

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

MARCH 23, 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, 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 Stacey Miller and Supervisor of Minutes Caroline W. Lounsbury. The meeting was called to order at **9:00 A.M.** (Commissioner Cummings will not be present for this meeting. Chairman DeBoer announced that Commissioner Cummings will be attending a special meeting this morning to discuss the purchase of Babcock Ranch.)

The **invocation** was given by Pastor David Weiss, Cleveland Baptist Church, Port Charlotte, Florida, followed by the Pledge of Allegiance to the Flag.

CHANGES TO THE AGENDA

Addition:

**Addition to
the Agenda**

Agenda Item K-3, a) Approve hiring 13 additional positions for the Building Department, which are necessary to address the increased workload and improve levels of service and authorize administrative approval for the purchase of the associated equipment for the new positions.

Change No. 1

Agenda Item K-2, Adopt Resolution that establishes a new fee schedule for the Building Review and Inspections Department for FY 2003/2004, effective July 5, 2004.

Agenda Item K-3 (a), approve hiring 13 additional positions for the Building Department, which are necessary to address the increased work load and improve levels of service and (b) Approve Budget Amendment #04-A30 in the amount of \$656,620.00 as a result of increased revenue from the fee restructuring and increased volume.

(Explanation: The Resolution placed ahead of the request for additional positions and the Budget Amendment.)

Change No. 2

Agenda Item F-1, Approve Contract for the preparation of construction plans, right-of-way engineering and permitting of Midway Boulevard. The purpose of this amendment, to accelerate and add design services to the Engineer's existing scope of services. Construction plans are to be prepared for four (4) primary culvert crossings along Midway Boulevard, at the following locations: Elkcam Waterway; Yale Waterway; Fordham Waterway; and Niagara Waterway. (Budgeted Action: FY04 project total is \$127,000.00 amount available for this amendment is \$125,000.00; and funding for this expenditure from Gas Taxes.)

(Explanation: Move Agenda Item F-1 from Consent Agenda to the Regular Agenda as Agenda Item K-5.)

Change No. 3

Agenda Item D-1, Approve the Resolution establishing the Advisory Committee that will discuss matters concerning the Islands residents, development of a community plan, development of

the findings and recommendations of the previously existing Steering Committee, developments of infrastructure and environmental issues, and to advise the Board.

(Explanation: Requested that the Resolution, prepared by the County Attorney's office, establishing the Advisory Committee be changed from seven (7) members to nine (9) members.)

Change No. 4

Agenda Item S-1, Move the proposed Resolution for ELLAC Referendum to Agenda Item P-3 under County Attorney's comments.

Addition

Agenda Item C-6, approval of a resolution of the Board of County Commissioners of Charlotte County, Florida, supporting full and adequate funding for the State Court System and the Twentieth Judicial Circuit to ensure justice for all Floridians.

COMMISSIONER DEVOS MOVED FOR APPROVAL OF THE ADDITION AND CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. (4:0)

I. SPECIAL RECOGNITION

Proclamations:

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING MARCH 22, 2004 THROUGH MARCH 28, 2004 AS "FLORIDA INTERNATIONAL AIR SHOW WEEK" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. (4:0)

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING APRIL 5, 2004 THROUGH APRIL 11, 2004 AS "NATIONAL PUBLIC HEALTH WEEK" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. (4:0) Dr. Richard Goggin accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING APRIL 11, 2004 THROUGH APRIL 17, 2004 AS "NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK" ON MOTION BY COMMISSIONER DEVOS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0) "Linda "Byrne" from the Charlotte County Sheriff's office accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING MARCH 23, 2004 AS "ANNE BAST DAY" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. (4:0) Reneé Francis Lee, County Attorney thanked Attorney Bast for her dedication over the past ten years. Anne E. Bast, Assistant County accepted the proclamation.

Presentation:

Chairman DeBoer and Bruce D. Loucks, County Administrator, recognized the 13 participants who completed the fourth Charlotte Citizens' Academy: John Brown, W. Keith Buechel, Clayton Carlile, Frances Oldenburgh, Jack Oldenburg, David Orr, Karel Ryan, William Ryan, Sue Ann Sanders, Barb Seiffer, Frieda Washer, Maguerite Yeno and Lillian Zwirner.

II. CITIZENS' INPUT - AGENDA ITEMS ONLY

Anthony Triulzi addressed **Agenda Item C-1, Approve the reappointment of Mr. Anthony Triulzi to the Health Planning Council of Southwest Florida, Inc.** stated he retired as a CEO from a hospital in New York and wishes to be reappointed to the Council.

Grace Amodeo, Chairperson for ELLAC addressed **Agenda Item P-3, proposed Resolution for ELLAC Referendum** and stated there are a few changes proposed by ELLAC as follows: "the deletion of the hyphen in line 13 of the word environmentally and also on that same line to insert the word willing sellers after the words environmentally sensitive lands. Mrs. Amodeo thanked the Board for their efforts in working with ELLAC.

Sharon M. Neuhofer, Charlotte Builders & Contractors Association (CBCA) Executive Director addressed **Agenda Item K-2, Adopted Resolution that establishes a new fee schedule for the Building Review and Inspections Department for FY 2003/2004, effective**

July 5, 2004 and stated CBCA fully endorses this resolution and recommends approval.

Hugh Hayes, Chief Judge addressed **Agenda Item C-6, approval of a resolution of the Board of County Commissioners of Charlotte County, Florida, supporting full and adequate funding for the State Court System and the Twentieth Judicial Circuit to ensure justice for all Floridians** requested Board approval of the resolution.

Steve Russell, State Attorney for the Twentieth Judicial Circuit addressed **Agenda Item C-6, Approval of a resolution of the Board of County Commissioners of Charlotte County, Florida, supporting full and adequate funding for the State Court System and the Twentieth Judicial Circuit to ensure justice for all Floridians** requested Board approval of the resolution.

Robert Jacobs, Public Defender for the Twentieth Judicial Circuit addressed **Agenda Item C-6, Approval of a resolution of the Board of County Commissioners of Charlotte County, Florida, supporting full and adequate funding for the State Court System and the Twentieth Judicial Circuit to ensure justice for all Floridians** requested Board approval of the resolution.

Mark Draper, Attorney and President of the Bar Association addressed **Agenda Item C-6, Approval of a resolution of the Board of County Commissioners of Charlotte County, Florida, supporting full and adequate funding for the State Court System and the Twentieth Judicial Circuit to ensure justice for all Floridians** requested Board approval of the resolution.

Zack "inaudible", President of Charlotte Builders & Contractors Association (CBCA) addressed **Agenda Item K-2, Adopted Resolution that establishes a new fee schedule for the Building Review and Inspections Department for FY 2003/2004, effective July 5, 2004** and stated CBCA fully endorses this resolution and recommends approval.

Attorney Beth Sullivan addressed **Agenda Item P-1, Discussion and direction regarding dog kennel in Charlotte Ranchettes** and stated she represents this client and recommended this matter be turned over to the Board of Zoning Appeals, as this is not an issue for the Board of Charlotte County Commissioners to be micro-managing.

Chairman DeBoer requested the Board's indulgence for Commissioner Devos to address the passing of Dr. Norma Villareal. Commissioner Devos stated that Dr. Villareal was a personal friend and she will be leaving this meeting to attend the funeral. Commissioner Devos stated that she supports the recommended increases for the Sheriff Deputies and Civilians and feels that information being requested now will be forthcoming from the Sheriff's office. Commissioner Devos commended the Community Development Department for their hard work and voiced support for the proposed increase for fees. Commissioner Devos stated her comments regarding the Stadium is for the "reuse plan." (COMMISSIONER DEVOS WAS NOT PRESENT FOR THIS PORTION OF THE MEETING.) Chairman DeBoer stated that Dr. Villareal was a very dear friend, wonderful lady and took excellent care of his daughter until she was 18 years of age.

III. COMMITTEE VACANCIES

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

Beaches & Shores Advisory Committee

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

Buena Vista, Grassy Point, ELF Waterway Unit

- one (1) resident of Grassy Point

Construction Board of Adjustments & Appeals

- volunteers for three-year term (Reappointment on agenda.)

Tourist Development Council

- one (1) volunteer for reappointment to the Charlotte County Tourist Development Council for three expiring terms, all are Owner/Operator positions (Reappointment and appointment on agenda.)

IV. REPORTS RECEIVED AND FILED

Community Redevelopment Agency committee (Murdock Village CRAAC)

V. CONSENT AGENDA

COMMISSIONER HORTON MOVED FOR APPROVAL OF THE FOLLOWING ITEMS SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (3:0)

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 March 3, 2004
through March 16, 2004 in the amount of
\$5,777,868.02

B. Minutes Division

Agenda Item B-1, Approval of Minutes

9:02 A.M. February 24, 2004 Regular BCC Meeting

BOARD OF COUNTY COMMISSIONERS

C. Commission Office

Agenda Item C-1

Reappoint Anthony Triulzi to the Health Planning Council of Southwest Florida, Inc.

Agenda Item C-2

Reappoint Deborah Weston and Mike McFarland as Owner/Operators of the Tourist Development Council (TDC)

Agenda Item C-3

Reappoint the following to the Construction Board of Adjustment and Appeals (CBAA): Roger D. Glover - Mechanical Contractor Representative; Clarence B. Diersing, Jr. - Public-At-Large Member; and Grace Amodeo - Alternate Member.

Agenda Item C-4

Resolution #2004-052 and letter supporting the dedication and full appropriate of Sadowski Act documentary stamp revenue to

affordable housing initiatives and reauthorization of the state and local housing trust funds.

Agenda Item C-5

Appoint W. Keith Buechel as the District #4 representative of the Charlotte County Beaches & Shores Advisory Committee.

Agenda Item C-6

Resolution #2004-061 of the Board of County Commissioners of Charlotte County, Florida, supporting full and adequate funding for the State Court System and the Twentieth Judicial Circuit to ensure justice for all Floridians.

D. Administration

Agenda Item D-1

Resolution #2004-053 establishing Palm/Island/Don Pedro Island/Knight Island/Thorton Key Advisory Committee.

E. Budget Office

Agenda Item E-1

Resolution #2004-060 Tax Exempt Bonds by the Charlotte County Housing Finance Authority in an amount not to exceed \$14,000,000 for the construction of Deer Run, a 286 unit apartment complex to be located on Kings Highway in Port charlotte.

