ACTION:** None

Seann Smith, who had previously been sworn in, gave a PowerPoint presentation, and advised staff recommends approval.

**Chairman Starr** stated that the item was a Quasi-judicial hearing and called for ex parte. **Chairman Starr, Commissioner Duffy,** and **Commissioner Cummings** all had contacts. Rob Berntsson advised he had been sworn in, spoke on behalf of petitioner in support of approval, indicated they continue working on issues with the DCA and FDOT, and requested the BCC move forward with the petition at this time, stating issues addressed with the Regional Planning Council have been met.

Susie Hackett acknowledged she had previously been sworn in and spoke in support of approval.

Minutes Supervisor Manley administered the oath to a representative from Lee County Natural Resources, who spoke about Lee County concerns and requested that certain work to be done by Kitson and Partners be incorporated into this increment.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE RESOLUTION 2009-284, SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

(5) **RECOMMENDED ACTION:** Approve transmittal of Petition #PA-09-09-13-LS to the Department of Community Affairs for an Objections, Recommendations, and Comments Report, amending the Charlotte County Comprehensive Plan from Low Density Residential to RV Park, for property located south and east of the Riverwood Development of Regional Impact, west of SR 776, and north of the Myakka River, in the El Jobean area, containing 20.53± acres; Applicant: G2 ProVentures LLC; Commission District IV. This is a Legislative hearing. **BUDGETED ACTION:** None

Matt Trepal presented the petition based on packet material furnished and stated that Staff recommends approval.

Mr. Trepal responded to **Commissioner Skidmore's** request for clarification to certain lots being substandard, water and sewer capacities, and affect to density.

Attorney Waksler spoke on behalf of the petitioner in support of approval, explained that petitioner is working with all utilities, read the agreement between G2 ProVentures, LLC and Riverwood Community Association, Inc., and entered such item into the record.

**Commissioner Loftus** asked for clarification of gallons used per day. Attorney Waksler responded in detail in regard to sewer and added that the water is by El Jobean Water District.

Attorney Warren Ross spoke on behalf of Riverwood Community Association and indicated the application and petition are supported based upon the agreement between the parties submitted to the record.

Sherry Simmons, a resident of El Jobean, questioned whether the item was Quasi-Judicial. Attorney Browne advised it is not Quasi-Judicial. Ms. Simmons read her written concerns and comments, which she submitted into the record, questioned what happens to various roads and who would pay for infrastructure, and expressed concern of assessments.

Deborah Highsmith commented on concerns of additional safety for larger motor homes and a playground area off SR 776, on park models that become permanent structures, and expressed concern that structures do not become entrenched on small lots.

Beverly Cutter, Randy Spence, and Allen Heise spoke in support of agenda item A-5.

Jim Marshall commented on historical issues that should be dealt with.

Percy Angelo inquired about coastal high hazard areas as it pertains to the Comp Plan. Mr. Trepal responded in detail.

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

**MOTION CARRIED 5:0.**

Attorney Waksler addressed concerns of the speakers, stating any required transportation improvements will be made, park models will be prohibited, public roads within the development will be vacated, no additional density will be requested, and a historical and archaeological survey will be prepared.

**Commissioner Skidmore** inquired about a pro forma for the estimated bed tax revenue generated. Attorney Waksler responded in detail.

**Commissioner Loftus** inquired about electricity utilized by RVs at each site. Ms. Waksler responded that there would be no generators.

**COMMISSIONER LOFTUS MOVED TO APPROVE AGENDA ITEM A-5, SECONDED BY COMMISSIONER DUFFY**

**MOTION CARRIED 5:0.**

**RECESS**

(8) *RECOMMENDED ACTION*: Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments Report. The Amendment is the Smart Charlotte 2050 Comprehensive Plan and related documents. The documents attached to this item are also located at: [http://www2.charlottefl.com/CompPlan/main/about.aspx?message\\_id=Documents](http://www2.charlottefl.com/CompPlan/main/about.aspx?message_id=Documents) *BUDGETED ACTION*: None

Jim Fendrick gave presentation and indicated staff recommends approval.

