

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

FEBRUARY 10, 2004

A regular meeting of the Board of County Commissioners was held at the Murdock Administration Complex in Port Charlotte, Florida. The following members were present: Chairman Matthew D. DeBoer and Commissioners Thomas C. D'Aprile, Adam Cummings, Sara Devos and Mac V. Horton. Also in attendance were County Administrator Bruce D. Loucks, County Attorney René Francis Lee, Chief Deputy Board Services Tommy Q. White, Executive Assistant to the Board of County Commissioners Mary Jane Ackerman and Deputy Clerk Karen S. Mitchell. The meeting was called to order at **9:03 A.M.**

The **invocation** was given by Pastor Ted Hanleck, Peace Lutheran Church, Port Charlotte, Florida, followed by the Pledge of Allegiance to the Flag.

CHANGES TO THE AGENDA

Addition:

**Regular
Business**

Agenda Item P-9, General Services - Approve Bid #04-122, Airpark Drive/Golf Course Boulevard-Watermain/Forcemain Extension, to D. R. Swanson Co. of Port Charlotte, FL, for the base bid amount of \$398,399.40 plus Alternate #2 in the amount of \$2,504.50, for a total of \$400,903.90.

COMMISSIONER CUMMINGS MOVED APPROVAL OF THE ADDITION TO THE AGENDA, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.

I. SPECIAL RECOGNITION

Employee Recognition:

Bruce D. Loucks, County Administrator, and **Commissioner Cummings** recognized the following employees for their service with the County. **Five Years** - George F. Bartlett, III, Firefighter/EMT;

Edward Diaz, Jr., Firemedic; J. Todd Heidenreich, Parks, Recreation & Cultural Resources; Allyn L. Lord, Utilities; and John W. Loukota, Jr., Firemedic; and **Fifteen Years** - James R. Stern, Firemedic; and Walter A. Vatter, Public Works.

Special Employee Recognition:

Mr. Loucks and **Commissioner Cummings** recognized the following employees for Manager/Supervisor Certificate Awards:

LEVEL I

Louis Agarrat	Utilities
Joyce Burke	Environmental Services
Nancy Grube	Facilities Management
Ginny Day Hall	Environmental Services
Linda Johnson	Parks, Recreation & Cultural Resources
Denise McGehee	Environmental Services
Diane Riddle	Utilities
Jodi Struble	Public Works
Gary Thompson	Community Development

LEVEL I & II

Andrew Amendola	Public Works
Diane Gant	Commission Office
Erin Mullen-Travis	Community Development

LEVEL II

Arthur Brown	Utilities
Norma Corso	Utilities
Jim Keller	Parks, Recreation & Cultural Resources
Russ Laughlin	Parks, Recreation & Cultural Resources
Michele Spencer	Employee Relations
Jackie Stevens	Training & Organizational Development
Brian Wenzlick	Utilities

LEVEL III

Rebecca Allen	Tourism
Donald Bernhagen	Environmental Services
Mike Dallenbach	Public Works
Alan Holbach	Public Works
Barbara Kula	Environmental Services

Proclamations:

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FEBRUARY 10, 2004 AS "CHARLOTTE PEE WEE WARRIORS DAY" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. Coach Steve Lowe accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FEBRUARY, 2004 AS "KATHERINE C. FOLTUZ, ARTS AND HUMANITIES COUNCIL ARTIST OF THE MONTH" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. Katherine Foltuz accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FEBRUARY 12, 2004 THROUGH FEBRUARY 14, 2004 AS "FLORIDA FRONTIER DAYS" ON MOTION BY COMMISSIONER HORTON, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Deborah Fabiszak, Historical Center Acting Division Manager, accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FEBRUARY 1, 2004 THROUGH FEBRUARY 7, 2004 AS "PUNTA GORDA ELKS 'AMERICANISM WEEK'" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FEBRUARY 23, 2004 THROUGH FEBRUARY 27, 2004 AS "HAZARDOUS WEATHER AWARENESS WEEK'" ON MOTION BY COMMISSIONER HORTON, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Wayne Sallade, Emergency Management Director, accepted the proclamation.

RECESS: 9:32 A.M. - 9:37 A.M.

(Commissioner Devos was not present for this portion of the meeting.)

II. CITIZEN INPUT - AGENDA ITEMS ONLY

Bill Coy voiced support **Agenda Item P-3, Evaluation of funding options for land acquisition in Murdock Village** and asked the Board to come to a decision as soon as possible.

Marvin D. Dunlevy said he lived in South Gulf Cove, he was confused on how MSBUs are supposed to be used and asked why the residents of his area were being singled out to pay for the Englewood Beach when it should be the whole County.

Gail Giles spoke on behalf of the Lemon Bay Conservancy in support of **Agenda Item P-7, Referendum for Environmental Land Acquisition (ELAAC)**.

Grace Amodeo voiced support of **Agenda Item P-7, Referendum for Environmental Land Acquisition (ELAAC)**.

Bob Starr spoke in support of **Agenda Item P-7, Referendum for Environmental Land Acquisition (ELAAC)**, explained the map ELLAC prepared was done to put together a cohesive environmental inventory of the County but they had never ranked the properties for purchase and commented on many reasons why this was so important.

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

Dick Loftus spoke in support of **Agenda Item P-3, Evaluation of funding options for land acquisition in Murdock Village** and commended the Board on their desire to incorporate energy conservation methodologies.

Anne Wilcox, Edison Community College Foundation, spoke in support of **Agenda Item P-6, Board approval of a three-year commitment of \$30,000 per year to the Edison Community College Nursing Program** and said this would put them much closer to their goal of \$360,000 for the basic nursing program.

RESPONSES TO CITIZEN INPUT

Chairman DeBoer referred to the Board workshop agenda for Tuesday, April 22, 2003 and read his notes: "We support in general the resolution to place the issue on the ballot, we ask that it be brought back to the BCC with a prioritized list of purchases with allocations for each purchase and a plan to appropriate the management of the lands, in other words make a transition of the five mill levy to appropriate monies for the management of those lands." **Chairman DeBoer** recalled because of the scrub jay issue coming up that would be the highest priority, the Board asked him to write and ask ELAAC if they wanted to do the prioritized list, said basically he guessed the answer was no, the Board knows the importance of preserving environmental lands but they were trying to balance the financial problems in order to do it, asked everyone to relax because the Board endorses this and hasn't changed it's mind and said it appears the Board will have to establish the prioritized list because the money will only go so far. **Commissioner Devos** recalled the Board said it needed to be a grass-roots effort and not be Commission led and opined with the Board doing the list it presents a little conflict.

III. COMMITTEE VACANCIES

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

Affordable Housing Advisory Committee

- one (1) member-at-large representative for a three year term

Beaches & Shores Advisory Committee

- one (1) resident of Charlotte County District #4

Construction Board of Adjustments & Appeals

- one (1) alternate representative appointment for a three year term

Construction Industry Licensing Board (CILB)

- one (1) Consumer Advocate who has resided in Charlotte County for the past two years to fulfill an unexpired term ending February, 2007. Appointment on agenda.

Charlotte Harbor Redevelopment Agency

- one (1) appointee who must reside in the community redevelopment area

Parks and Recreation Advisory Board

- one (1) appointee who must reside in District #5

Tourist Development Council

- one (1) Tourist Industry representative for a four year term

IV. REPORTS RECEIVED AND FILED

None.