Agenda Item E-2

Set the following FY05 budget workshops and public hearings:

MSBU Budget Workshop	04/06/04, Room 229,	3:00 P.M.- 4:30 P.M.
Preliminary Budget Update	04/20/04, Room 229,	2:00 P.M.- 4:00 P.M.
CIP Workshop	06/10/04, Room 229,	2:00 P.M.- 5:00 P.M.
MSBU Public Hearings	07/14/04, Room 119,	5:01 P.M.
Presentation Tentative Budget	07/15/04, Room 119,	9:00 A.M.-12:00 P.M.
Presentation Tentative Budget	07/16/04, Room 119,	1:00 P.M.- 5:00 P.M. (if needed)
MSBU Public Hearings	07/15/04, Lemon Bay H.S.	5:01 P.M.
First Budget Public Hearing	09/09/04, Room 119,	5:30 P.M.
Final Budget Public Hearing	09/09/04, Room 119,	5:01 P.M.

Agenda Item E-3

Amendment to Grant #2003-025 for an additional \$34,380 in Federal funds to provide for enhancements to Emergency Management Programs; and **Budget Amendment #04-A29** in the amount of \$34,380 to allocate the funds.

F. General Services

Agenda Item F-2

Work Assignment FC, Contract 00-08, engineer of Record for CCU with Dufrense-Henry, Inc. in the amount of \$78,900.

Agenda Item F-3

Change Order #1, File #04-127, Florida Water Service Assumption with Water Resource Solutions (WRS) in the amount of \$46,125 to handle the increased yield, the well pumps and raw water supply lines to be upsized.

Agenda Item F-4

Addendum #2, File #98-217, Perpetual License Agreement with Group 1 Software, Inc. in the amount of \$32,700 to expand CCU's current license limits from 45,000 customers to 53,000 customers; and **authorize** Chairman to sign Addendum upon completion by Attorney's Office.

G. General Services - Real Property Services

Agenda Item G-1

Resolution #2004-054 authorizing the execution of a County Deed releasing portions of six (6) ten (10) foot wide utility and drainage easements located in Lots 8, 9, 10, 11, 12 and 13, Block 1126, Port Charlotte Subdivision, Section 30, in Charlotte County, FL to owners Anthony J. Caminiti and Diane G. Caminiti for the construction of a single-family residence.

Agenda Item G-2

Resolution #2004-055 authorizing the execution of a County Deed releasing portions of two (2) six (6) foot wide utility and

drainage easements located in Lots 28 and 29, Block 3404, Port Charlotte Subdivision, Section 69, in Charlotte County, FL to owners Vernon Lee Fields and Janet Fields for the construction of a single-family residence.

Agenda Item G-3

Resolution #2004-056 authorizing the execution of a County Deed releasing portions of a twenty (20) foot wide canal maintenance easement located in Lot 15, Block 572, Port Charlotte Subdivision, Section 31, in Charlotte County, FL to owners Richard M. Emch and Miluse Novak for construction of a pool, deck and cage.

H. Parks, Recreation & cultural Resources

Agenda Item H-1

Resolution #2004-057 authorizing the execution of a non-exclusive permanent utility easement to Florida Power and Light (FPL) to provide electrical service North Charlotte Regional Park.

J. Public Safety

Agenda Item J-1

Resolution #2004-058 authorizing the Chairman to sign the Utility Easement with Florida Power & Light company for electrical service to the Emergency Management Radio Communications Tower located near Fire HQ on Edgewater Boulevard.

RECESS: 9:45 A.M. - 9:55 A.M.

VI. REGULAR AGENDA

K. Regular Business

BUDGET

Agenda Item K-1, Budget Amendment #04-A31 in the amount of \$475,942.00 to match funding within the Sheriff's Department for salary increases for deputies and civilians

Ann Navan, Budget Officer stated that Sheriff Cameron has identified salary savings within the organization of approximately \$500,000.00. Mrs. Navan stated this has been achieved both through attrition, and by re-allocation of positions. Mrs. Navan stated that Sheriff Cameron is requesting that the Board provide a match for the same amount in order to fund salary increases for sworn law enforcement officers, corrections officers and civilian staff. Mrs. Navan stated that the increases being proposed are a flat \$1,800.00 for sworn officers, and \$1,500.00 for civilians, based upon what a 5% increase to the median salary of three year officers and civilians would be. Mrs. Navan stated that the proposed match funding is to be provided by an estimated increase in FPL franchise fee revenue this year. Mrs. Navan stated it is currently 15.5% above prior year-to-date revenues, and historical trends indicate that this revenue source will generate an additional \$1.0 plus million in revenue over budget. Mrs. Navan stated this revenue source, although used within the public safety fund, is not restricted to be used for that fund, therefore, the portion of the Sheriff's request that would normally come out of the General Fund can also benefit by this revenue source. **Chairman DeBoer** question if there is going to be a cost of living raise request on top of this increase. William Cameron, Sheriff stated this would be the only increase. **Chairman DeBoer** stated he needs to know financial impact for next year and projections for next year's budget. Mrs. Navan stated that the Sheriff, John Davenport, Colonel and herself are working on the projections. **Chairman DeBoer** stated he feels the relationship between the Sheriff and the Board is better now than it has been in the past, and if the other Board Members are in favor of this increase, he'll also vote the same way. **Commissioner Horton** questioned if these monies are actually savings attributed to attrition. Colonel Davenport responded affirmatively. **COMMISSIONER HORTON MOVED FOR APPROVAL OF BUDGET AMENDMENT #04-A31 IN THE AMOUNT OF \$475,942.00 TO MATCH FUNDING WITHIN THE SHERIFF'S DEPARTMENT FOR SALARY INCREASES FOR DEPUTIES AND CIVILIANS, SECONDED BY COMMISSIONER D'APRILE.** **Commissioner D'Aprile** stated that in the past there have been many problems and discrepancies with the Sheriff's budget and he truly believes that the Sheriff and Colonel Davenport are going in the right direction. **CALL ON THE MOTION: DECLARED UNANIMOUS (3:0).**

VII. PRESENTATION AGENDA

L. 10:00 A.M. - Presentation

**Agenda Item L-1, Little Gasparilla Island Steering Committee -
Final report information and recommendations**

Kelly Shoemaker, Assistant County Administrator stated the presentation by the Little Gasparilla Island Steering Committee will be given by the Chairman. Bob Hill, Chairman of the Little Gasparilla Island Steering Committee gave the following brief synopsis of their findings and recommendations to reasonably address the problems confronting our island:

Fire and Emergency Services

The Committee began by focusing on fire and emergency medical services. During this process the Little Gasparilla Island Fire and Rescue (LGIF&R) began to come into being and has steadily progressed with many islanders taking training in various aspects of firefighting and EMS. LGIF&R has established officers and a board of directors and have their legal requirements pretty well in order. They are able to respond to fire and EMS emergencies, which is a great deal more than we have had before. Obviously funding for equipment is a real need in order to help the group to become more proficient.

Addressing

Addressing and signs denoting roads or lanes are basically non-existent. There needs to be a focus on house numbers placed on every home so as to be visible to emergency workers trying to locate someone or some place. Signs appropriate to LGI (Little Gasparilla Island) should be on streets and trails to assist residents and visitors in moving around the island.

Law Enforcement

We met with then Sheriff Clement, and islanders voiced their opinions about slow response times and lack of visibility of deputies. Sheriff Clement gave us hope for better service. We do not believe that service has improved, but perhaps with a change at the top the situation will change for the better.

Platting

Replats of the island are causing undue problems with access for many island residents. Prior to 1972, replats of the island were done in a manner that has proved very detrimental to the way Little Gasparilla has developed. The original "Town of Seaboard" platted in 1895 had roadways, alleys and large lots. With the exception of a few tracts at the extreme south end of the island, all lots had road access. A lot of the replats go from bay to gulf with many of them having no north-south access. Therein lies the main problem. One of the other downsides is the large number of 50' x 75' lots and 50' x 100' lots with only easements from gulf to bay. Some easements are as small as 4'. Roads or trails of convenience are the norm in these areas. A large part of the island is accessible north and south only by trespass. Those parts of the island with adequate access don't feel they are affected by this problem and don't feel they should be part of the solution. This is understandable. However, it does nothing to address a problem that has implications beyond travel access. Early development in many cases used the path of least resistance or most convenient path to locate power and telephone lines. In some places the lines go right over homes. Now there are many places without utility easements which create still more problems. The island water system serves about 70% of the island, with water and fire hydrants. Another small percentage is served by residential water only, due to the lack of easements or rights of way to get to hydrants. About 30% of the north end has no easements or rights of way in order to extend the water lines to the north. This issue will be the same for any sewer system that may be in the future.

Access to Island

Access to the island is a growing problem. Docks built at the bay end of easements and rights of way are becoming crowded and will continue to be a growing problem. Even with a place to embark from the mainland to the island, at some point it is doubtful that everyone will be able to find docking on the island. Our two condominiums that represent about 18-20% of island properties do not share in some of the problems that will continue to grow for most islanders. They both have:

- a. Ferry service that runs five times a day
- b. Parking and Docking on the Mainland
- c. Docking on the island
- d. Water
- e. Sewer

Almost all other parts of the island rely on public marinas for mainland access. These seem to be diminishing and there does not appear any viable alternative on the horizon. Since the property on Placida Road for boat ramp and parking did not materialize, most islanders are wondering what lies ahead. Perhaps islanders can find a way to acquire parking on the mainland, but it will be a very large and expensive undertaking requiring a concerted effort.

Manatee Corridors

As the committee was coming to the end of our original task we were asked to work on the Manatee Corridor issue. A single corridor was proposed that following an existing route that for the most part went to the north end of Little Gasparilla. The committee proposed a route that went toward the center of the island and had forks going toward the north end and the south end. While the corridor was revised to accommodate the central island and north end, the last plan still leaves the south end with a time consuming long minimum speed route. The committee recommended to the Commission that they ask the FWC to revisit the south corridor. The Commission has done this and we hope further good will come from your request. Little Gasparilla Island is unique. A wonderful place without traffic lights, crowded roadways, high rises, shopping malls, and the hustle and bustle of the mainland. It is the "Old Florida" so fondly remembered. A barrier island with native plants and trees, pristine beaches, a bountiful bay, hospitable neighbors and a relaxed lifestyle seldom found today in other beach communities. As much as islanders want to preserve status quo, they understand that is not realistic. More people will come, more homes will be constructed, more boats will require access and more problems will develop. While these problems have not suddenly appeared, they are escalating. The formation of the Steering Committee has focused attention on these issues and has made most islanders aware that they need to begin a process to deal with the issues. At the beginning of the process the committee heard over and over, "We pay a lot of taxes to the

county and they don't do anything for us." The million dollars paid in ad valorem taxes in 2002 went everywhere except Little Gasparilla Island." That attitude has not completely died, but a learning process about how the tax monies are distributed has helped islanders realize that most of the problems encountered will have to be solved by islanders themselves.

