

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

APRIL 27, 2004

A regular meeting of the Board of County Commissioners was held at the Murdock Administration Complex in Port Charlotte, Florida. The following members were present: Chairman Matthew D. DeBoer and Commissioners Thomas C. D'Aprile, Adam Cummings and Sara Devos. 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 Diane Gant and Supervisor of Minutes Caroline W. Lounsbury. The meeting was called to order at **9:05 A.M.** (Commissioner Horton was not present due to illness.)

The **invocation** was given by Pastor Mark Clarke, Grace Bible Church, Port Charlotte, Florida, followed by the Pledge of Allegiance to the Flag.

CHANGES TO THE AGENDA

Additions:

Addition No. 1

COUNTY ATTORNEY: Proclamation: Law Week, U.S.A. - Week of April 25, 2004 through May 1, 2004

Addition No. 2

HUMAN SERVICES: Agenda Item J-2, Review approval and signature of subordination documents for closing of Punta Gorda Pines permanent financing.

Addition No. 3

COUNTY ATTORNEY: Agenda Item M-1, Update on Edgewater Condos.

**COMMISSIONER D'APRILE MOVED FOR APPROVAL OF THE ADDITIONS TO THE AGENDA, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.
(4:0)**

Proclamations:

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE MONTH OF MAY, 2004 AS "AAA EIGHTH ANNUAL SAFE TEENAGE DRIVER AWARENESS MONTH" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0) Steven Carter, representing AAA accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE MONTH OF MAY, 2004 AS "CIVILITY MONTH" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. (4:0) Janette S. Knowlton, Assistant County Attorney accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATION THE WEEK OF MAY 2, 2004 THROUGH MAY 8, 2004 AS "DRINKING WATER WEEK" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. Kim Harris, Charlotte County Utilities Business & Administrative Manager accepted the proclamation. **Chairman DeBoer** thanked the residents of Charlotte County for conserving water and announced that Charlotte County has the lowest ratio for consumption of water.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE MONTH OF MAY, 2004 AS "INTERNAL AUDITOR AWARENESS MONTH" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. (4:0) Michael Byrne, Internal Audit Director accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE DAY OF MAY 8, 2004 AS "NATIONAL ASSOCIATION OF LETTER CARRIERS UNITED STATES POSTAL SERVICE FOOD DRIVE DAY" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0) No one present to accept the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE DAY OF MAY 7, 2004 AS "NATIONAL CHILD CARE/EARLY EDUCATION PROVIDER APPRECIATION DAY" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. (4:0)

Helena Sloane, representing YMCA Services accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE WEEK OF MAY 9, 2004 THROUGH MAY 15, 2004 AS "SMALL BUSINESS WEEK" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0) Marty Geis, representing DayStar Communications accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE MONTH OF MAY, 2004 AS "SUNFLOWER CELEBRATION OCEAN'S SENIOR APPRECIATION MONTH" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. (4:0) Tom Williams, President of OCEAN accepted the proclamation. Dolly Dessart, founder of OCEAN accepted the proclamation. Dolly Dessart, founder of OCEAN thanked the Board for all their support.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE WEEK OF APRIL 25, 2004 THROUGH MAY 1, 2004 AS "LAW WEEK, U.S.A." ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0) Michael Wilson, Attorney with the Charlotte County Bar Association accepted the proclamation.

PRESENTATION - COMMISSIONER SARA DEVOS

Recognition of flags that had been flown over Iraq, by Kim Lovejoy, a member of the Air National Guard activated last year in Qatar, for three Charlotte County Departments: the Board of Charlotte County Commissioners, the Sheriff's Department and the Fire Department, in memory of those who perished on **September 11, 2001**, in Washington D.C., a field in Pennsylvania, and in the Twin Towers, New York, New York.

Major John Davenport, with the Sheriff's Department presented an award to Kevin Edwards, GIS Analyst/Supervisor, by the Charlotte County Sheriff's office and the Charlotte County Board of Commissioners for outstanding customer service for writing a programming tool that maps cell phones and cell phones locations, and land line calls, assisting Charlotte County Sheriff's E-911 Department. **Commissioner Devos** stated that Mr.