V. CONSENT AGENDA

COMMISSIONER CUMMINGS MOVED APPROVAL OF THE FOLLOWING ITEMS, SECONDED BY COMMISSIONER HORTON. Chairman DeBoer referred to Agenda Item C-1 and pointed out the merits of the cooperative agreement with the Cultural Center. Chairman DeBoer referred to Agenda Item M-2, said the folks at Agricultural & Natural Resources Advisory Committee (ANRAC) have been very upset about not getting information timely so they can make a recommendation to the Board, he was assured yesterday ANRAC will have the information with time to make a recommendation before this hearing and he was depending on that. CALL ON THE MOTION: DECLARED UNANIMOUS.

CLERK OF THE CIRCUIT COURT

A. Finance Division

Agenda Item A-1, Adoption of Clerk's Finance Memoranda

Memorandum #1 Status of Contingency Reserves - FY 02/03

Memorandum #1A Status of Contingency Reserves - FY 03/04

Memorandum #2 Total Disbursements for the period January 21, 2004 through February 3, 2004 in the amount of \$10,189,132.86

B. Minutes Division

Agenda Item B-1, Approval of Minutes

9:00 A.M. January 13, 2004 Regular BCC Meeting
3:55 P.M. January 27, 2004 Executive Session

BOARD OF COUNTY COMMISSIONERS

C. Administration

Agenda Item C-1

Agreement #2004-008 for an Instructional Space Sharing Agreement between the Cultural Center of Charlotte County, Inc., lessee of Charlotte County property, and the School Board of Charlotte County, Florida.

D. County Attorney

Agenda Item D-1

Resolution #2004-018 correcting a scrivener's error in the legal description for Ordinance 99-067 and Ordinance 99-067A.

Agenda Item D-2

Contract #2004000137, Medical Examiner Services to Riazul Imami, M.D., Ph.D. to restate Contract 2002000001 to allow the collection of an administrative fee in the amount of \$25 for the release of bodies to be cremated, dissected, or buried at sea.

E. Community Development

Agenda Item E-1

Resolution #2004-019 amending Resolution #88-83 extending the buildout date for the Murdock Increment I Development of Regional Impact (DRI) from June 14, 2003 to June 13, 2008.

F. Economic Development

Agenda Item F-1

Agreement #2004-009 for an Interlocal Agreement with the Charlotte County Airport Authority (CCAA) for a joint marketing effort.

G. Economic Development

Item pulled.

H. General Services

Agenda Item H-1

Change Order #1, contract #04-086, Purchase of three (3) Passenger Busses from Getaway Marketing of Bradenton, FL per the FDOT Florida Vehicle Procurement Program, Contract #FVPP01-NB in the amount of \$10,500 with a revised total contract of \$142,605.

Agenda Item H-2

Rescind Bid #03-415, Taxi Cab Service to Charlotte County Yellow Cab due to failure to secure required insurance.

Agenda Item H-3

Bid #04-116, Miscellaneous Distribution/Collection System Supplies with various firms for the purpose of purchasing materials on an "as required" basis up to and including December 31, 2004 with option to renew for two additional one year terms.

Agenda Item H-4

Work Assignment EP, Contract 00-08, Engineer of Record for CCU with Dufresne-Henry, Inc. to provide engineering services relating to the Rotonda Wastewater Reclamation Facility Upgrade.

Agenda Item H-5

Change Order #5, Contract #03-331, West County Paving Program with APAC Southeast in the amount of \$1,452,763.45 for a revised total contract amount of \$6,519,494.15 and time extension of 160 calendar days to the contract time.

Agenda Item H-6

RFP #04-108, CEI Services - Veteran's Boulevard with Johnson Engineering of Port Charlotte, FL to provide services to complete the 4-laning of the roadway from Toledo Blade Boulevard to Peachland Boulevard and **authorize** the Chairman to sign the contract upon successful negotiations by the Committee provided the total amount does not exceed \$200,000.

Agenda Item H-7

Property Deletions for February, 2004; and declare property inventory items (property for online auction) as surplus property; and authorize the Purchasing Department to proceed with disposal of items via an online auction service with Gov-Deals, Inc.

Agenda Item H-8

Bid #04-091, Greater Port Charlotte Storm Water Structure to Pittsfield Construction, Inc. of Port Charlotte, FL for the total amount of \$1,219,416.45.

J. General Services - Real Property Services

Agenda Item J-1

Resolution #2004-020 authorizing the Chairman to execute a County Deed releasing portions of two 10-foot wide utility and drainage easements located in Lots 8 and 9, Block 1518, Port Charlotte Subdivision, Section 15, Charlotte County, Florida to Robert and Renee Maietta.

Agenda Item J-2

Resolution #2004-021 authorizing the Chairman to execute a County Deed releasing portions of two 10-foot wide utility and drainage easements located in Lots 23 and 24, Block 958, Port Charlotte Subdivision, Section 17, in Charlotte County, Florida to Christopher and Tina Maler.

Agenda Item J-3

Resolution #2004-022 authorizing the Chairman to execute a County Deed releasing a portion of a 12-foot wide utility and drainage easement located in Lot 3, Block 113, Port Charlotte Subdivision, Section 10, in Charlotte County, Florida to John S. and Deborah Knezevic.

Agenda Item J-4

Resolution #2004-023 authorizing the Chairman to execute a County Deed releasing portions of two 10-foot wide utility and drainage easements located in Lots 24 and 34, Block 1092, Port Charlotte Subdivision, Section 16, in Charlotte County, Florida to Palm Isles, L.L.C., a Florida limited liability company.

L. Public Safety

Agenda Item L-1

Agreement #2004-010 for a rental agreement with Crown Castle GT Company LLC, Babcock Site, in the amount of \$5,000 annually for siting and tower space requirements required for the County 821 MHz Public Radio System expansion project.

M. Public Works

Agenda Item M-1

Resolution #2004-024 authorizing the execution of a Local Program Agreement (LAP Agreement #198482-1) **Agreement #2004-011**, with the Florida Department of Transportation (FDOT) for the design and construction of sidewalks on Midway Boulevard from Victoria Avenue to Lakeview Boulevard.

Agenda Item M-2

Set a Public Workshop for February 24, 2004 at 2:00 P.M. to discuss a proposed South County Stormwater Utility Unit and a proposed Countywide Maintenance Dredging Program.

N. Utilities

Agenda Item N-1

Resolution #2004-025 amending Resolution #2003-191 due to a scrivener's error.

ITEMS OF DISCUSSION

H. General Services

Agenda Item H-9, Approve Change Order #6 to Contract #03-290, Toledo Blade Stormwater Facility with General Contracting Services, Inc. to increase the contract in the amount of \$10,658.12 with a revised total contract of \$413,945.11

Chairman DeBoer noted the change increases the contract by 40%, this is the sixth change order and asked for clarification on the previous change orders. Thomas F. O'Kane, Jr., P.E., Public Works Director, said the main one was Change Order #3 for about \$92,000 due to a significant change to get the ponds to operate properly in accordance with the permit, the project was done and this will close out the contract. **Chairman DeBoer** asked why \$1,100 of sod was needed as it was enough to sod 35 residential homes. Mr. O'Kane explained it was a very large area around the three ponds. **Commissioner Cummings** asked if the interpretation of the permit regulations change part way through the project. Mr. O'Kane explained staff went in one direction with a standard FDOT transportation design but the permitting agency felt it wasn't satisfactory and clarified it was more of a mutual decision. **Commissioner Horton** asked who did the design. Mr. O'Kane said it was done in-house. **Commissioner Horton** asked if sod was allowed for in the original design. Mr. O'Kane said yes but not enough. **Commissioner Horton** stated he didn't like change orders and staff needs to do a better job up-front. **Chairman DeBoer** said he was going to call for a motion to approve but he thought maybe staff needed to take a better look

at this and get back with the Board members individually. **COMMISSIONER DEVOS MOVED APPROVAL OF AGENDA ITEM H-9, SECONDED BY COMMISSIONER CUMMINGS. CALL ON THE MOTION: CHAIRMAN DeBOER AND COMMISSIONERS CUMMINGS, D'APRILE AND DEVOS VOTED "YES" AND COMMISSIONER HORTON VOTED "NO." MOTION CARRIED: (4:1).**