Richard Woodruff, Attorney Berntsson, Dan Delisi, Attorney Waksler, and Todd Rebol spoke in support of transmittal to DCA.

Deborah Highsmith spoke in support of transmittal to DCA, commented on conservation subdivisions and settlement areas, indicated new comp plans needed to be included, commented on environmental policies, and requested the Board reconsider restrictive language on buffers.

Percy Angelo gave handouts to the Board, commented on issues contained in written concerns submitted for inclusion in the record, and requested changes be made before approval.

Marvin Medintz gave handouts to the Board, commented on issues contained in written concerns from Friends of Cape Haze, and submitted for inclusion in the record.

Rick Fried spoke on behalf of Washington Loop Homeowners Preservation Association, stressed the need to look at the larger picture, and requested the BCC review the item further.

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

**MOTION CARRIED 5:0.**

Commissioner Loftus questioned the water policy.

**COMMISSIONER DUFFY MOVED TO APPROVE AGENDA ITEM A-8, SECONDED BY COMMISSIONER LOFTUS**

**Commissioner Loftus** commented on water policy concerns. Terri Kesner responded in detail regarding normal water usage.

**Commissioner Loftus** commented on Riverwood's water use, expressed concern regarding increased costs to customers and developers, that concerns have not been addressed for years, and referenced a prior conversation with Ms. Kesner where she stated there would be a reduction at the East Port Plant.

Ms. Kesner commented on the monitoring of customer service demands, on reasons numbers have not changed, and that Riverwood uses a considerable amount of reclaimed water.

**Commissioner Loftus** commented on questions previously submitted to which he did not receive answers and indicated he is unable to make a decision without those answers. Ms. Kesner commented on hydrant flushing requirements.

**Commissioner Skidmore** agreed that a great deal of public input was provided for, that many valid concerns have been raised, that those concerns should not be ignored, and that the 16 hour evacuation time should be re-visited.

**Commissioner Loftus** opined that the comp plan is fine in its present state.

**Chairman Starr** asked if the transmittal is final if approved today. Mr. Fendrick commented on opportunities for continued modification, and indicated evacuation times and other outstanding issues would be addressed. **Chairman Starr** asked for the deadline for submittal. Mr. Fendrick replied December 2010.

**MOTION CARRIED 5:0.**

(9) RECOMMENDED ACTION: Approve transmittal of Petition #PA-09-09-14-LS to the Department of Community Affairs for an Objections, Recommendations, and Comments Report, amending the Charlotte County Comprehensive Plan from Limited Development to Village Residential, for property located north of the Lee County line, south of Zemel Road, east of Burnt Store Road, and west of Tamiami Trail (US 41), in the Burnt Store area, containing 101.44± acres; Applicant: Hawks Landing of Punta Gorda, LLC; Commission District II; Legislative. BUDGETED ACTION: None

Seann Smith gave presentation on petition PA-09-09-14-LS per packet material.

Attorney Waksler spoke on behalf of petitioner in support of transmittal to DCA.

Deborah Highsmith asked if the urban services boundary had to be moved to make the development work.

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

**MOTION CARRIED 5:0.**

**Commissioner Cummings** clarified Deb Highsmith's question whether the urban service area boundary line must move to go forward with the project. Seann Smith responded affirmatively.

**COMMISSIONER SKIDMORE MOVED TO APPROVE AGENDA ITEM A-9, SECONDED BY COMMISSIONER LOFTUS**

**MOTION CARRIED 5:0.**

(10) **RECOMMENDED ACTION:** Approve an ordinance adopting Petition #PA-09-04-06-LS, amending the Charlotte County Comprehensive Plan from Agriculture to Mineral Resource Extraction (MRE), for property located north of Bermont Road (CR 74), south of the DeSoto County line, east of Duncan Road (US 17), and west of SR 31; containing 121.17± acres; in the East County Planning District; Applicant: George and Christina Davis; Commission District I. This is a Legislative hearing. **BUDGETED ACTION:** None

Jie Shao presented Petition #PA-09-04-06-LS per packet material and staff report, and indicated three wetland areas would be excluded.