Recommendation

The Little Gasparilla Island Steering Committee believes and recommends to the Charlotte County Board of County Commissioners that an advisory committee of Little Gasparilla Island residents should be established by the Board to advise commissioners of recommended actions dealing with Little Gasparilla Island. We recommend that a board of at least seven members be appointed in order to give adequate voice to the different groups on the island and have sufficient at large representation. By giving islanders a hand in their own destiny the Committee feels many of our problems will be solved and sensible planning will give direction to development of this unique environment. We feel this advisory committee could continue the work begun by the Steering Committee and with the same spirit of cooperation from the county staff we have enjoyed in the past, create a community development plan to help find solutions to our problems and give direction to future development. Such a guide would insure orderly progress into the future of Little Gasparilla Island. The Steering Committee has completed its assigned task and all members wish to thank the Charlotte County Board of Commissioners for giving us an opportunity to investigate and relay to you our findings. We hope that by giving islanders a hand in planning for the future we can help preserve the rights of property owners and protect the fragile environment of this beautiful barrier island. **COMMISSIONER HORTON MOVED FOR APPROVAL TO INSTRUCT STAFF TO PREPARE A RESOLUTION ESTABLISHING A PERMANENT COMMITTEE LIKE WE DID FOR DON PEDRO ISLAND, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (3:0)**

VII. PUBLIC HEARING AGENDA

M. 10:00 A.M.

Agenda Item M-1, Z-03-12-62 hold the first of two Public Hearings requesting a rezoning for 54.93+ acres from Commercial General and Residential Multi-Family-10 to Commercial Incentive (Proof of publication was in order)

(Attorney Lee administered the oath to prospective witnesses.)
Chairman DeBoer polled the Board for Ex-parte Disclosures and there were none.

Gary Thompson, Planner II stated this petition is requesting a rezoning for 54.93+ acres from Commercial General and Residential Multi-Family-10 to Commercial Intensive. Mr. Thompson stated the properties included in this petition are located north of US 41 (Tamiami Trail), south of Geddes Avenue, west of Collingswood Boulevard, an east of Mascot Avenue. Mr. Thompson stated that the Charlotte County Community Development Department is proposing this rezoning in order to address the shortage of suitable property within Charlotte County with Commercial Intensive zoning. Mr. Thompson stated the requested action is not to adopt the proposed rezoning, but the first of two required public hearings before the Board of Charlotte County Commissioners. Mr. Thompson stated the adoption hearing will take place on April 13, 2004 at 10:00 A.M., or as soon thereafter as may be heard. Mr. Thompson stated the proposed zoning is consistent with Commercial Corridor Future Land Use Map classification. Mr. Thompson stated the Community Development Department and the Planning and Zoning Board recommends approval of this petition. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** (3:0) Chairman DeBoer stated this is the first of two public hearings and the Board doesn't need to take any action until April 13th.

Agenda Item M-2, Z-03-12-53 hold the first of two Public Hearing requesting a rezoning for 38.67+ acres from Commercial General and Commercial Intensive to Industrial Light (Proof of publication was in order)

Chairman DeBoer polled the Board for Ex-parte Disclosures. Commissioner Horton stated yes and no. Commissioner Horton referred to the map, stated the one tiny triangular piece of property originally was going to be changed, but staff decided it was going to leave it as it is which didn't satisfy the concern of the person had. Commissioner Horton stated the individual that owns this small triangular piece of property would like to have that property rolled back to Agriculture. Gary Thompson, Planner II stated this petition is requesting a rezoning of 38.67+ acres from Commercial General and Commercial

Intensive to Industrial Light. Mr. Thompson stated the properties included in this petition are located north of Cypress Road, south (approximately) of Worth Avenue, west of Winchester Boulevard, and east of San Casa Boulevard. Mr. Thompson stated the Charlotte County Community Development Department is proposing this rezoning in order to address the shortage of suitable property within Charlotte County with Industrial Light zoning. Mr. Thompson stated the requested action is not to adopt the proposed rezoning **Commissioners D'Aprile and Chairman DeBoer had no disclosures. THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (3:0) Chairman DeBoer** stated this is the first of two public hearings and the Board doesn't need to take any action until April 13th.

VI. REGULAR AGENDA

K. Regular Business

Community Development

Agenda Item K-2, Adopt Resolution that establishes a new fee schedule for the Building Review and Inspections Department for FY 2003/2004 effective July 5, 2004

Jim Evetts, Chief Building Officer stated approximately six months ago, the Charlotte County Building Department wanted to look at how to simplify and restructure the permit fee structure, so that any person applying for a permit could calculate the costs easily. Mr. Evetts stated that currently the fee structure is complicated with several pricing levels depending on what sub-permits are needed (electrical, mechanical, roofing, plumbing, etc.) Mr. Evetts stated that the CBCA along with County staff formed a sub-committee to focus on restructuring the fees. Mr. Evetts stated that permit fees, inspection, over the counter permits and plan review fees were addressed. Mr. Evetts stated the outcome of the analysis was to cost out permits based on valuation (eliminating sub-permit costs) using one multiplier (a percentage of the valuation), and to change the fees for plans review, re-inspections, and over the counter permits based on inspector labor rates and plans examiners hours spent reviewing to recoup costs. Mr. Evetts stated that the approved fees will be effective July 5, 22004,

along with the new fee schedule. Mr. Evetts concurrently, staff and CBCA are recommending the discontinuance of the practice of reducing valuation by 25% before permits were priced, and updating valuation to current tables. Mr. Evetts stated that for instance, using a current house building valuation of \$203,000.00, the average increase to a SFR will be \$424 and total new revenue for SFR's along with other permit types is estimated to be \$1.7 million increase to the Building Department. Mr. Evetts stated his main goal is to get permits out as quick as possible. **COMMISSIONER HORTON MOVED FOR APPROVAL OF THE ADOPTION OF RESOLUTION #2004-059, SECONDED BY COMMISSIONER D'APRILE.** Commissioner D'Aprile stated that even the Building Industry doesn't have a problem with the increases. **CALL ON THE MOTION: DECLARED UNANIMOUS. (3:0)**

Agenda Item K-3 (a), Approve hiring 13 additional positions for the Building Department, which are necessary to address the increased workload and improve levels of service and (b) approve Budget Amendment #04-A30 in the amount of \$656,620.00 as a result of the increased revenue from the fee restructuring and increased volume

Mr. Evetts stated that with the restructuring of the Building Department fees, there is an estimated increase of revenue of \$1.7 million annually. Mr. Evetts stated that staff has recommended an additional 13 positions to keep up with the demand of increased plans review, inspections and better customer service. Mr. Evetts stated that the cost to hire the additional positions for the remainder of the fiscal year is \$656,620.00 which would include seven inspectors, three plans examiners, two customer service representatives and one clerk typist. **COMMISSIONER HORTON MOVED FOR APPROVAL OF THE HIRING OF THIRTEEN ADDITIONAL POSITIONS FOR THE BUILDING DEPARTMENT AND BUDGET AMENDMENT #0-A30 IN THE AMOUNT OF \$656,620.00 AS A RESULT OF INCREASED REVENUE FROM THE FEE RESTRUCTURING AND INCREASED VOLUME, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (3:0)**

Parks, Recreation & Cultural Resources

Agenda Item K-4, Review status of stadium proposals

Laura Kleiss-Hoeft, Parks, Recreation & Cultural Resources Director, stated that presently there are three proposals that

are under consideration for use of the Charlotte Sports Park. Mrs. Hoeft stated that each of these proposals will be impacted if negotiations are to include the possibility of bringing Major League Baseball to Charlotte County. Mrs. Hoeft stated the three proposals are as follows:

1. First is the establishment of a Player Performance Institute for the fast pitch disciplines. PPI proposes to build a center to train amateur athletes on the grounds of the stadium. This program will require use of all six ball fields, including the stadium.
2. Second is to establish a relationship with Stonebridge Entertainment to develop the stadium facility into the Suncoast Amphitheatre to host ongoing musical concerts.
3. Third, is to continue to host sport tournaments and special events and begin to develop the reuse plan to meet the recreational needs of our community and bring sporting events into Charlotte County.

Mrs. Hoeft stated that currently the CIP budget has \$3,325,000.00 allocated to be spent at this facility. Mrs. Hoeft stated that three million dollars is budgeted to come from a landfill loan, paid back over the next five years with ad valorem funds, \$250,000.00 is allocated from the Tourism Development fund and \$75,000.00 is established from ad valorem taxes. Mrs. Hoeft stated that these funds will need to be spent to support any forward direction these proposals may initiate. **Chairman DeBoer** stated he is having a problem in making a decision without having a finalized proposal in front of us. Mrs. Hoeft stated that we do have a very preliminary draft proposal, would like the staff to review it, and the contract isn't ready to be brought forward to the Board at this time. **Chairman DeBoer** stated this is making the situation worse because Mrs. Hoeft has the proposal, but the Board Members don't have it. **Chairman DeBoer** stated we definitely need to have some type of formalized process and things need to be changed. **Chairman DeBoer** stated when we decided to go ahead with the reuse plan we didn't have any potential marriage partners involved in this, so at that point of time that was fine. **Chairman DeBoer** stated right now we have a couple of serious potential partners and we wouldn't be able to implement the reuse plan. **Chairman DeBoer** stated that he doesn't have a

problem with leaving the facility the way it is and let this thing evolved, i.e. auditorium where you find uses as you go along and book them in here. **Chairman DeBoer** requested Mr. Loucks clear up the issue on what exactly happened with the Cleveland Indians negotiations which ties in with the current House Bill out right now which could provide matching funding again, but once again that partner consumes the entire stadium and its used for almost the entire year. **Chairman DeBoer** stated the possibility exists of creating some type of Sports Authority which would become a legal entity very similar to a corporation. Bruce D. Loucks, County Administrator stated the new House Bill is not going to help us as we don't have the retention of a team. Mr. Loucks stated we have a facility that is 20 years old and teams shop in communities as to where they want to play and what kind of amenities are available. Mr. Loucks stated that our facility doesn't compare with other facilities in our State. Mr. Loucks stated we've been looking at other alternatives, such as the potential opportunities with PPI and the Board gave us the direction to go back and work through with a contract. Mr. Loucks stated right now we do have some play numbers, but in the meantime Suncoast Amphitheatre came on the horizon. Mr. Loucks stated in order to be flexible and look at all options to see if there is compatibility, see if there is an opportunity for use of one or the other or possibly both. Mr. Loucks stated that we're not trying to put the Board into a position of making a decision without information. Mr. Loucks stated we are now looking for a little more guidance as we move to the next step into this process. Mr. Loucks stated the next step is finalizing these proposals to bring back to the Board in terms of timeframes. Mr. Loucks stated the Cleveland Indians wanted \$3 million to \$4 million from Charlotte County for renovations for the Stadium. **Commissioner Horton** stated the reuse plan is good for the long term benefit of Charlotte County. **Commissioner Horton** stated he personally doesn't want to lose the ability of having baseball teams utilizing the Stadium. **Commissioner Horton** questioned when does PPI want to start utilizing the stadium, if they're truly interested, and over what period of time do they need to develop it, when are they going to be able to actually do something at the Stadium and over what timeframe are we talking about. **Commissioner Horton** questioned if PPI fits into our reuse plan that we've talked about. **Commissioner Horton** questioned what PPI is willing to pay for. Mrs. Hoeft stated the goal of PPI would begin to start a short-term approach by getting into our major league building