K. Human Services

Agenda Item K-1, Approve the recommendation of the selection committee and the Affordable Housing Advisory Committee to award SHIP funds to two developers of multi-family rental housing for a total amount of \$300,000

Chairman DeBoer recalled yesterday's discussion on the extraordinarily large increase in the utility fees being applied to Charlotte Crossing and Deer Run, said the answers they got yesterday morning on Deer Run had to do with a 10% discount which didn't match the amount of the increase, when Charlotte Crossing applied for development permits the fees quoted back then were much different than what they're paying today, and yesterday they had a long discussion on the bond covenants not allowing things but reiterated a majority of the Board members were still expecting some explanations on this. **Commissioner Devos** asked if they could pull this. James Sweeney, Housing Coordinator, said Deer Run will go forward and close on their tax exempt bonds at the end of April, and Charlotte Crossings really needs to have the County contribution of SHIP funds in order to compete for the other state and federal resources they require to make this project go but there was still time to resolve the issue on the water/sewer hook-up fees. **Chairman DeBoer** asked if a two week delay was acceptable. Mr. Sweeney said yes. Thomas R. Keith, Acting CCU Director and Assistant County Administrator, explained staff was working on the issue of past fees quoted and where those may have come from and they will report back to the Board within two weeks. **Commissioner Devos** said she wanted staff to discuss this with her before the next Board meeting. **Commissioner D'Aprile** agreed with delaying this, said these people have based their proposals on those numbers, this has been a burden to these people and he hoped CCU can bend on this to get it resolved. **COMMISSIONER D'APRILE MOVED TO DELAY THIS ITEM FOR TWO WEEKS, SECONDED BY COMMISSIONER HORTON.** **Chairman DeBoer** said the Board's contribution to the Pines in Punta Gorda of about \$1,345 per unit was substantially

more than they were making to either of these, SHIP money was going to dry up very fast adversely affecting other projects, the Board has taken a commendable stand to do more about affordable housing, Charlotte Crossings was specifically for the elderly and opined this might get changed from elderly to family to get more income coming in. **Commissioner Devos** said that was her concern as well. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

VII. PRESENTATION AGENDA

10:00 A.M.

Agenda Item Q-1, Southern Water Use Caution Area - Presentation by Gene Heath, Assistant Executive Director SWFWMD, of Recovery Strategy to address water resource concerns in the Southern Water Use Caution Areas (SWUCA)

Gene Heath, SWFWMD Assistant Executive Director, gave a brief slide presentation which highlighted the detailed material titled "Southern Water Use Caution Area" and "Southern Water Use Caution Area Recovery Strategy."

IX. PUBLIC HEARING AGENDA

10:00 A.M.

Agenda Item U-1, Environmental Services - Consider an Ordinance amending Chapter 4-4, County Code, combining the West Charlotte Sanitation Unit and the Charlotte Sanitation Unit into one unit called the Charlotte County Sanitation Unit (Proof of Publication was in Order.)

James A. Thomson, Environmental and Extension Services Director, explained the proposed ordinance was being done for several reasons: the same franchisee provides service to both units, the collection rate was the same for both units, and customer savings would be realized by creating one set of books for both districts and reducing rate case expenses and administrative costs. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2004-006, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.**

COMMISSIONER DEVOS MOVED TO TAKE AGENDA ITEMS P-6 AND P-7 OUT OF ORDER, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.

RECESS: 10:45 A.M. - 10:55 A.M.

VI. REGULAR AGENDA

P. Regular Business

Agenda Item P-6, Board of Commissioners - Board approval of a three-year commitment of \$30,000 per year to the Edison Community College Nursing Program

Chairman DeBoer explained there have been a couple of changes since the first time the Board was approached about this, the State has allowed Dr. Land to move ahead with a three year versus a five year commitment, Dr. Land has received allocation for a new full-time position for one of the professors in the program which lessened the amount of money she needed, Dr. Land still has a number of students on a waiting list and if the Board approves the three-year commitment Dr. Land will start the enrollment in May of this year. **Commissioner Devos** said one of the Board's primary goals with economic development was the encouragement of local businesses, they were facing a shortage of nurses in the health care industry, and she felt this was a wonderful opportunity to 'walk the walk' by supporting this. **Chairman DeBoer** explained generally people going into nursing go for the two year degree program in Lee County, they then intern in Lee County and end up being hired by the hospitals there, this has caused a serious nursing shortage in Charlotte County, and this proposal would help provide better health care for our citizens. **Commissioner Horton** asked what was currently allocated. **Chairman DeBoer** responded they have \$20,000 allocated this year so they need an additional \$10,000 this year and then during the budget cycle work on the \$30,000 for each of the next two years. **COMMISSIONER HORTON MOVED APPROVAL OF THE THREE COMMITMENT OF \$30,000 PER YEAR TO THE EDISON COMMUNITY COLLEGE NURSING PROGRAM, SECONDED BY COMMISSIONER DEVOS.** **Commissioner D'Aprile** said he has no problem with educating nurses we need in this community but he felt it wasn't the obligation of the County to supplement a position and he would have preferred a portion of this money be given to students in our community to have the option to be part of this program. Mrs. Wilcox explained currently our students

were going to nursing programs in Sarasota, Lee and Collier Counties because they can't receive their RN in Charlotte County and this was a new program for 24 students but there were no State funds available for this program. David Klein, M.D. clarified this was an opportunity to exclusively help students from Charlotte County but they need people to teach, and the foundation has funding to help with tuition expenses but they need help to get the professors. Mrs. Wilcox added the college still has an additional \$90,000 to raise in private funds to make this program work this year and she was confident they can do that but the majority of this money has been raised through private funding.
CALL ON THE MOTION: DECLARED UNANIMOUS.

Agenda Item P-7, Board of Commissioners - Referendum for Environmental Land Acquisition (ELAAC)