Edwards saved the County approximately \$40,000.00 in writing this program.

I. CITIZENS' INPUT - AGENDA ITEMS ONLY

Dixie Sewell addressed **Agenda Item M-1, Update on Edgewater Condos** and thanked the Board for their support to the residents of the area, stated that an agreement has been reached between the residents and the developer and is requesting that the Board no longer pursue the Declaration of Restrictions suit.

Attorney Michael Haymans with the law firm of Farr, Farr, Emerich, Sifrit, Hackett and Carr, P.A., representing the developer, addressed **Agenda Item M-1, Update on Edgewater Condos** stated the developer has entered into an agreement with Lemon Bay Breezes, have settled with all owners except one and anticipates settlement will be reached with them shortly. Attorney Haymans stated he prays that the Board will dismiss the Declaration of Restrictions lawsuit. Attorney Haymans stated it has always been the intention of this developer to construct this building.

Dr. William Coy addressed **Agenda Item M-1, Update on Edgewater Condos** stated he is speaking on behalf of West Charlotte Civic Association Homeowners and the Lemon Bay League Association and wishes to get them off his back.

II. COMMITTEE VACANCIES

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

- ❖ Affordable Housing Advisory Committee - (1) member-at-large volunteer for a two-year term
- ❖ Buena Vista, Grassy Point, ELF Waterway Unit - (1) volunteer who must be a resident of Grassy Point.
- ❖ Tourism Development Council - (2) owner/operator volunteers
- ❖ South Gulf Cove Advisory Committee - (1) volunteer who owns property in South Gulf Cove.

III. REPORTS RECEIVED AND FILED

Recap of Clerk's office Memorandum for the Board of Charlotte County Commissioners. **Chairman DeBoer** questioned as to what does this mean. Tommy Q. White, Chief Deputy Board Services stated he doesn't know why this item is appearing under Reports received and filed, wasn't put there by the Clerk's office and that it always appears under Agenda Item A-1 and is shown there on the Agenda.

IV. CONSENT AGENDA

COMMISSIONER DEVOS MOVED FOR APPROVAL OF THE FOLLOWING ITEMS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0)

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 April 7, 2004 through April 20, 2004 in the amount of \$7,258,565.46

B. Minutes Division

Agenda Item B-1

9:00 A.M. 03/23/04 BCC Regular Meeting
2:00 P.M. 04/12/04 MSBU/TU Workshop

D. BUDGET OFFICE

Agenda Item D-1

Budget Amendment #04-A32 to provide carry-forward funds from FDOT Block Grant FY 02/03 and additional funds from FDOT Block Grant FY 03/04 for the Dial-A-Ride Program and approve expenditures.

Agenda Item D-2

Assignment of the Contract for Service AGREEMENT #2004-023
between the County and the Sarasota Family YMCA, Inc., to the
Charlotte County School Readiness Coalition.

E. GENERAL SERVICES

Agenda Item E-1, (a)

Bid #04-200, Hydraulic Excavator to G. S. Equipment, Inc. for
the purchase of a Hydraulic Excavator at \$268,142.00 and a 65'
Reach Super Long Front Attachment at \$109,039.00.

Agenda Item E-1, (b)

**Trade-in of Property Number 18682 for \$25,000.00 for a total
cost of \$352,181.00.**

Agenda Item E-2

**Change Order #3 to Contract #99-126, Manchester Waterway Lock
Removal Ecosystem Management Permitting with Florida
Environmental** in the amount of \$18,675.00 for a revised total
cost of \$379,641.00.

Agenda Item E-3, (a)

**Start of negotiations with the first ranked firm Johnson
Engineering, Inc.** of Port Charlotte, Florida, for **RFP 04-211,
Engineering Services - Aqui Estate Improvements.**

Agenda Item E-3, (b)

**Authorize the Chairman to sign the contract after negotiations
have been completed provided the cost does not exceed
\$1,622,000.00.**

Agenda Item E-4

**Change Order #1 to Contract #03-447, Burnt Store Improvements
with Wilbur Smith Associates, Inc.** for the amount of \$39,182.00
with a revised total contract amount of \$495,612.00.