and starting the Player Performance Academy and bringing the students down in the Fall of 2005. Mrs. Hoeft stated then PPI would like to work with the County on the construction of the building. Mrs. Hoeft stated PPI is looking at the property across from the Stadium to start working on a dormitory and a school facility. Mrs. Hoeft stated she met with the Superintendent of the School System, staff and a representative from PPI and received some support. Mrs. Hoeft stated the proposal which has been consistent from PPI is to cover the costs of maintenance. **Commissioner D'Aprile** stated this conversation would never have come to past if in fact, we didn't get other people interested in the Stadium. **Commissioner D'Aprile** stated that Mr. Tatone (Suncoast Amphitheater) has meet with him many times to discuss various possibilities for the utilization of the Stadium. **Commissioner D'Aprile** stated he personally doesn't want to wait five or six years to see if a professional team would want to come and use our Stadium. **Commissioner D'Aprile** stated he would like to see an Amphitheater at the Stadium. **Commissioner D'Aprile** stated something needs to be done now and requested staff bring back the numbers to the Board as soon as possible. **Chairman DeBoer** stated that the Board seems to be in agreement with keeping the Stadium as a general facility for multiple uses. **Chairman DeBoer** stated that we need to pursue these two individual suitors, but it needs to be done expeditiously. **Chairman DeBoer** questioned as to how long will staff need to provide the Board Members with the proposals. Mrs. Hoeft stated she would be able to have the proposals back to the Board in May. **Chairman DeBoer** stated we need to set a deadline. **Chairman DeBoer** commented on accelerated depreciation schedules for capital investment on a building and questioned what that time period would be. Tommy Q. White, Chief Deputy Board Services stated it would be in the twenty year range, and equipment would be seven years. **COMMISSIONER HORTON MOVED FOR APPROVAL TO SEE THE FINANCIALS AND PROPOSALS FOR PPI AND SUNCOAST READY FOR THE FIRST BOARD OF CHARLOTTE COUNTY COMMISSIONERS MEETING IN MAY, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (3:0)** **Chairman DeBoer** questioned if Mrs. Hoeft needed any other additional parameters to work on. Mrs. Hoeft stated she has heard from the Board Members that keeping the Stadium open to the community is important, and getting the proposals and financials. **Commissioner D'Aprile** stated that Mr. Tatone informed him that he would be able to conduct graduation ceremonies at the Stadium and special events. **Chairman DeBoer** reminded Mrs. Hoeft that

Clear Channel is also ready to utilize the Stadium for various concerts.

Agenda Item K-5, Approve Contract for the preparation of construction plans, right-of-way engineering and permitting of Midway Boulevard. The purpose of this amendment, to accelerate and add design services to the Engineer's existing scope of services. Construction plans are to be prepared for four (4) primary culvert crossings along Midway Boulevard, at the following locations: Elkcam Waterway; Yale Waterway; Fordham Waterway; and Niagara Waterway. (Budgeted Action: FY04 project total is \$127,000.00 amount available for this amendment is \$125,000.00; and funding for this expenditure from Gas Taxes.)
(Explanation: Move Agenda Item F-1 from Consent Agenda to the Regular Agenda as Agenda Item K-5.)

Thomas E. O'Kane, Public Works Director stated this contract was for the preparation of construction plans, right-of-way engineering and permitting of Midway Boulevard, originally approved by the Board on August 19, 1997. Mr. O'Kane stated the purpose of this amendment is to accelerate and add design services to the Engineer's existing scope of services for this contract. Mr. O'Kane stated that construction plans are to be prepared for four (4) primary culvert crossings along Midway Boulevard at the following locations: Elkcam Waterway; Yale Waterway; Fordham Waterway and Niagara Waterway. Mr. O'Kane stated it is in the best interest of the County to approve Amendment #1 to Contract #96-314 with Giffels-Webster Engineers, Inc. in the amount of \$110,844.00. **Chairman DeBoer** stated if we move ahead with this and we're now only 30% into design in 2004, questioned if construction will commence in 2008. Mr. O'Kane stated what is being proposed here is to do the four structures and sometime in Fall this year we can continue with the entire design. **Commissioner Horton** stated that in 1993 we started 775, we still haven't accepted that road, but we're getting close. **Commissioner Horton** questioned if we escalate this project beyond what the present schedule is, what do we have to bump from the Capital Improvements Program to accomplish this. Mr. Loucks questioned "bump" in terms of local or in terms of funding. **Commissioner Horton** stated both. Mr. Loucks stated the funding could be accomplished by doing some short-term funding which would cost that much more. Mr. O'Kane stated he had some discussions with the staff from Finance, there is a cash flow issue. Mr. O'Kane stated we could move the project

up, do the design and deal with it as part of the Capital Improvements Program and see what type of impact it has in the long-term range. **Commissioner Horton** stated he personally would like to see this project moved out from 2008, suggested short-term loans and discuss bonding. Mr. O'Kane stated he can take back this project and do a complete analysis. Mr. Loucks stated staff is only seeking permission now to finish the design. **COMMISSIONER D'APRILE MOVED FOR APPROVAL OF AMENDMENT #1 TO CONTRACT 96-314, MIDWAY BOULEVARD WIDENING-ENGINEERING SERVICES WITH GIFFELS-WEBSTER ENGINEERS, INC. OF ENGLEWOOD, FLORIDA, IN THE AMOUNT OF \$110,844.00, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. (3:0)**

N. County Administrator

Agenda Item N-1, Legislative Issues

Kelly A. Shoemaker, Assistant to the County Administrator requested head nods for the following legislative issues:

Solid Waste Legislation - SB 1400 and HB 1015

The Senate Bill has now cleared its first two committees and prohibits a county from levying charges against a 501(c) (3) (Goodwill Industries) and prevents us from shifting costs to other land fill users. Bitner and Associates recommends the Chairman write Senator Bennett a letter with the County's concerns and then also the same letter to Representative Sorenson, Chair of House Local Government Committee. Representative Sorenson is sympathetic and it would help to support his position. He has not yet agendaed the bill for a hearing, but is receiving pressure to do so. In the letter to Sorenson it would also be good to thank him for his continued support of the Florida Forever Program and Funding. He has been a stalwart. **(Affirmative head nods from Board Members.)**

Library Internet - SB 1552 and HB 0899

We received an alert on this Bill from the Florida Library Association requesting that we contact legislators and the governor and ask them not to support CS/SB 1552. The Library Association feels this legislation is not needed and that libraries already have measures in place to provide safe access to the internet. It's another of those motherhood and apple pie

bills which costs the County money. It might be possible to work on language which reduces costs. May I give Bitner an Associations direction to work on that language? **(Affirmative head nods from Board Members.)**

SW FL Transportation Authority - HB 1615

Starting on Line 285 of the Bill, the Authority is granted the right to construct and operate the toll road outside of Collier and Lee Counties, but only with the consent of the County within whose jurisdiction the activity will occur. It doesn't address any membership changes to the Authority's Board if they extend into Charlotte with the BOCC's consent. Authority membership would need to be altered by an amendment of the statutory language creating the Authority. May I give Bitner and Associates direction to craft the amendment? **(Affirmative head nods from Board Members.)**

Agricultural Economic Protection - HB 1161 and SB 1712

This legislation, among other things shortens the time period (from 180 days to 60 days) in which the County can respond to a Bert Harris claim when it involves down zoning of agricultural land. FAC counsel has requested Charlotte County's opinion. Attorney Lee stated this shortens our time to investigate or take any corrective action or to negotiate with a Plaintiff and is opposed to any shortening of response time.

Juvenile Justice Funding

FAC has issued the costs involved for DJJ to the counties. For Charlotte County the costs is over \$412,000.00. FAC would like for the Board to contact their legislators and urge them to vote no. **(Board Members concurred.)**

Article V

Currently seven proposed bills have been researched that could have impact cost shift to the County. Staff is researching to see the exact cost of financial impact this will have to our County. FAC has a huge concern regarding the continued reliance on using non-recurring state revenue sources to pay for recurring state expenditures.

P. County Attorney

Agenda Item P-1, Discussion and Direction regarding dog kennel in Charlotte Ranchettes

Attorney Lee stated that each of the Board Members are in receipt of a letter from Attorney Sullivan who represents Mr. Dalia who has a dog training facility in Charlotte Ranchettes. Attorney Lee stated she needs further direction from the Board as to whether or not you would like to take further action in removing this dog training facility from the neighborhood. **Chairman DeBoer** stated this issue revolves around whether or not Mr. Dalia was notified, that in fact he did not need a special exception, which was based on an internal memo which was not sent to Mr. Dalia. **Chairman DeBoer** stated the only memo that the Board is aware of that was sent to Mr. Dalia is that he needed a special exception. Attorney Lee stated it was her understanding that Mr. Dalia had come in and spoke with our Zoning Director even before a building permit was issued for his house. Attorney Lee stated that Mr. Smith did inform Mr. Dalia that this business wasn't appropriate for the neighborhood, but if he wanted to do this that he should go before the Board of Zoning and Appeals to obtain a special exception. Attorney Lee stated Mr. Dalia did not choose that action, he built his facility anyway. Attorney Lee stated she understands after Mr. Dalia built, the Board changed the ordinance which required five acres to have any business like this, so two years after the fact, Attorney Sullivan is asking that the Board allow her client to go to the Board of Zoning Appeals and ask for a special exception, which under our current ordinance he would not qualify for, because his property isn't five acres. Attorney Lee stated that Mr. Dalia property only consists of one and a quarter acres and it is very doubtful that the Board of Zoning Appeals would even grant him a special exception at this point. Attorney Lee stated that the appeal of the Zoning Official should be made within 30 to 60 days after the decision and not two years. Attorney Lee stated the special exception matter is inappropriate right now. **Chairman DeBoer** stated another issue that was brought up by Commissioner Cummings at Pre-Agenda was we almost have two different issues here. **Chairman DeBoer** stated we have the issue of boarding animals, but we also have a separate vacant parcel that is now being used (no building structure) to train animals. Attorney Lee stated she does understand there is another parcel of land in the