Chairman DeBoer summarized he felt there were two things they need to do today, one to direct the County Attorney's Office to draft up the language for the ballot so it could be officially approved by a resolution, and the second was does the Board still want the priority stated in the language for scrub jay habitat or do they want to do an accompanying resolution like they did with sales tax where the Board prioritizes all the environmental acquisitions as discussed earlier. **Commissioner Cummings** said he thought they should restate the direction the Board gave at the workshop last spring which was to do the resolution, he didn't object to doing the prioritizing but he thought ELAAC wanted to do it, his main thing was getting the referendum written up, he assumed the County Attorney's Office would work with ELAAC on mutually acceptable language and he agreed with the concept of the referendum but opined the more specific it was the better chance it would be passed. **Chairman DeBoer** summarized what the Commissioner wanted was a generic ballot question. **Commissioner Cummings** concurred and reiterated he felt ELAAC wanted to do the prioritizing. **Commissioner Horton** said he wanted to see something very complicated, ELAAC's request was reasonable but scrub jay mitigation was a problem they need to overcome immediately, there may be some other alternatives to the County buying up everything in the County and in addition to buying lands for ELAAC the referendum should include buying what's necessary for scrub jay mitigation on individual lots and the indebtedness due to the phosphate battle. **Chairman DeBoer** summarized **Commissioner Horton** wanted

all possible purchases listed. **Commissioner Horton** said yes. **Commissioner Devos** said she supported the referendum but she felt it needed to be specific, they need to educate the community regarding the scrub jay mitigation because the community thinks it's ridiculous there's a \$20 million price tag for scrub jays, noted the sales tax referendum was successful because the projects were itemized, said another issue was the Children's Service Council, they need to do their homework to ensure success of the ballot issues, she did have reservations about putting it on the referendum in November and she supported the effort but she didn't know if the time is right. **Commissioner D'Aprile** opined if they have a referendum it should be kept simple to help the voters understand and including scrub jay habitat might be premature because there are property owners willing to sell their land specifically for scrub jay habitat. **Chairman DeBoer** asked if he preferred a generic ballot. **Commissioner D'Aprile** said yes. **Chairman DeBoer** said it appeared they were divided on this; he didn't have a problem with the generic ballot question; suggested an accompanying resolution that states the Board's intention to expend the monies with staffing coming back with the total dollars necessary for scrub jay and total dollars necessary for what ELAAC presented and leave the list of properties there so they can compare the two; and suggested rather than prioritizing them they could allocate in the resolution a certain percentage to scrub jay mitigation and a certain percentage to the rest of the list based on the numbers they get from staff. **Commissioner Cummings** said he thought the scrub jay habitat plan was incorporated into the ELAAC map. Bob Starr nodded yes from the audience. **Commissioner Cummings** suggested the referendum could be to adopt the ELAAC map with the revenues going toward acquisition of lands on that map and opined that might give a clearer picture to the public of where the money would be spent. Bob Starr nodded agreement with **Commissioner Cummings**. **Commissioner Devos** opined it was important that the public understands exactly what the Boards wants to accomplish and asked if ELAAC had a budget for educating the public because that was paramount to being successful. **Commissioner Horton** said he wasn't opposed to ELAAC's proposal but he didn't think it went far enough, he was willing to support ELAAC's proposal which he thought was half a mill which would generate roughly \$5 million annually, he didn't know how many years they were going to do this and opined these were all questions they needed to deal with but they could do so

in the resolution. **Chairman DeBoer** summarized the only thing they have consensus on was directing the County Attorney to put a generic ballot question together but beyond that support was going to be contingent on having the particulars and said he wasn't in favor of adopting a general map he didn't have any specifics on because it was a prescription for failure. **COMMISSIONER DEVOS MOVED APPROVAL TO DIRECT THE COUNTY ATTORNEY TO PUT TOGETHER A GENERIC BALLOT QUESTION TO BRING BACK TO THE BOARD, SECONDED BY COMMISSIONER HORTON.** **Commissioner Devos** said when this comes back to them she hoped they would have discussion on the questions raised today like educating the public and the number of items that will be on the ballot. **Commissioner D'Aprile** asked if it was possible to include an ELAAC representative be part of drafting the referendum wording. Attorney Lee responded affirmatively. **Chairman DeBoer** clarified the taxing authority was the County Commission and they would be held accountable. **CALL ON THE MOTION: DECLARED UNANIMOUS.** **Chairman DeBoer** asked staff to get all the necessary information back to them so they can have a discussion. **Commissioner Cummings** added they need to expedite this but it was difficult to develop a campaign plan without knowing what tools would be available. **Commissioner Devos** agreed this needs to be done quickly but disagreed with the comment about not being able to have a plan. **Chairman DeBoer** asked if the resolution draft could be ready by the next meeting. Attorney Lee said she would try for two weeks.

Agenda Item P-1, Administration - Approve the request to Lee County for \$1,000,000 for 04/05 budget year to continue phosphate litigation

Chairman DeBoer said along with approval of this item he was asking the Board to also approve for the Chair to send out letters to all the neighboring counties and others who could offer financial support. **COMMISSIONER HORTON MOVED APPROVAL AS STATED BY CHAIRMAN DeBOER, SECONDED BY COMMISSIONER CUMMINGS.** **Commissioner Cummings** suggested personal visits and presentations would work even better. **Chairman DeBoer** agreed. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Agenda Item P-2, Budget - Discuss Budget Amendments and Budget Transfer as a result of the January 27, 2004 Executive Session where it was voted to approve an additional \$1.5 million to address the cost of the Phosphate Challenge

COMMISSIONER DEVOS MOVED APPROVAL OF AGENDA ITEM P-2, SECONDED BY COMMISSIONER CUMMINGS. Chairman DeBoer requested clarification on the timeline for the \$1.5 million in terms of how it's applied and when they could expect the monies to go out of our coffers because he wanted to make sure they were funding the full amount needed to continue the fight. Attorney Lee responded she thought this takes them out to May. **Chairman DeBoer** said that's only a short time from now and then they'll need money again and they need to start getting everything lined up to fund the rest of year. **Commissioner Cummings** said most of his discussions have focused on trying to get reimbursement dollars for their neighbors' next year budgets so yes they'll still end up financing the other \$1.5 million like the Chair referenced but the idea was to get commitment from our neighbors that they will help either reimburse us or pay some of those bills in such a way it reduces Charlotte County's payments out. **Commissioner Horton** said he won't support this for valid and fiscal reasons, they'd already spent their budget that should have lasted to 2005, opined they won't ever stop phosphate only regulate it, said he wasn't willing to deficit spend any longer and he felt they'd missed the golden opportunity regard legislative support. **Commissioner D'Aprile** said he somewhat agreed with **Commissioner Horton** but they were fighting an important battle for our community, he was so angry with their surrounding counties who think it's a great fight but don't offer any financial funding, he will stick with his commitment to fight this but they need to be united and reiterated they need to get monetary support. **Chairman DeBoer** said he and **Commissioner Cummings** really need to push the negotiating part of this, he would give his comments on the packet they were given at the Executive Session to Attorney Lee, the crucial part is how they bring in the other counties affected by this and reiterated they were at point where they really have to make the push. Attorney Lee reported the Board would be getting an update on the national campaign shortly and there was a global settlement discussion scheduled for March 3, 2004 to present the protection plan the Board had seen in Executive Session to IMC and its attorneys. **Chairman DeBoer** suggested regarding national

publicity they need to draw comparisons to some of the things that happened like in south Texas where the government failed to protect the people. **Commissioner Cummings** agreed because national level environmental support was very lacking. **CALL ON THE MOTION: CHAIRMAN DeBOER AND COMMISSIONERS CUMMINGS, D'APRILE AND DEVOS VOTED "YES" AND COMMISSIONER HORTON VOTED "NO." MOTION CARRIED: (4:1).**

Agenda Item P-3, Budget - Evaluation of funding options for land acquisition in Murdock Village