F. GENERAL SERVICES - REAL PROPERTY SERVICES

Agenda Item F-1

Resolution #2004-073 authorizing the Chairman of the Board of Charlotte County Commissioners to execute a County Deed releasing a portion of a ten (10) foot wide utility drainage easement, and a portion of a platted twenty-five (25) foot wide canal maintenance easement, both located in Lot 197, Block 3302, Port Charlotte Subdivision, Section Forty-Four in Charlotte County, Florida. (Owner: Mark A. Colacioppo.)

Agenda Item F-2

Resolution #2004-074 authorizing the Chairman of the Board of Charlotte County Commissioners to execute a County Deed releasing portions of eight six (6) foot wide utility and drainage easements located in Lots 4, 5, 6, 34, 35 and 36, Block 3313, Port Charlotte Subdivision, Section Forty-Six in Charlotte County, Florida. (Owner: Sal Dipiazza.)

Agenda Item F-3

Resolution #2004-075 authorizing the Chairman of the Board of Charlotte County Commissioners to execute a County Deed releasing portions of two six (6) foot wide utility and drainage easements located in Lots 11 and 12, Block 3290, Port Charlotte Subdivision, Section Forty-Four in Charlotte County, Florida. (Owner: Francisco Silva and Nadine Silva.)

Agenda Item F-4

Resolution #2004-076 authorizing the Chairman to execute an exchange of land agreement between the County and Gasparilla Fishery, Inc., pursuant to Section 125.37 of the Florida Statutes.

Agenda Item F-5

Resolution #2004-077 authorizing the Board of Charlotte County Commissioners to approve the exchange of the County's interest in nineteen (19) platted lots for nineteen privately owned lots located within the Murdock Village Redevelopment project.

G. PUBLIC SAFETY

Agenda Item G-1

Budget Amendment #04-A33 in the amount of \$38,129.00 in the EMS Budget to allocate funds received from the State for the EMS County Grant.

H. PUBLIC WORKS

Agenda Item H-1

Agreement #2004-024 with the City of Punta Gorda regarding funding for the construction of sidewalks along the west side of Burnt Store Road beginning at the terminus of Phase I and ending near the southern property line of Eagle Pointe Mobile Home Park.

Agenda Item H-2

Set a Public Hearing for May 11, 2004 at 10:00 A.M. or as soon thereafter as may be heard, to consider an approval of an Ordinance amending the territory of the Harbour Heights Street and Drainage MSBU to add properties abutting road and bridge roads that have not been previously assessed, as well as other properties which benefit from the assessment, but are not currently included in the description of the territory of the unit in 4-6-287, Charlotte County Code.

Agenda Item H-3

Set a Public Hearing for May 11, 2004 at 10:00 A.M. or as soon thereafter as may be heard, to consider and adopt an Ordinance amending the territory of Punta Gorda Non-Urban Street and Drainage Unit (PGNU) to incorporate the territory of the South Charlotte Marl Street and Drainage Unit, the Three Rivers Street and Drainage Unit and the Sabal Palm Drive Road and Drainage Unit.

Agenda Item H-4

Set a Public Hearing for May 11, 2004 at 10:00 A.M. or as soon thereafter as may be heard, to consider and adopt an Ordinance amending the territory of the South Gulf Cove Waterway Unit to

include property benefited by improvements but not previously included in the described territory of the unit.

Agenda Item H-5

Set a Public Hearing for May 11, 2004 at 10:00 A.M. or as soon thereafter as may be heard to consider and adopt an Ordinance merging the Rotonda Meadows Street and Drainage Unit and the Rotonda Villas Street and Drainage Unit into a new Street and Drainage MSBU called Rotonda Meadows/Villas Street and Drainage Unit. The new unit would allow in its purpose, use of MSBU funds for neighborhood beautification projects.