Ranchettes that is being used by a non-profit group or someone who comes in on a monthly basis and uses that parcel for some kind of training facility which is inappropriate in that neighborhood. **Chairman DeBoer** stated that Mr. Dalia did have his business in a commercial area and then transferred it into an agricultural area. Attorney Lee stated that Mr. Dalia is running this business at his home and not in a commercial area. **Chairman DeBoer** questioned if an injunction could be filed against Mr. Dalia. **Commissioner Horton** stated he would like the County Attorney to pursue the avenue which the Board had discussed and agreed on doing. **Commissioner D'Aprile** stated he would like to know, if in fact we did drop the ball somewhere along the line, i.e. who gave him permission, who stopped him and why did he take the route that he took. Attorney Lee questioned if the Board would like to hear from our Zoning Official, Mr. Smith. **(Board consensus.)** Tom Smith, Zoning Official stated he wrote Mr. Dalia a letter in the summer of 2002 stating he didn't think this business would be appropriate in the Ranchettes. Mr. Smith stated he told Mr. Dalia in this letter, if he wished to apply for a special exception we could handle it that way, which would give the neighbors the opportunity to share their feelings, also gives us the opportunity to put a handle on this and know exactly how many animals are being trained, how often, what hours, etc. Mr. Smith stated we had no more contact with Mr. Dalia, but he had heard that Mr. Dalia was operating his business out in the Ranchettes. Mr. Smith stated he personally believes that the confusion came along when the County to enforce an action on him there was a different interpretation in another department that Mr. Dalia had been grand fathered in, but that determination had never been made in his department. Mr. Smith stated there was no other correspondence written to Mr. Dalia telling him that it was okay for him to run his business in the Ranchettes. Mr. Smith stated there was some misunderstanding as to whether or not Mr. Dalia was grand fathered. Mr. Smith stated he never felt that someone could be grand fathered in when you were never legal to begin with. **Chairman DeBoer** stated he has a difficult time when people are advised as to what they want to do requires a special exception. **Chairman DeBoer** stated because someone ignores the issue, doesn't mean they can be grand fathered. **Chairman DeBoer** stated he agrees with **Commissioner Horton** and is ready to proceed. **Chairman DeBoer** commented on **Commissioner D'Aprile's** comments and stated as the legal office proceeds on this issue, and finds out if there is evidence to the contrary,

then certainly it should be brought back to us. **Chairman DeBoer** stated that in the process of discovery we find out that we've been given information in error, we need to be able to change direction. Attorney Lee concurred with **Chairman DeBoer's** comments.

Agenda Item P-2, Fees at the Cultural Center

Attorney Lee stated she has reviewed the Cultural Center's lease agreement and spoke with Mr. Johnson about the fees charged to different groups who rent space. Attorney Lee stated there is nothing in the lease agreement which gives the County any say in how the fees are set at the Cultural Center. Attorney Lee stated that from her conversation with Mr. Johnson, the fees are set to reimburse the Center for any costs associated with the use of the facility. Attorney Lee stated that non-profits are charged the dinner price plus one dollar per head; no gratuity or sales tax is on top of that. Attorney Lee stated because the Cultural Center has a full commercial food service, if a person wants to use the facility, but brings in their own catering service, the charge is six to ten dollars per person to reimburse the Center for cleanup and loss of business along with other costs.

Agenda Item P-3, Proposed Resolution for ELLAC Referendum

Attorney Lee stated she will incorporate the changes suggested by Mrs. Amodeo. Attorney Lee stated she wanted the blessings of the Board for this resolution and will schedule it for a formal approval at the next meeting.

Attorney Lee stated a few additional items came up this morning that she would like to share with the Board. Attorney Lee stated she is in receipt of a letter from the US Department of Interior regarding the scrub-jay habitat, which is addressed to **Chairman DeBoer**. **Chairman DeBoer** stated he has this on for this afternoon's workshop and all the Board Members have a copy of this letter.

Attorney Lee stated that probably all of the Board Members have received a letter from Richard Smith who is the attorney advising the Charter Review Board. Attorney Smith has indicated that the last amendment to the Charlotte County Charter has been basically pre-empted by a Supreme Court case in 2002. Attorney Lee stated that the Charter Amendment basically added an

additional qualification to the candidates which said they had to live in their district for six months, immediately prior to the time of qualifying to run for that office. Attorney Lee stated his opinion basically states that based on the Supreme Court case, we cannot add anymore conditions to a candidate then the law already establishes. Attorney Lee stated she has spoke to Kevin Russell who is the Supervisor of Elections Attorney and asked Attorney Russell as to how Judy Anderson, our Supervisor of Elections would handle this and he indicated that it is her duty to uphold the provisions of the Charter until she is challenged. Attorney Lee stated so until Ms. Anderson can find a Plaintiff to challenge this, she will continue to request that individuals sign an affidavit that they have lived in their districts six months prior to qualifying for the position. **Chairman DeBoer** stated that something doesn't make sense to him seeing there is a part of the Charter that has been made unconstitutional and questioned why would you have to wait until someone challenges it. **Chairman DeBoer** stated there must be some type of legislative process way to remove it, if in fact, it is unconstitutional. Attorney Lee stated there probably is, but Ms. Anderson's feeling is that it might be better for him here to represent that, but Attorney Russell's feelings was is this is an opinion, the case was based on a set of facts based out of Jacksonville, and our Charter was elected by the citizens. **Chairman DeBoer** requested Attorney Lee ask for the Attorney General's opinion on it. (**Board Members concurred with Chairman DeBoer's request.**)

R. Commissioners' Comments

Commissioner Horton spoke with regard to sewers on the Island. **Commissioner Horton** stated since he's been on the Board we've talked about sewers on the Island. **Commissioner Horton** stated he has spoken with staff and there is no benefit for Charlotte County to take over the sewers, so the Islanders can apply for a franchise application. **Commissioner Horton** stated there are still existing issues on the Island regarding land uses vs. sewer, if we have sewers we're going to have condos and high risers, hotels and motels and we need to resolve these issues. **Commissioner Horton** commented on the bridge at the Island which was done with that wonderful wood which was to suppose to last forever and ever and didn't and now needs to be replaced. **Commissioner Horton** stated there is a group of islanders that think the County should sue somebody on their behalf.

Commissioner Horton stated the County has always taken the position that we did what the Islanders wanted in the first place, so why would we want to sue anyone. **Commissioner Horton** stated legal needs to investigate this issue. **Commissioner Horton** spoke with regard to Commerce Park and it appears that our Public Works Department is going to get together with the developers who are willing to do something on the south end of Piper Road and see if we can expedite this program. **Commissioner Horton** stated there are two issues that keep coming up that we talked about, but which we haven't addressed is retail going to be allowed in that area, or residential. **Commissioner Horton** stated staff has taken the position that we don't need flashing yellow lights on SR 775 at Lemon Bay, because we now have a traffic light which controls traffic, but all the people who like the flashing lights want them back. **Commissioner Horton** spoke with regard to the Edgewater Condos (14 years, 6 months and 3 weeks later) questioned as to where are we at this point. **Commissioner Horton** requested legal staff to come back to the Board with some answers regarding the Edgewater Condos. **Commissioner D'Aprile** stated he has written letters to the Marine Advisory Committee, who are opposing the closing of the Tom Adams Bridge boat ramp for emergency vehicles, they don't have a problem with the closing for the people out there. **Commissioner D'Aprile** stated we're trying to find out what the costs would be in removing the ramp or just leaving it there for emergency purposes, if this is at all possible. **Commissioner D'Aprile** commented on the Murdock Village project and stated homes that have been vacated are being vandalized and suggested some sort of action needs to be taken. **Chairman DeBoer** commented on the expensive wood used for the bridge on the Island that was suppose to last forever and ever and stated if there are any grounds to sue he wouldn't object and concurred with **Commissioner Horton's** comments to have legal investigate this issue. Attorney Lee stated she has some concern with a lawsuit regarding the wood used for the bridge due to the Statute of Limitations being rather close to expiring. Attorney Lee stated she would have to review all the documents. **Chairman DeBoer** stated we're just about close to the five year limitation. **Chairman DeBoer** stated the wood on this bridge is disintegrating more so than a normal pressure treated wood. **Chairman DeBoer** commented on the water and sewer on the Island. **Chairman DeBoer** stated that the discussions we had occurred around the time we were doing the changes to the Comprehensive Plan and there was discussion on the possibility

of looking into the purchase of the utility at that time. **Chairman DeBoer** stated this issue needs to come back to the Board. **Chairman DeBoer** stated the issue regarding the Edgewater Condominiums needs to be brought back to the us. **Chairman DeBoer** commented on the expansion of the concrete plant on Peachland Boulevard and stated he has been receiving complaints from the residents in Heritage Oaks about the dust and noise coming from the plant. **Chairman DeBoer** stated residents in the neighborhood have done a petition regarding the expansion of the plant. **Chairman DeBoer** stated concrete trucks are making noise at 3:00 A.M. in the morning and the time has come for us to take a little more control. **Chairman DeBoer** reminded the Board that we do have a noise ordinance in effect. **Chairman DeBoer** stated he is in receipt of a letter from Florida Gulf Coast University requesting property from Charlotte County where Animal Control and the Fire Training Academy existed be given to them. **Chairman DeBoer** requested Board permission to place this item on the next Board's agenda. **Commissioner Horton** commented on the sewer issue on the Barrier Islands stated he has been assured by Mr. Keith that a report has been put together which they are going to be bringing back to us at the next meeting. **Commissioner Horton** commented on the boat ramp and asked if **Commissioner D'Aprile** is interested in reconsidering this item due to some additional information he has obtained he would be in support of it. **Chairman DeBoer** stated if the Board wishes to do this then you would have to add it by motion to the agenda today. **Chairman DeBoer** stated that he personally doesn't think the Board made a mistake by closing it. **Chairman DeBoer** stated the only thing he has seen so far is that the Englewood Fire District claims to use it. **Commissioner D'Aprile** stated he still needs additional information before he decides for reconsideration.

RECESS: 12:40 P.M. - 2:00 P.M.

(Chief Deputy Board Services Tommy Q. White was not present for this portion of the meeting. Executive Assistant Joann Dillon replaced Executive Assistant Stacey Miller and Deputy Clerk Diane J. Nice replaced Supervisor of Minutes Caroline W. Lounsbury for the remainder of the meeting.)