Chairman DeBoer opined everyone has already decided how far they were willing to go with this. **Commissioner Cummings** said previously he didn't support this but now he was ready to support the \$10 million which was Option C. **Commissioner Devos** said she supported Option C because it gives them the ability to go through Phase 4 which would allow the County to acquire up to 475 acres which the developers have said they want and her only concern was the increasing property values. **Commissioner D'Aprile** said he would support Option C but he would not go further without a developer. **Commissioner Horton** said he believed in the project's vision but not in the implementation plan, he still felt they were going to have a shortfall and he won't go further in debt without a partner or a plan because it wasn't fiscally responsible. **Chairman DeBoer** asked the number of homes in the next phases of condemnation. Paul Payette, Real Property Services Manager, responded eight homes in Phase 1, one home in Phase 2 and the bulk were in Phases 5 and 6. **Chairman DeBoer** said he could move ahead with this if it's done incrementally, his preference was Option B and asked if Phase 2 was completed by May 4, 2004 when would Phase 3 begin if you had the money or do phases overlap each other. Mr. Payette said the only exposure they would have for Phase 3 would be the amount of appraisal money which would be at maybe \$100,000. **Chairman DeBoer** summarized even if they approve Option C they would only have 200 acres by May. Mr. Payette concurred. **Chairman DeBoer** said he would prefer things be done incrementally and for Mr. Payette to come back to the Board and tell them that by this certain date he would need the money for the next phase and give the Board an update before they move ahead with that next phase. **Chairman DeBoer** added he also prefers they do not do eminent domain on any homes until they get a developer onboard and find out how that developer was going to partner with the County and

reiterated if the Board approves \$10 million it's to be used for willing sellers only. Mr. Payette clarified regarding the \$10 million, they projected that through the end of the fiscal year which was September 30, 2004. **COMMISSIONER DEVOS MOVED APPROVAL OF OPTION C AS PRESENTED ON THE GOLDENROD, SECONDED BY COMMISSIONER CUMMINGS. CALL ON THE MOTION: CHAIRMAN DeBOER AND COMMISSIONERS CUMMINGS, D'APRILE AND DEVOS VOTED "YES" AND COMMISSIONER HORTON VOTED "NO." MOTION CARRIED: (4:1).** Bruce D. Loucks, County Administrator, recalled at the workshop the Board requested staff bring back information on a redevelopment manager, explained the position was set up to do redevelopment activities throughout the County but focusing initially on Murdock Village, the airport, the regional commerce park and the Charlotte Harbor CRA. **Commissioner Devos** said she had wanted someone who had specific experience with something of the magnitude of Murdock Village, and opined those skills could also be used for the airport overlay as well but she felt a different set of skills was needed for the Charlotte Harbor CRA and other projects. **Chairman DeBoer** said if Mr. Loucks was ready to have this position approved then he was ready to vote in favor of it. **Commissioner Horton** agreed. **COMMISSIONER D'APRILE MOVED APPROVAL OF THE POSITION, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.** **Commissioner D'Aprile** asked who would be responsible for the qualifications of this individual. Mr. Loucks responded the position would report to Administration, there was a strong linkage between economic development and community development, and in the course of doing the job they were going to make sure this position has the authority to do what needs to be done in the other areas of the organization but this would be re-evaluated as this position evolves and the County moves forward on their initiatives. **Commissioner D'Aprile** asked how this individual would be evaluated. Mr. Loucks said this individual would be evaluated based on the goals and objectives set for this person to meet. **Commissioner D'Aprile** agreed and opined these needed to be set out in his or her contract. Mr. Loucks said this would be a regular employee and would go through the same evaluated process that all the directors go through.

Agenda Item P-4, Board of Commissioners - Appoint David Hopkins to the Construction Industry Licensing Board representing the Consumer Advocate category

COMMISSIONER CUMMINGS MOVED APPROVAL OF AGENDA ITEM P-4, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.

Agenda Item P-5, Board of Commissioners - Discussion and vote on Expressway Authority

Chairman DeBoer reported there'd been some discussion on this at the Metropolitan Planning Organization (MPO) yesterday, explained there was still a lot of discussion as to where this was going to go, FDOT feels at this point it's just I-75 and the 275 beltway issue was not part of it, and asked if they want their lobbyist to support this legislation for Lee and Collier Counties with some kind of amendment to this giving Charlotte County the option to be put back in. **Commissioner Cummings** opined the request to support Lee and Collier Counties seemed reasonable; it was good to have our support contingent on this group maintaining Lee and Collier Counties Commissions' support; noted the bill doesn't say Charlotte County can't join but the language should explicitly state Charlotte County has the ability to join later; and added there were two studies coming in for the Burnt Store Corridor and I-75 that should give better demand projections over the long-term. **Commissioner Devos** agreed our support was important. **COMMISSIONER DEVOS MOVED APPROVAL TO TELL THEIR LOBBYIST CHARLOTTE COUNTY WILL SUPPORT THIS CONTINGENT ON THEM KEEPING LEE AND COLLIER COUNTIES IN THE BILL AND THAT AN AMENDMENT BE ADDED THAT ALLOWS NEIGHBORING COUNTIES THE ENTRY INTO THE AUTHORITY, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.**

Agenda Item P-8, Board of Commissioners - Discussion of Alarm Ordinance

Chairman DeBoer said he put this on the agenda, explained Dave Gaylor has met with John Davenport and then met with him, an agreement has been reached on the problems with the alarm ordinance, and the problem was they haven't called out the administrative authority that the Sheriff's Office has over this ordinance. **Chairman DeBoer** stated the ordinance expires in November, 2004 so it has to come back to the Board; suggested

they allow the Sheriff's Office to enter an agreement with the School Board that waives the \$8,000 of penalties accumulated through March 31, 2004 and also allows them to vary what they consider the definition for sites clarifying one school campus had to register 40 times because of the definition; and clarified this would allow the Sheriff's Office to make that call and allow the School Board to use the \$8,000 to correct the problems. **COMMISSIONER DEVOS MOVED APPROVAL AS STATED BY CHAIRMAN DeBOER, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.**

Agenda Item P-9, General Services - Approve Bid #04-122, Airpark Drive/Golf Course Boulevard - Watermain/Forcemain Extension, to D. R. Swanson Co. of Port Charlotte, FL for the base bid amount of \$398,399.40 plus Alternate #2 in the amount of \$2,504.50, for a total of \$400,903.90

Chairman DeBoer explained the problem this morning was he didn't get a sheet showing Additions to the Agenda, what he got was a whole new sheet for this page of their agenda showing this item as P-9 versus X-1 which was why he didn't have it, he was tied up in meetings all day yesterday and X-1 was in put in his file instead of on top of it, so he does have the paperwork but he didn't know it was in there. **Commissioner Devos** said she agreed the agenda packets aren't organized real well right now, she didn't know what's going on but she's finding things in a lot of weird places in her packet because of the way the agenda was currently set up, she felt it just wasn't flowing together real well and hoped staff would look into this. **Chairman DeBoer** said he'd made a note of that also and he also thought it was weird to have the presentation take precedence over a public hearing, so they'll get it worked out.

Kimberly A. Corbett, Purchasing Director, briefly reviewed the goldenrod, explained this was related to the Vetter case, 15 days was needed prior to the start and they were anticipating substantial completion by the end of May. **Commissioner Horton** noted he received this about 8:30 A.M. this morning and asked if this was crucial. **Chairman DeBoer** explained this was a stipulation in the settlement agreement and they have to have it installed by June 1, 2004. **Commissioner Horton** said if this was a requirement why did they get it at the last minute. Bruce D. Loucks, County Administrator, explained they wanted to fast-

track this through the process to ensure completion by June 1, 2004. **Commissioner Horton** asked when this was settled. Attorney Lee responded December but there was a lot of paperwork and they just received the order yesterday. Mrs. Corbett clarified 15 days was needed prior to commencement and 90 days to obtain substantial completion so time was essential. **COMMISSIONER D'APRILE MOVED APPROVAL OF AGENDA ITEM P-9, SECONDED BY COMMISSIONER DEVOS.** **Chairman DeBoer** asked staff to check with legal, said over the weekend he bumped into one of the partners in the settlement agreement, the partner wasn't concerned with what's in here as the alternate so it may not even be needed and staff needs to make sure they stay in touch with Legal on this one because there's some infighting going on and they may have trouble getting the easement needed to go into the property. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

VIII. CITIZEN INPUT - ANY SUBJECT

Bob Starr clarified the Board already has the ELAAC valuations and rankings information which should save staff time, agreed on the need for planning, said what needs to happen is a packet will be formed which he will probably do, he will resign from ELAAC so there won't be any Sunshine violations but what he needs is the hard copy of the referendum before he can do that so time was of the essence and he has a back-up copy of the rankings if the County can't find it.