Attorney Waksler spoke on behalf of petitioners in support of approving ordinance adopting Petition #PA-09-04-06-LS, amending the Charlotte County Comprehensive Plan from Agricultural to Mineral Resource Extraction (MRE) for the adopted land use change.

William Gard provided handout material and commented on concerns of radioactive material being stacked less than a mile from the County water supply.

Christina Davis spoke in support of approval.

Courtney Franklin requested clarification of containment, safety, types of radiation, and assurance that it will not get into the water source.

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

**MOTION CARRIED 5:0.**

Attorney Waksler stated she cannot comment on speakers' comments.

**COMMISSIONER SKIDMORE MOVED TO APPROVE ORDINANCE 2009-046, SECONDED BY COMMISSIONER LOFTUS**

There was Board discussion on the proposed Ordinance.

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

**B. CITIZEN INPUT - ANY SUBJECT**

Deborah Highsmith expressed concerns related to the public's last minute suggestions to transmittal of Smart Charlotte and commented on surface water protection districts and reservoir protection districts.

**AA. County Administrator:**

Mr. Baltz commented on procedural issues related to small changes to BCC meetings, whereby a card system will be instituted for Citizen Input starting in January, being more time specific with public hearings, and looked for comments from the Board regarding structure of land use meetings.

**Commissioner Skidmore** stated he had no objection to the card system if the public is made aware of it, disagreed with adding time limits to public hearings, and commented that he enjoys the way last minute items can be added to the Land Use Agenda, but that it should be kept primarily Land Use and flexible.

**Commissioner Loftus** stated that he does not believe a card system for citizens input would be effective as it has been

tried before, and is satisfied with the present way the land use agenda is handled.

**Commissioner Duffy** agreed with the idea of a card system, but thought that setting time limits for public hearings would be difficult, commented that she likes the flexibility of the Land Use Agenda.

**Commissioner Cummings** stated that he does not want to change any procedure currently being done, and that a card system is not effective.

**Chairman Starr** stated that he is agreeable to a card system and with the way the land use agenda is handled, but expressed concern with the number of public hearings all scheduled for 10 AM at the last meeting. There was brief board discussion regarding **Chairman Starr's** concern. **Board Consensus** to institute the card system and leave the land use agenda the way it is.

Mr. Baltz gave a status update on the denial of the water pipeline project, commenting that **Commissioner Skidmore** will be the lead for Charlotte County, that there won't officially be another BCC meeting until January, and added that he will let the Board know if anything new comes up.

**BB. County Attorney: None**

**CC. Commissioner Comments:**

**Commissioner Skidmore** spoke in favor of having evening meetings, of having town hall meetings throughout the county, commented on coast-to-coast prescription card royalties, reducing the human services budget accordingly, and commented on efforts by Lee County to insert lawsuit language into a master development order.

**Commissioner Duffy** commented that Lee County has requested a joint MPO meeting with Charlotte County to discuss several items, one of which is the Babcock Ranch transportation element.

**Commissioner Skidmore** mentioned a comment made by a commissioner about ambulance replacement, indicated that Chief Didio's department had received two new ambulances, and commented on the department's five year replacement plan.

**Commissioner Loftus** voiced his appreciation relating to the new public input card system, and that the additional revenue should go to Vikki Carpenter's office for the general fund.

**Commissioner Cummings** commented on the ambulance replacement plan and related costs.

**Commissioner Duffy** spoke in support of town hall meetings around the county.

**Chairman Starr** supports **Commissioner Skidmore's** idea of human resource budget and use of funds.

**ADJOURNED: 12:25 AM**

Signature on file 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**