X. WORKSHOP AGENDA

S. 2:00 P.M. PUBLIC WORKSHOP

Agenda Item S-1, Discuss the Habitat Conservation Plan for Scrub Jays

Elliot Kampert, Natural Resources Manager, gave a slide presentation on the Overview of Issues:

- The County is home to 135 Florida Scrub Jay family groups with 419 individuals
- There are four population groups (Gulf Cove, Mid-County, Deep Creek / Harbour Heights, and East of the Peace River)
- The Florida Scrub Jay is listed as a threatened species by the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission
- Scrub Jays are protected under the Federal Endangered Species Act and the Florida Wildlife Code
- The 1997 / 2010 Comprehensive Plan mandates adoption of a Florida Scrub Jay Habitat Conservation Plan (HCP)
- HCPs may be implemented on a County-wide or project-by-project basis
- Individual lot permitting problems are part of the County's platted lot legacy

Mr. Kampert outlined the HCP Strategies:

Option 1: County Projects (5-Year CIP) HCP addresses only projects within the County's five-year Capital Improvements Plan (CIP) that will impact Florida Scrub Jay Habitat; it does not address private development or future County projects that would require State and Federal permits.

Option 2: County-Wide (Public Projects and Private Development) HCP addresses permitting and development of public and privately owned Scrub Jay Habitat within the Urban Service Area, parcels, less than 25 acres, and platted areas. Under this option, the County would intercede on behalf of private property owners to resolve State and Federal permitting issues. Without a mechanism to recover costs associated with acquisition and management needed to obtain State and Federal development approvals, the financial obligations would fall on the County.

Option 3: Take No Action would require that public and private development continue to be addressed on a project-by-project basis. This may include use of private mitigation banks, establishment of preserves through the County's Transfer of Development Rights (TDR) Program, and the County expanding its lot-swap program to include lots in Scrub Jay Habitat for which private development is proposed.

Mr. Kampert reviewed the Florida Scrub Jay Habitat Conservation Plan Strategies Land Acquisition Summary Table:

Option 1: Because the 5-year CIP Mitigation Program includes roads which pass through habitat requiring mitigation on a family-group basis, it is impossible to provide an accurate acreage figure and estimated 410 acres would be preserved and the total cost of land acquisition based on February 2004 values would be \$7,246,000.

Option 2: A total of \$7,759.5 acres of Scrub Jay Habitat would be addressed, of which 4,833 acres are in private ownership and 774.5 acres are owned by the County and School Board for a total of 5,607.5 acres mitigated for development, and 2,152 acres would be preserved for a total acquisition cost of \$37,024,500.

Option 3: A total of 7,349.5 acres of Scrub Jay Habitat would be addressed, of which 4,833 acres are in private ownership and 774.5 acres are owned by the County and School Board for a total of 5,607.5 acres mitigated for development, and 1,742 acres would be preserved for a total acquisition cost of \$29,778,500.

Mr. Kampert compared the Advantages and Disadvantages of the HCP Strategies:

Option 1: Advantages are that the permitting for County projects within the 5-year CIP would be streamlined; land acquisition and management costs would be addressed in the annual budget; reduction of platted lots would occur along with an opportunity for density re-allocation; urban green space would be provided; Comprehensive Plan Goals, Objectives, and Policies would be accomplished; and some protection of the Shell and Prairie Creek Watershed would be provided along with an opportunity to prompt acquisition of SWFWMD Save Our Rivers lands whereas disadvantages include the annual update of the HCP as new CIP projects are added, 728 acres of County-owned scrub

habitat would not be addressed, the rising value of land would increase mitigation costs, assembly of mitigation areas would become more difficult due to development, there would be no relief for private development, and it would not guarantee the best opportunity for survival of Scrub Jays in the County.

Option 2: Advantages are that it would proactively address Scrub Jay permitting for all private and public development within the Urban Service Area; it would reduce susceptibility of cost increases due to rising land values; provide greater protection of the Shell and Prairie Creek water supply and an opportunity to match and provide prompt acquisition of SWFWMD Save Our Rivers lands; it would provide the greatest reduction of platted lots and opportunities for density re-allocation; provide the greatest provision of urban green space; accomplishment of Comprehensive Plan, Goals, and Objectives along with the best opportunity for long term survival of Scrub Jays in the County versus the disadvantages of being the most immediately expensive land acquisition cost and land management obligations.

Option 3: Advantages include the least immediate expense to the County for land acquisition and land management obligations and provides the greatest opportunity for the private sector entrepreneurial solutions and the disadvantages are that all projects would have to go through lengthy permitting processes on an individual basis, mitigation costs would escalate due to increasing land values and a greater mitigation ratio for small projects, management costs would increase due to fragmentation and isolation of preserves, and it would provide the lowest opportunities for long term survival of Scrub Jays in the County.

Mr. Kampert outlined the following Land Management Considerations:

1. Scrub Jay Habitat, after acquisition, must be managed to ensure long-term viability; this is a requirement of the incidental take permit; and an integral part of the HCP.
2. Land management costs vary depending on property condition, size and location of the parcel, and the management techniques used.
3. Some of the property acquired through a HCP would require intensive, initial management and site preparation in order to restore it to optimal condition. Scrub habitats are managed on a 5 to 20 year cycle utilizing fire and

- mechanical clearing and, once restored, management is primarily maintenance.
4. Using statistics from surrounding counties and land management entities, the management costs are estimated between \$500 and \$1,000 per acre depending upon the condition of the property.
 5. If the County-Wide HCP is implemented and preserves are managed on a 5-year cycle, approximately 430 acres would be subject to management each year at a cost of \$215,000 (at \$500 per acre) and \$430,000 (at \$1,000 per acre). A commitment for funding management areas is necessary to be approved by the U.S. Fish and Wildlife Service and the Fish and Wildlife Conservation Commission.

Mr. Kampert summarized Additional Considerations for the HCP Strategies:

1. Inclusion of property within an intended preserve area does not ensure conservation and development within a preserve area may impact the overall viability due to fragmentation, loss of management potential, and reduction in size of the remaining habitat. If an intended preserve becomes too impacted, the mitigation value is lost, the County would need to compensate at another location, and this might affect cost and long-term success of the program.
2. If property owners within mitigated areas opt to pursue individual HCPs, the number of properties contributing to the mitigation fund would decrease.
3. In order to complete preservation areas necessary to mitigate public and private development, the County would need to exercise eminent domain authority as part of the County-Wide HCP and the County 5-year CIP Projects Plan (as in mitigation for the Edgewater Extension Program since only about 50% of the properties have been acquired from willing sellers). Use of eminent domain would ensure public ownership of mitigation land concurrent with the permitted activity and preclude the incremental loss of preserve area which would occur on a lot-by-lot development whereas too much development within a preserve area might prevent it being considered as suitable mitigation land by jurisdictional agencies.
4. Implementation of a Scrub Jay HCP would not duplicate or replace existing preservation measures that were

- established as part of a Development of Regional Impact (DRI), Planned Development (PD), or subdivision process i.e. Riverwood and Heron's Cove.
5. All versions of the HCP would incorporate existing publicly owned preserve areas where mitigation credit has been assigned by the Florida Fish and Wildlife Conservation Commission and the U.S. Fish and Wildlife Service i.e. Amberjack Slough.
 6. Even where existing mitigation value has not been assigned, the 5-Year CIP Plan and the County-Wide HCP build upon existing preserve areas (Tippiecanoe and Amberjack Slough) to enhance manageability and long-term viability.

Mr. Kampert summarized the Options as follows:

1. Option 3 is the immediately least expensive alternative but it leaves the County and private developers subject to time consuming State and Federal permitting processes for each project that impacts Scrub Jay Habitat; mitigation and managements costs would become more expensive due to increasing land values and development surrounding isolated preserves; and isolated preservation areas are the least biologically viable for survival.
2. Option 1 allows the County to address Scrub Jay Habitat concerns and to budget permit and mitigation costs as part of the 5-Year CIP; this would streamline identified projects although it does not address out-year or unanticipated projects that may be desirable on County-owned habitats. This option would provide a limited opportunity to establish an integrated network of preserves if the County does not mitigate beyond the 5-Year CIP and the preserves might become isolated in the future by development; and this option leaves the County open to increasing land values.
3. Option 2 is the most immediately expensive alternative but it provides the greatest regulatory certainty for public and private projects as well as the greatest opportunity to establish an integrated network of preserves with the most chance of long-term viability for species survival and most cost-effective management potential. This Option would accomplish more Comprehensive Plan Goals, Objectives, and Policies by reducing the platted lot inventory; protecting native

habitats; providing floodplain management, watershed protection, and open space; and even though initial acquisition would be expensive, it would avoid long-term increases in land values.

Mr. Kampert advised research conducted by staff indicates that no county in Florida has implemented a County-Wide HCP for Scrub Jays; the nearest example found was Volusia County's sea turtle HCP but it is more limited in scope than Charlotte County's proposal and more closely parallels Sarasota County efforts. Mr. Kampert reiterated Option 2 most fully addresses the issues associated with Scrub Jays; selection of Option 2 would establish a policy that the Board finds it appropriate and necessary to intervene on behalf of private property owners to resolve permitting issues; and suggested the Board direct staff to clarify its policy regarding the County's role in resolving private permitting issues. Mr. Kampert stated if the Board does not elect to implement a County-Wide HCP and establish a policy concerning intervention in private permitting matters, then Option 1 should be implemented in order to help streamline permitting for major projects and allow for sufficient and effective budgeting for necessary land acquisition and management. **Commissioner Devos** commented in support of the County-Wide HCP but she is concerned about acquiring viable habitat land for conservation. Mr. Kampert explained time is a factor in the acquisition of viable habitat lands and once the preserved lands are acquired, the lands would remain viable through the management program. **Commissioner D'Aprile** requested an explanation of the \$2 million necessary for the initial management plan. Mr. Kampert pointed out the amount of initial land management would depend upon the condition of the property and stated a lot of preserve areas are not in a pristine condition. **Commissioner D'Aprile** stated the Scrub Jays are living in areas where there have not been any management provided and questioned spending millions of dollars to make the habitats more comfortable. Mr. Kampert explained Scrub Jays are moving around due to incremental loss of habitat through development and burns and an HCP would allow the Scrub Jays to remain in preservation areas. **(Chief Deputy Board Services Tommy Q. White was present for the remainder of the meeting.)** Ann Navan, Budget Officer, outlined the HCP Funding Alternatives relating to Option 2 for which the land acquisition cost is estimated at \$29,778,500: if an MSBU is established with 10-year financing, the assessment would be \$863 per acre or \$216.00