Kendall Leach, Rotonda Sands Association Treasurer and Rotonda Meadows Village Association Director and Treasurer, said all of the Rotonda segments have central water, all have sewer except the Sands and the Meadows, they have been working with the County, today he wanted to verify for the Board they really want the sewer extended into Rotonda Sands and Rotonda Meadows, the membership was fully aware of this and they support it. Mr. Leach reported Mr. Saunders of CCU told him the engineering would take place in 05/06 and the construction starting and completed in 07/08, the members all hope that the time table will stand or be moved up if possible, and along with the sewer expansion there will be an aggressive MSBU program for replacing the road crossing pipes followed by the paving program.

RECESS: 12:26 P.M. - 2:05 P.M.

(Executive Assistant Joann Dillon replaced Executive Assistant Mary Jane Ackerman and Supervisor of Minutes Caroline W. Lounsbury replaced Deputy Clerk Karen S. Mitchell for this portion of the meeting.)

X. PLANNING AND ZONING AGENDA

W. 2:00 P.M. PETITIONS - PLAN AMENDMENT AND REZONINGS

Future Land Use Map Amendments: Ordinances, Text Amendments, Amendments to Chapter 3-9, County Code, Plat and Street Vacations (These are legislative hearings which must meet the "fairly debatable" legal standard.)

Rezoning: Notice of Proposed Change, Substantial Deviation From a Development Order, Transfer Development Rights, Special Exception to Expand Existing Business, and Plats (These are quasi-judicial hearings which require disclosure of "ex-parte" communications and sworn testimony. Findings must meet the "substantial competent evidence" legal standard that the proposal is consistent with adopted policy. Allows cross-examination of witnesses and rebuttal.)

(Attorney Lee administered the oath to prospective witnesses.)

Agenda Item W-1, PA-03-11-38-LS, District IV (Proof of Publication was in Order.)

Gary Thompson, Planner II stated this petition is requesting a large-scale plan amendment from Mixed Use and Low Density Residential to Commercial Center for 17.11+ acres owned by the KAPT Limited Partnership. Mr. Thompson stated the applicant is requesting the large-scale plan amendment so that they may pursue commercial development on the site. Mr. Thompson stated the site of the proposed change has vacant lots located to the north and this area has a Low Density Residential FLUM designation with Residential Single-Family 3.5 zoning. Mr. Thompson stated a Florida Power and Light transformer site is located to the west of the site, with a small portion of vacant residential located along the upper west side. Mr. Thompson stated the transformer site has a Mixed Use FLUM designation with Industrial Light zoning and the residential is Low Density Residential FLUM and RSF 3.5 zoning. Mr. Thompson stated that

vacant land is located to the east of the site and has a Low Density Industrial FLUM designation with Industrial Light zoning. Mr. Thompson stated the subject property is located in the Infill portion of the Urban Service Area. Mr. Thompson stated staff has determined that the proposed change would not be out of character with the surrounding area. Mr. Thompson stated the Community Development Department and the Planning and Zoning Board recommends approval of the petition. Attorney Robert H. Berntsson, of the law firm of McKinley, Ittersagen, Gunderson and Berntsson representing the applicant stated this is an appropriate site for commercial development and respectfully requested approval. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED DECEMBER 26, 2003, AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, THE TRANSMITTAL OF PETITION PA-03-11-38-LS TO THE DEPARTMENT OF COMMUNITY AFFAIRS FOR AN OBJECTIONS, RECOMMENDATIONS, AND COMMENTS REPORT, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

(Chairman DeBoer polled the Board for Ex-Parte Disclosures.)
Commissioner D'Aprile stated he would file the necessary paperwork.

Agenda Item W-2, Z-03-11-41, District II (Proof of Publication was in Order.)

Gary Thompson, Planner II stated this petition is requesting a rezoning for 87.4+ acres from Agriculture Estates to Planned Development. Mr. Thompson stated the site of the proposed change is located north of South Jones Loop Road, south of north Jones Loop Road, west of Interstate 75, and east of Taylor Road. Mr. Thompson stated the applicant is proposing a residential development on the site that will contain a maximum of 280 dwelling units. Mr. Thompson stated the increase in density of 193 units will be achieved through a Transfer of Development Rights (TDR). Mr. Thompson stated all of the development proposed by the applicant will take place to the north and west of Alligator Creek. Mr. Thompson stated the land located to the north of the proposed site is vacant and has a Commercial Center FLUM with Commercial Intensive zoning. Mr. Thompson stated the

land located to the west of the site is also vacant and has Commercial Center and Low Density Residential FLUM designations with Commercial General, Residential Multi-Family-5, and Agriculture Estates zoning. Mr. Thompson stated there is vacant land to the east with Low Density Residential and Agriculture FLUM designations and AE zoning. Mr. Thompson stated Blue Heron Pines Golf Course is located further east beyond the vacant land and that site has an Agriculture FLUM designation and a Planned Development zoning designation. Mr. Thompson stated Interstate 75 is nearby the east border of the property that is being rezoned in this petition. Mr. Thompson stated vacant residential and agricultural land is located to the south of the proposed development. Mr. Thompson stated that area has a Low Density Residential and Agriculture FLUM development and Mobile Home Conventional and Agriculture Estates zoning. Mr. Thompson stated the site is situated within the Suburban portion of the Urban Service area. Mr. Thompson stated staff has determined that the proposed change would not be out of character with the surrounding area. Mr. Thompson stated the Community Development Department and the Planning and Zoning Board recommends approval of the petition with conditions. Attorney Geri Waksler with the law firm of Moore & Waksler representing the applicant stated all conditions have been reviewed and the applicant has no objections. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** Chairman **DeBoer** presented an advisory comment to the applicant's attorney, stating that the alignment of this development is close to the airport runway and some type of criteria needs to be established to let prospective buyers know about the airport runway. **COMMISSIONER DEVOS MOVED FOR APPROVAL BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED DECEMBER 26, 2003, AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, THE ENACTMENT OF ORDINANCE #2004-007 APPROVING PETITION Z-03-11-41 AND ADOPTION OF RESOLUTION #2004-026 APPROVING THE TRANSFER OF DEVELOPMENT RIGHTS (TDR), SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.**

Agenda Item W-3, Z-03-11-42, District II (Proof of publication was in Order.)

(Chairman DeBoer and Commissioners Devos, D'Aprile, Horton and Cummings stated they all had some type of dialogue with Attorney Haymans regarding this petition.)