per quarter-acre lot, and the first year the assessment might be levied would be FY 05/06 if the Uniform Method is established by December 31, 2004, and advised the MSBU as a funding source is still under legal review and some of the cost might be offset by Florida Communities Trust (FCT) funding; if a one-year MSBU assessment is levied, it would be \$6,664 per acre or \$1,666 per quarter-acre lot in FY 05/06 if established by December 31, 2004, and again the MSBU as a funding source is still under legal review and some of the cost might be offset of FCT funding; if an MSTU is established in the Unincorporated Area of the County (exclusive of the City of Punta Gorda) with a one-year assessment, the rate would be 3.36 mills for FY 04/05, and pointed out the 10 mill cap would need to be considered and some of the funding might be offset by FCT funding; if an MSTU is established in the Unincorporated Area with 10-year financing, the rate would be .4 mill annually to begin in FY 04/05; and an MSTU for Benefiting Properties Only (4,833 acres) would not be feasible due to the high calculated Millage. Ms. Navan explained assessments might be offset by grants and other revenues from the Land and Water Conservation Grant of \$100,000 annually if awarded in FY 05/06, the grant is highly competitive and a 50% match is required; staff has identified \$8.7 million of FCT monies available for acquisition, applications are due May 5, 2004 for the next cycle funding, advised the Winchester project is being submitted, a 50% match is required, \$6.2 million is available annually, the properties must be contiguous and must not be taken by eminent domain, and suggested an application for this project be submitted separately from Parks, Recreation, and Cultural Resources projects; under the proposed Environmental Lands Acquisition Advisory Council (ELAAC) Referendum, staff has identified HCP properties totaling \$6,758,000 within ELAAC properties, if approved by voters, .5 mills would generate between \$5 million to \$6 million annually starting in FY 05/06; reported Gas Tax and Impact Fee revenues might be used to fund the Edgewater and Tippecanoe project at \$2.6 million and the Winchester project at \$2.2 million from the Transportation Trust Reserves although funds would need to be redirected from other Road Projects; this Fund is experiencing high land acquisition costs on other projects that have not been adequately funded; Fire Assessments totaling \$63,000 might be utilized from the Fire / Rescue Fund Reserves; and Other Options include only doing County Projects through various funding sources in the CIP for FY 04/05 and a General Obligation Bond for FY 05/06 would require voter approval. Ms. Navan stated

Land Management Costs, in addition to land acquisition costs, would be necessary and estimated that a one-time assessment of \$500 to \$700 per quarter-acre lot would: (a) provide funding for the initial, higher land management issues at a cost of about \$2 million, (b) provide funding for maintenance of 430 acres annually, at a cost of about \$240,000 per year on a five-year rotation basis, and (c) establish a trust fund to assure the Federal agency that monies would be available for land management i.e. \$240,000 per annum would be interest earnings on a \$8 million trust fund that would be established with the initial assessment. **Commissioner Devos** questioned the benefits of a General Obligation Bond. Ms. Navan explained the approximate \$30 million for land acquisition costs would be bonded with payback provisions. **Commissioner Devos** expressed an interest in bonding road projects and questioned the feasibility of including mitigation costs for CIP projects. Ms. Navan advised a General Revenue Bond might be done without voter approval. **Commissioner Devos** requested Ms. Navan consult with her on an individual basis. **Commissioner D'Aprile** acknowledged that Charlotte County is mandated to establish a HCP pursuant to the Comprehensive Plan and questioned the possibility of State funding institutions giving priority to Charlotte County because of the Scrub Jay issues. Ms. Navan stated FCT grants are less competitive than other grants and \$6.2 per year is available. Bruce D. Loucks, County Administrator, pointed out Charlotte County's many quarter-acre platted lots have development rights, large parcels in many counties used for mitigation and habitat lands are located in the boonies, and advised the Board needs to make a decision on its role in addressing this problem i.e. intervention for private property owners versus County-wide CIP projects. **Commissioner D'Aprile** requested verification that Charlotte County is the only county with this problem. Mr. Loucks clarified that Charlotte County is the only county trying to resolve the issue this way and other counties have been unsuccessful in developing HCPs. **Chairman DeBoer** stated Charlotte County is being used as an example to set a precedent to make it work other counties and force it upon people without going through a law or rule making process, as a matter of due process pursuant to the Constitution. **Commissioner Devos** expressed concern about the County filing a challenge and leaving private properties in limbo. **Chairman DeBoer** expressed the belief that the Board would not agree to subsidize developers, pointed out the quarter-acre platted lots create problems, suggested the County acquire the quarter-acre lots

when property owners get ready to develop in order to allow them to purchase lots elsewhere in the County i.e. the cost would be less, building permits would not be held up, and the County would not be put in the position of setting a precedent for the HCP for the rest of the State of Florida. **Commissioner Devos** agreed the County should circumvent not challenge the process. Mr. Loucks advised staff has compiled an inventory of about 200 vacant developable lots that may be used for swaps. **Chairman DeBoer** stated the County's acquisition or swap of the lots would create an equity and allow property owners to build now and wondered at the number of lots involved where Federal and State agencies have intervened in the permitting process. **Chairman DeBoer** opposed subsidizing developers and stated the Board would need to identify public purpose and property owner discrimination guidelines. **Commissioner Devos** pointed out that it is not a simple policy issue. **Chairman DeBoer** advised Board Members are having a great deal of difficulty with this, it has been thrust upon the County, and it is distasteful; reiterated the Federal government is trying to use Charlotte County to set a precedent; recalled the Securities and Exchange Commission and Internal Revenue Service charged the County with "yield burning" in the taking of the Utility wherein the mark up on the \$114 million in bonds was so great that the bonds were declared taxable; it was subsequently determined that no rule making process was conducted to establish a threshold; and the Federal government backed down. **Chairman DeBoer** announced public input procedures. Joe Fleming, a Harbour Heights resident, pointed out county government decides on land uses although State and Federal governments have established guidelines; indicated that Farm Land Community Trust has advised that for every \$1.00 used for management of habitat lands in Charlotte County, it would cost \$1.75 to manage the same property for infrastructure development so there is a \$.75 savings; and this is a great opportunity to manage growth at a reasonable price and provide protection and preservation for residents and wildlife especially since the County will continue to grow. Fred Rossi, a local architect and planner, stated property owners are prohibited from constructing docks because of manatees and now Scrub Jays are preventing development; he is about ready to pay off land in Deep Creek after 15 years and now his dream is ended since he cannot build on it; expressed a willingness to sell it to the County for his investment cost; agreed that the State is using extortion against the County; and suggested **Commissioner Horton** contact one of his farmer friends in Georgia and

establish an aviary for the birds. Anthony Hager, a 30-year County resident, reported his loss of over \$24,000 in the process of trying to have a home constructed (more than he makes in a year), the money could have been used for his children's education, the County knew he was in the process of building a home because permits were applied for on November 20, 2003, the septic tank permit was completed on December 22, 2003, addressing was completed on January 22, 2004, and zoning and tree permits were completed on January 28, 2004 along with an application regarding Scrub Jays to Cathy Olson; advised he would have to spend over \$100,000 for a home that is 14 years or older on top of the \$24,000 that he has lost to the County, title company, contractor, bank, broker, and insurance company for services that have not been performed; all of them have benefited from his misfortunes that he had no control over; and requested help. **Chairman DeBoer** advised he received, read a copy of a note that Mr. Hager sent to Representative Jerry Paul, and it will be circulated to the other Board Members. Ian Dack, a Prairie Creek Park resident, requested the areas considered as part of the County-Wide mitigation budget process, the red or red and yellow zones. **Chairman DeBoer** advised questions would be answered after public input. Mr. Dack explained he and his wife purchased a five-acre parcel the end of last year, the GIS maps reflected the parcel to be outside of a Scrub Jay area but the revised map shows the parcel to be located in a yellow zone that requires State and Federal permitting process prior to issuance of a building permit, opined development of lands in the permit process should be allowed to move forward, permits should be issued, and wait to see what steps the Federal and State agencies take. Richard Krueger, of Green Bay, WS and Englewood, expressed appreciation for the opportunity to speak; reported he and his wife purchased a lot last year south of Grove City and were both unaware of Scrub Jay issues; they planned to select a builder and proceed to have a home constructed this year but they are going to put the contract with the builder and construction on hold; he acknowledged the Board's difficult position in this matter; advised although he has contacted Fish and Wildlife Service officials no answers have been received and he has obtained some information from Cathy Olson; from an impact stand point, they stand to lose the \$40,000 paid for the lot and construction costs may increase as much as \$15,000 to \$20,000 per year; and encouraged the Board to consider the fact that a lot more people may be reluctant to sign a construction contract. Bill Jones, a Charlotte County

real estate broker, suggested utilizing the Babcock, Webb, and Myakka Forest areas for Scrub Jay habitats and stated the Property Appraiser should reduce valuations on property that may not be developed because of Scrub Jays. Debra Carlen, a real estate agent, stated she and her fiancée, purchased two waterfront lots off of Como for \$130,000 on which they are making \$1,200 per month payments; the lots are shown now to be in the red zone; she has been coming to Port Charlotte since the inheritance of her grandparents home in 1963; commented on the immense growth in the area; taxes have tripled on the two waterfront lots since a year ago; she cannot believe that the County expects her to pay triple taxes on a piece of property she cannot build on plus the \$130,000 loss; and opined realtors should have been made aware of the potential adverse impacts over the last three years. Ernest S. Sturges, Jr., attorney and shareholder with the Wotitzky law firm, appeared on behalf of Carlos Bigord who had begun the permitting process on a waterfront lot with Gulf access on Jessica Terrace located in the red zone west of Como Street, they were to build their dream home on it, he is a manager of a local fast-food restaurant and a realtor, a survey was obtained after Ms. Olson informed him of the Scrub Jay issues, and a HCP was submitted a month ago. Attorney Sturges advised he contacted U.S. Fish and Wildlife and officials indicated that his client must file another application and that review would take 8 to 12 months but the process might be speeded up if the County adopted a County-Wide HCP, requested Board Members contact him regarding his client's circumstances including costs they have incurred of \$40,000, the construction loan must be repaid since it is going to expire soon, the contractor has informed his client that costs have increased by 10% since May 2003, and encouraged the Board to adopt a County-wide HCP or file a challenge. **Chairman DeBoer** advised information regarding Mr. Bigord's case would be circulated including staff's response. Robert LaVelle, a 16-year Deep Creek resident and County employee, advised he and his wife had plans drawn up for a home, a survey was performed, Public Works issues were resolved, and then he was informed that Scrub Jays were on the property and he may not build on it, commented in support of a challenge being filed, and encouraged the Board to follow through. Bruce Hill advised he bought property and was informed two months later that he could not build on it because of Scrub Jays, the property is located between two existing homes, the Board needs to factor in the loss in taxes and daily living expenses that he pays, and