Jorge Perez, Planner II stated this is a rezoning request from Commercial General (CG) to Industrial Light(IL). Mr. Perez stated the Comprehensive Plan has designated the site for industrial uses since at least 1987 and the applicant now wishes to make the zoning consistent with the Low Intensity Industrial FLUM (Future Land Use Map) designation of the property. Mr. Perez stated approval of this rezoning would create a 17.74+ acre industrial parcel, with access to Taylor and Burnt Store Roads, and in close proximity to Interstate I-75. Mr. Perez stated the Community Development Department and the Planning and Zoning Board recommends approval. Attorney Geri Waksler with the law firm of Moore & Waksler spoke on behalf of the applicant. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.** Commissioner **D'Aprile** stated IL zoning can become quite messy and doesn't know what the developer intends building on the site. **Commissioner D'Aprile** referenced the concrete plant on Veteran's Highway which was there and homes built across the road. Attorney Waksler stated light industrial very well could encompass manufacturing in an enclosed building. **COMMISSIONER DEVOS MOVED FOR APPROVAL BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED DECEMBER 24, 2003 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, ENACT ORDINANCE #2004-008 APPROVING PETITION Z-03-11-12, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** Commissioner **Devos** questioned as to the difficulty involved for staff to compile a list or a map, of all the properties that aren't aligned according to the FLUM and underlying zonings. Tom Cookingham, Community Development Director stated if this is the wish of the Board he could probably have this back to the Board in a couple of weeks. Mr. Cookingham stated pulling the information wouldn't take too long, but getting all the petitions will take some time. **Chairman DeBoer** questioned if there isn't an alignment law on the books before people start petitioning. Mr. Cookingham responded affirmatively. **Chairman DeBoer** stated the Board might want to discuss this issue at the retreat or set a workshop.

STREET/PLAT VACATIONS - Legislative Hearing - fairly debatable
policy decision

Agenda Item W-4, SV-03-11-14, District III

Mark Gering, Development Review Manager stated Mr. Roop has applied for a Street Vacation for the portion of California Avenue between Holly Avenue and Bourbon Avenue, less the portion adjacent to the platted alley. Mr. Gering stated this property lies within the plat for Grove City Land Company, as recorded in Plat Book 1, Page 4, of the Public Records of Charlotte County, Florida. Mr. Gering stated the site is located in Section 17, Township 41 south, range 2 east and this site is located in Commission District 3 and contains 0.3 acres. Mr. Gering stated the portions of California Avenue between CR775 and Holly Avenue were previously vacated and consent of the other adjacent property owners has been provided. Mr. Gering stated staff and the Planning and Zoning Board recommends approval. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. COMMISSIONER D'APRILE MOVED FOR APPROVAL OF THE ADOPTION OF RESOLUTION #2004-027, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.**

Agenda Item W-5, SV-03-11-15, District II

Mark Gering, Development Review Manager stated Florida Lakes, Inc. and Homeowners of Alligator Park, Inc. have applied for a Street Vacation for the portion of Lippizan Trail, located off Taylor Road, just north of US 41. Mr. Gering stated the site is located in Section 27, township 41 south, range 23 east. Mr. Gering the proposed vacation will facilitate future development of the property. Mr. Gering stated a lake is currently being dug on the Florida Lakes, Inc. site and Homeowners of Alligator Park, Inc. have a contract with Florida Lakes, Inc. to add the lake feature to mobile home park. Mr. Gering stated this portion of Lippizan Trail has not been constructed. Mr. Gering stated currently, property owners to the east access from South Jones Loop via Wheeler Place. Mr. Gering stated Lippizan Trail is a shell road starting at Wheeler Place and extending west towards the applicant's property. Mr. Gering stated the shell road ends approximately 400 feet east of the applicant's property. Mr. Gering stated approximately 1,320 feet of the

proposed right-of-way to be vacated is 30 feet in width; the remaining 660 feet adjacent to Taylor Road is 60 feet in width. Mr. Gering stated the subject area is 1.76 acres. Mr. Gering stated the Public Works Department has pointed out that the extension of Lippizan Trail to Taylor Road would be beneficial to the residents of Lippizan Trail. Mr. Gering stated there is no funding source identified to cover the cost of constructing nearly 2,400 feet of roadway and residents have not voiced a concern with extending Lippizan Trail. Mr. Gering stated staff recommends that SV-03-11-15 be approved with the following conditions: 1. Florida Power & Light (FPL) has facilities within the proposed area of vacation. An easement shall be granted acceptable to FPL prior to recording the vacation. 2. Drainage easement must be conveyed to Charlotte County covering the proposed relocation of the drainage into the lake being constructed by Florida Lakes, Inc. Mr. Gering stated the Planning and Zoning Board heard this petition on January 12, 2004 and recommends approval. Attorney Gerri Waksler with the law firm of Moore & Waksler spoke on behalf of the applicant. Ron Klootwyk stated he resides at the end of Lippizan Trail and is in favor of the road being extended. Mr. Klootwyk stated this area has severe drainage issues and is always flooded during the rainy summer months. Mr. Klootwyk stated he isn't sure what the developer has planned, but he would be opposed to constructing a mobile home park or a storage facility for recreational vehicles. Attorney Warren Ross representing the homeowners of Alligator Park respectfully requested the Board approve this Street Vacation. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.** Chairman DeBoer inquired if staff had an answer from the Fire Chief as to response time in this area. Mr. Gering stated he didn't know. **Commissioner Devos** stated this decision conflicts with previous decisions Mr. Gering has made to this Board. Mr. Gering stated there is enough tradeoffs for the good of the neighborhood. **Commissioner Devos** stated she appreciate the weight of the lake in your trading off. **Commissioner Cummings** stated the approval of this Street Vacation is a close call as there is good and bad issues involved. **Commissioner Cummings** stated that if Mr. Gering is of the opinion that the drainage situation in this area will be helped, then he's inclined to move ahead with this Street Vacation. **COMMISSIONER CUMMINGS MOVED FOR APPROVAL OF THE ADOPTION OF RESOLUTION #2004-028 WITH THE STIPULATIONS AS READ INTO THE RECORD, SECONDED BY**

COMMISSIONER DEVOS. Commissioner Horton stated we're going to need this road in the future and he'll vote in opposition of the motion. Commissioner D'Aprile questioned if a water flow study was done in this area. Mr. Gering responded affirmatively. Commissioner Devos commented on the fact that the Public Works Department has informed us that there are no funding costs in place and she still isn't convinced that a positive vote is the right way to support this issue. Chairman DeBoer questioned how will people be able to turn around when there is no turn around and requested and will the County get some type of commitment for a turn around. Attorney Waksler stated the owners of South Alligator Park will do a turn around. Chairman DeBoer stated he is now in favor of the motion. **CALL ON THE MOTION: CHAIRMAN DEBOER, COMMISSIONERS D'APRILE, CUMMINGS AND DEVOS VOTED "YES" AND COMMISSIONER HORTON VOTED "NO." MOTION CARRIED: (4:1).** Commissioner Cummings stated providing a turn around by the owners of South Alligator Park is to be included in the motion.

RECESS: 3:30 P.M. - 3:35 P.M.

R. County Administrator

Bruce D. Loucks, County Administrator stated a goal setting meeting is scheduled for Monday, February 23, 2004.