encouraged the Board to expedite whatever action they decide on and not waste anymore time. Ronald Sclurur advised he and his wife moved to Florida in June 2003; bought a lot at the corner of Fairwind Avenue and Plateau Lane in Gulf Cove; contracted with a local builder and Sun Trust in September 2003; his wife is not working and he is on disability; all permits were issued including septic and pool; roofing materials, tile, and cabinets have been ordered; he and his wife have purchased all of the lighting and fan fixtures; the contractor has been advised that the home may not be constructed on their lot because of Scrub Jays; they cannot afford to buy another home; and fortunately, his wife's brother has a fish camp at Lake Okeechobee where they are staying until this matter is resolved. Thomas Brogan, appeared on behalf of his son James, a New York teacher, who sent a letter to Board Members regarding compensation for his financial loss. Robert Boesch, who bought a double lot in Gulf Cove to build a home, stated the realtor did not make any disclosures regarding Scrub Jays; because of the uncertainties regarding resolution of these issues, they decided a purchase a home outside of Scrub Jay areas; and expressed a willingness to trade his double lot to the County. John Fiedler opined what is going on with individuals is a disgrace, encouraged the Board to make a firm stand against Federal and State agencies, set aside land in the boonies for Scrub Jay Habitat, and proceed with issuance of building permits. Vivien Melvin stated she just bought 20 acres in the dreaded red zone for preservation and encouraged the Board to acquire preservation lands for the people. Chris Yezzi, a Port Charlotte resident who owns land in Deep Creek, suggested extending the time to build a home up to 10 years, after a permit has been issued as a result of compliance with Federal, State, and County requirements concerning Scrub Jays, in order to circumvent the entire process again should the birds move their habitats. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC WORKSHOP, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** Mr. Kampert recalled the GIS computer system was down for a few days and stated he would consult with Geographic Information Systems (GIS) Manager Dennis B. Murphy, Sr., to ascertain when red, yellow, and green zones were added to the GIS map. **Chairman DeBoer** explained land designated as Scrub Jay Habitat is the only property that may be acquired for mitigation not Babcock Ranch, certain soil conditions must be present for growth of proper habitat, Scrub Jays must not be moved by mankind, the Board did not know three years ago about these issues, a realtor called him on a weekend

earlier this year when the first permits were held up and he brought the issue to the Board at the next regular meeting, and stated if the County is going to invest tax dollars it should be to create immediate relief for the people who want to build on single family lots today and free up permits of individuals in the permitting process. **Commissioner Devos** recalled a rule change occurred during the process of identifying mitigation lands that created these problems, expressed support for directing staff to develop a mechanism to provide immediate relief to people who own property in the red zone and are in the permitting process or are reluctant to build due to the situation, commented in support of developing a County-Wide HCP, opposed challenging Federal and State agencies, expressed disappointment that a legal opinion has not been rendered on the establishment and use of MSBU assessments, stated it is impossible to make a decision without the legal opinion and specific funding sources, there has not been any discussion today regarding the impact to agricultural lands, and opined the most fair funding option would be to establish an MSBU with 10-year financing at \$216 per quarter lot per annum as this option would allow people to sell their property for development purposes. Reneé Francis Lee, County Attorney, advised the MSBU option is full of pitfalls and loopholes, a connection may be identified between the benefit to property owner and mitigation to allow development but all of the issues have not been resolved, an option is being evaluated to attach a participation fee to the building permit application, a revenue stream must be identified for the HCP, and pointed out Attorney George Nickerson indicated he is not aware of any HCP being financed through an MSBU in the State of Florida. **Commissioner Devos** questioned if the MSBU is applicable only to private property owners. Attorney Lee agreed and stated the MSBU assessments would fund the majority of the HCP i.e. \$27 million versus \$8 million for the County. **Commissioner D'Aprile** requested clarification on the statement that "Staff research regarding the habitat conservation planning process indicates that, as of this writing,....no county in Florida has implemented a county-wide HCP program for this particular species. We're the only one with a Scrub Jay problem." **Commissioner D'Aprile** requested the other Florida counties experiencing the same Scrub Jay issues, what counties have Scrub Jays, and what counties have permitting problems because of Scrub Jays. Mr. Kampert explained other counties have Scrub Jays i.e. Sarasota County has a larger population of Scrub Jays than Charlotte County;

Sarasota County does not have the platted lot problems; Sarasota County is referring building permit holders to U.S. Fish and Wildlife Service and the Game Commission; Brevard County in the mid-1990s attempted to do a County-Wide HCP for Scrub Jays, they had a much larger population than Charlotte County, decided not to implement the program primarily because of the cost, and projects are addressed on a project-by-project basis; Indian River County has a Scrub Jay problem and they are not attempting a HCP at this time; and Sarasota and Charlotte Counties are the only two attempting to develop and implement HCPs. **Commissioner D'Aprile** questioned if Sarasota County has put a hold on building permits. Mr. Kampert advised Sarasota County has put a hold on building permits and, therefore, Charlotte County has not been singled out. Mr. Loucks reported in some cases in Brevard County, a 4-to-1 mitigation is required as opposed to a 2-to-1 mitigation. **Commissioner D'Aprile** stated, based on the information, all Florida counties will have to go through the same process and develop HCPs; expressed frustration for the people who have to suffer and for everyone who is told what they can and cannot do with their property; stated there must be something done to help people build their homes; and if Option 2 is selected, then expedite it. An Unidentified woman in the audience suggested writing to Governor Bush. **Chairman DeBoer** explained shouting is not allowed and reiterated Charlotte County is different than other counties because of the platted lot issues instead of large tracts that developers come in and pass the mitigation costs along to buyers. Attorney Lee advised she and Mr. Loucks have requested help; she may come back to the Board to ask for funding for an attorney in Tallahassee who has worked on HCPs for other species; she is trying to resolve a conflict situation at this stage; also she has asked Earth Balance, Don Ross, who has been involved in some HCPs for assistance; reported she has identified \$25,000 in her office budget and if Mr. Loucks can identify some additional monies, then it would not be necessary to request more funds to hire the attorney to go to Atlanta with staff before U.S. Fish and Wildlife. **Commissioner Horton** stated the problems with the Scrub Jays are much like those the County encountered regarding the Manatees under the Endangered Species Act, i.e. incidental takings, and requested the number of individual lots located within the red zone. Mr. Kampert offered to provide the number at a subsequent time. **Commissioner Horton** questioned if the County were to issue building permits to allow people to build their homes, what would the Federal and States agencies do and

also if the homeowner or the County would be liable if the agencies consider this an incidental taking and impose a fine up to \$100,000. Attorney Lee reported officials at Fish and Game Commission and U.S. Fish and Wildlife have indicated that homeowners and the County would be liable. **Commissioner Horton** suggested the County either purchase land to mitigate these lots or acquire the lots; stated the HCP needs to be developed along with a funding source i.e. issue a bond to purchase the land now instead of waiting five or six years, submit the HCP to Fish and Game Commission and U.S. Fish and Wildlife with a request for an interim program that would allow issuance of building permits to people who wish to build on quarter-acre lots instead of going to the agencies on a project-by-project basis. **Commissioner Devos** requested confirmation that U.S. Fish and Wildlife will allow issuance of permits if the County implements a HCP. Mr. Kampert stated that is the purpose of the HCP. Mr. Loucks pointed out that is not a guarantee since the HCP must be submitted and then the incidental taking must be considered as another level of approval. Mr. Kampert stated incidental taking is a part of the HCP, estimated approximately three months to complete the HCP, 8 to 12 months for review of the proposed HCP, and do the Federal Register publication. **Commissioner Devos** indicated the only logical long-range plan is to adopt a County-Wide HCP and commented on the need to identify funding resources and establish an interim program. **Chairman DeBoer** requested the fees to buy into the Private Land Bank. Mr. Kampert advised the fee is \$15,000 per acre or \$7,500 for a quarter-acre lot under the 2-to-1 scenario and responded to **Commissioner Horton's** inquiry by advising 17,379 lots are in private ownership. **Chairman DeBoer** concluded that for every single-family lot being held up in the permitting process it would cost \$7,500 and it would be the least costly option for the immediacy. **Commissioner Devos** agreed. **Chairman DeBoer** did not agree regarding the long-range plan because if a way were identified to circumvent the process, U.S. Fish and Wildlife would have to bring a proposal to the table. **Commissioner Devos** disagreed because a challenge would be more length and costly than the 8 to 12 month agency review process. **Chairman DeBoer** requested the number of lots being held up in the permit process. Mr. Kampert reported 41 lots. **Chairman DeBoer** calculated approximately \$280,000 to \$290,000 and expressed a willingness to allocate that amount at the next Board meeting in order to get the permits issued on the 41 lots. Mr. Kampert added one complication of using the Mitigation Land Bank is that it would

serve Deep Creek and Harbour Heights areas but not Gulf Cove West County areas. **Chairman DeBoer** commented in support of allocating funds to help as many people as possible and to search for another mitigation bank for the remainder. Mr. Kampert reported the Mitigation Land Bank would serve 20 permits. **Chairman DeBoer** requested an item be placed on the next meeting agenda. Mr. Loucks suggested swap options be offered in order to reduce County costs and pointed out consideration needs to be given to other applicants whose permits have not been held up. **Chairman DeBoer** suggested taking those as they come up and recommended staff bring back details on swap and purchase options including the sale of development rights to recover some monies. **Commissioner Devos** questioned if a sending area has been designated in West County. Mr. Kampert advised the County has acquired lands around the Amberjack area in addition to Rotonda property that may be utilized with the U.S. Fish and Game Commission. **Commissioner Devos** requested if the remaining 21 are located in West County. Mr. Kampert advised two are in Mid County and 19 in West County. **Commissioner Devos** suggested expediting identification of another mitigation bank. Mr. Kampert pointed out the Mitigation Land Bank has the authority to broker the land. **Chairman DeBoer** concluded staff would bring back at the next meeting details regarding purchase and land swap options and the Mitigation Land Bank. **Chairman DeBoer** commented in support of offering land swap and purchase options to circumvent the process and allow people to build somewhere else in the County. **Chairman DeBoer** requested the time frame for the meeting in Atlanta, Georgia. Mr. Loucks stated April 21 or 22, 2004. **Chairman DeBoer** requested direction prior to the meeting to be held in Atlanta, on April 21 or 22, 2004, with U.S. Fish and Wildlife Service Regional IV Director Sam Hamilton. **Commissioner Devos** questioned if Congressional Representatives would be attending the Atlanta meeting. **Commissioner Horton** reported Representatives have been contacted and they have been in contact with the Director. **Chairman DeBoer** suggested making telephone calls to Representatives for more assistance and expressed the assumption that the conflict would be resolved in order to hire the attorney to attend the meeting.

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March 23, 2004

MEETING ADJOURNED: 4:00 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
cwl/djn