S. County Attorney

Attorney Lee stated she has issued a legal opinion regarding the dog kennel being operated at the Charlotte Ranchettes, advising the owner this business needs to cease immediately, as you can not operate this type of business in a residential area. Attorney Lee stated she has met with the owner of the business and he has asked that the County give him one year to phase out his operation and assist him financially for permitting fees in a new location. Attorney Lee advised the Board that the owner informed her that a County employee gave him approval to operate this business. Commissioner Cummings stated he isn't willing to give the owner one year, but might be willing to consider one or two months. Commissioner Cummings stated it is his opinion that the owner wishes to negotiate with the County and Charlotte County doesn't allow this type of negotiation. Commissioner Cummings stated he isn't feeling any sympathy for the owner of this business. Commissioner Cummings stated 30 days should be

the maximum allowed for this individual to move his business elsewhere. **Chairman DeBoer, Commissioners D'Aprile, Horton and Devos** concurred with 30 days being the maximum. Attorney Lee requested the Deputy County Attorney give an update to the Board regarding the progress on the Edgewater condos. Brendan Bradley, Deputy County Attorney, stated the Board could obtain a court case date to move for dismissal. **Commissioner Cummings** recommended obtaining a court case date and filing of the motion. **Commissioner Horton** questioned when can this whole issue be resolved. Attorney Bradley stated that in order to obtain a court case date it would take approximately two months. **Commissioner Horton** stated he wanted a court case date six months ago and really wanted it like yesterday.

T. Commissioners' Comments

Chairman DeBoer stated he has been approached by the group that supports the Charlotte Symphony, they want to do a July 4th concert with fireworks at the Stadium and opined it would cost the County about \$25,000 to help sponsor this event. **Commissioner Cummings** stated he doesn't have a problem with the event being held there, but is hesitant in spending \$25,000. (Board consensus to have the Chairman negotiate the cost.) **Chairman DeBoer** commented on the Air Show security which is going to cost about \$35,000 to \$40,000 and that the Sheriff will not be able to take on this cost. (Board consensus to have the Chairman negotiate the costs for security up to \$30,000.) **Commissioner Devos** asked the Sheriff to put a line item in his budget for security at the Air Show. **Chairman DeBoer** stated he was still in the process of trying to find a purchaser for the Babcock Ranch. **Chairman DeBoer** informed the Board that Mr. Novack, a Marine Agent, had passed away, said it was important to continue the reef projects he had been so successful with, they need to press the university to make sure we get another marine agent as quickly as possible and he also wanted to press the idea of having the reef named Novack Reef. **COMMISSIONER CUMMINGS MOVED APPROVAL FOR THE CHAIRMAN TO PROCEED WITH BOTH ISSUES, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.** (Deputy Clerk Karen S. Mitchell replaced Supervisor of Minutes for the remainder of the meeting.) **Chairman DeBoer** said there was a bunch of lots on U.S. 41 where the rear abutting lots were zoned duplex, asked if the Board wanted this brought back so all of these can be changed at once, along with that approaching FPL

regarding the power easement that splits those properties in half and the zoning issue that keeps people from accessing those properties from the streets behind it. **(Board consensus.)** **Chairman DeBoer** referred to the TDR policy, said he had been approached about the possibility of making all the changes to the ordinance at once including having something so people can come to the Board with a developer's agreement that allows them to make payments for TDRs or transfers, especially the payment part. **Chairman DeBoer** said if they work on something that allows people to pay the required amount of money for TDRs as some kind of an improvement fee as the units were sold so that it's not added to the carrying cost for them to develop the property, then they might see those funds come in for them to repurchase other property more quickly. **(Board consensus.)** **Commissioner Cummings** suggested having a ranking system as part of this, depending on where the development right was coming from it's either given bonuses or reductions, when someone comes to buy a development right and put it somewhere else it's either given bonuses or reductions so that you don't accidentally find yourself transferring development rights from an appropriate location to an inappropriate one that there's a built-in market incentive to use it in the most appropriate locations. **Chairman DeBoer** said he was trying to find ways to address some of these things. **Commissioner Cummings** said so you're saying on a temporary basis just charge them the average assessment that our staff had put on before for the property we were trying to acquire. **Chairman DeBoer** said it was going to take them awhile to develop the long-term plan and this would take the pressure off staff to get everything together right away. **Commissioner Devos** said she wanted a sunset so the interim measure didn't become permanent. **Chairman DeBoer** listed other areas of concern some of which need to come back and others could be discussed at the upcoming retreat: Burnt Store Corridor, the need to address parking problem areas along with U.S. 41 beautification, concept that government can go onto private vacant property and mow down a fire break **(Board consensus for Chair to pursue and bring back)**, Charlotte Harbor Development LLC condominium project and sharing of Tax Incremental Financing (TIF) funds **(Board consensus for Chair to pursue and bring back)**. **Commissioner Devos** said she'd heard about a possible new use for the stadium, requested this be part of the February 13, 2004 meeting, said she still supported the Parks & Recreation stadium reuse plan, she had concerns regarding the loss of programs in the reuse

plan like the aquatics center, and her last item was the FDOT legislation to eliminate or minimize the authority of MPOs so this needs to be included in their legislative agenda. **(Board consensus.)** **Commissioner Devos** asked for input regarding excluding non-profits like Goodwill from tipping fees. **(Board consensus for Chair to tell them there was no support.)** **Commissioner D'Aprile** commented his research into trying to make the stadium profitable, asked the Board members to review the proposal from Suncoast Amphitheatre, Inc. and added this didn't mean he was opposed to Professional Players Institute (PPI). Mr. Loucks commented on the ad being placed in the Wall Street Journal soliciting letters of interest regarding other uses for the stadium. **Chairman DeBoer** agreed they need a proper solicitation process. **Commissioner Horton** said the Board made the Palm Island Committee a standing committee, a resolution was needed establishing all the legal parameters because someone has resigned from that committee and staff and Legal need to bring this back. **(Board consensus.)** Kelly Shoemaker, Assistant to the County Administrator, explained the Palm Island steering committee was done and staff wants to keep meeting with them so they don't lose any time but there was no resolution saying they were a standing committee. **Commissioner Horton** said Little Gasparilla Steering Committee was still meeting even though it has sunset because the Board hasn't been able to get a report back from them and opined a letter needs to be sent to Bob Hill. **(Board consensus.)** **Commissioner Horton** referred to the intersection of U.S. 41 and Aqui Esta and opined County staff needs to work with City staff to do whatever was needed to get this done. **(Board consensus.)** **Commissioner Devos** said now all of a sudden the City wants to fast-track this, reported the City was in the process of possibly approving some multi-family condominium developments there that will impact this road and she felt they need to have some formal discussion with the City since the County is sharing the construction cost. **Commissioner Horton** agreed, added the discussions should also include zoning/rezoning issues and said staff needed to gather the information and bring this back. **(Board consensus.)** **Commissioner Horton** asked for staff to bring back all the scrub jay mitigation issues in an organized fashion so they can find out just what they can do, how they need do it and how soon can they do it. **(Board consensus.)** **Commissioner Horton** commented on his handout on Southwest Land Developers and the Airport Overlay road plan and after they meet with each of the Board

members he wanted it brought back because it could help jump start the Commerce Park. **(Board consensus.)** **Commissioner Horton** commented on Manasota Key beach renourishment. **Commissioner Cummings** commented on another zoning proposal for a big piece of property down Burnt Store Road, one of the ideas was to annex it into the City because they might get more favorable treatment for development rights from the City versus the County, opined the City was looking very skeptically at these, recalled the referendum which required the City Comp Plan to be consistent with the County's Comp Plan and opined they had never tried to enforce it. **Commissioner Devos** said the City had never really considered TDRs. **Commissioner Cummings** said they may need to review what's happened regarding that referendum and they may also want to consider Lee County's position regarding Babcock Ranch.

MEETING ADJOURNED: 4:56 P.M.

Signature on file in Commission Minutes
Matthew D. DeBoer
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**

ksm/cwl/ksm