Agenda Item H-6

Set a Public Hearing for May 25, 2004 at 10:00 A.M. or as soon thereafter as may be heard, to consider approval of an Ordinance of Charlotte County, Florida setting the speed limit on Boundary Boulevard from Rotonda Boulevard east to the south end in Charlotte County.

Agenda Item H-7

Set a Public Hearing for May 25, 2004 at 10:00 A.M. or as soon thereafter as may be heard, to consider approval of an Ordinance of Charlotte County, Florida reducing the speed limit on Sunnybrook Boulevard, between SR 776 and Boundary Boulevard to 35 mph.

Agenda Item H-8

Set a Public Hearing for May 25, 2004 at 10:00 A.M. or as soon thereafter as may be heard, to consider approval of an Ordinance of Charlotte County, Florida reducing the speed limit on Sunnybrook Boulevard, between SR 776 and Boundary Boulevard to 35 mph. **Chairman DeBoer** stated he would like to find some support from other Board Members to develop a policy that any roads we have which intersect with our major thoroughfares, approximately 200 to 250 feet before you get to that major intersection, i.e. US 41, SR 776, etc. should automatically be reduced to 30 mph. **Commissioner Devos** requested staff to prepare a presentation and we'll have that discussion.

Agenda Item H-9

Set a Public Hearing for May 25, 2004 at 10:00 A.M. or as soon thereafter as may be heard, to consider approval of an Ordinance of Charlotte County Code, Florida setting the speed limits to 45 mph to accommodate the new four-lane roadway on County Road 775 from SR 776 to Rotonda Boulevard west in Charlotte County, Florida.

ITEMS OF DISCUSSION

C. COUNTY ATTORNEY

Agenda Item C-1, Set a Board Workshop on the Transfer Development Units Ordinance for May 6, 2004 at 1:00 P.M. in Room 119

Chairman DeBoer stated he will be arriving late to this meeting because this is the day he mentors. **Chairman DeBoer** stated he would be arriving at the meeting approximately 1:30 P.M. **COMMISSIONER DEVOS MOVED FOR APPROVAL TO CHANGE THE TIME FROM 1:00 P.M. TO 1:30 P.M., SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0)**

E. GENERAL SERVICES

Agenda Item E-5, Piggyback purchase off of the City of Jacksonville, Florida, Bid #SC-0549-03 and County File #04-244, Tringali Park Roller Hockey Rink to Contract Connection, Inc. of Jacksonville, Florida for a total cost of \$79,111.00

Commissioner Devos requested Mrs. Hoeft briefly give an update to the Board on this agenda item. Laura Kleiss-Hoeft, Parks & Recreation & Cultural Resources Director stated the Hockey League Program requested to find locations to play hockey league in an organized fashion has come to us in all of our recreational centers. Mrs. Hoeft stated the Recreation Division has been running hockey for approximately 5 ½ years at the Tringali Center. Mrs. Hoeft stated that over the past year, we've been working with parents and they actually have formed a Charlotte County In-Line Hockey Association and also have become sanctioned with the US In-Line Hockey League. Mrs. Hoeft stated last summer we ran a program at the Auditorium and were able to piggyback that with our skating program. Mrs. Hoeft stated she

was able to acquire \$200,000.00 from a grant to help with the construction of the outside hockey league at the Tringali Center and we were also able to move forward with that project when we purchased the out parcel (adjacent to Tringali) approximately six years ago. Mrs. Hoeft the project at Tringali is \$283,000.00 which would include our clearing, our site work, sports lighting, the rink system and the equipment. Mrs. Hoeft stated at Tringali it would also be our goal to add a hockey rink adjacent to the Skate park. **Commissioner Devos** questioned if there are any future plans for the Port Charlotte area. Mrs. Hoeft stated not at this time due to simply not being able to find a suitable location. **COMMISSIONER DEVOS MOVED FOR APPROVAL TO "PIGGYBACK" PURCHASE OFF THE CITY OF JACKSONVILLE, FLORIDA, BID #SC-0549-03 AND COUNTY FILE #04-244, TRINGALI PARK ROLLER HOCKEY RINK, TO CONTRACT CONNECTION, INC. OF JACKSONVILLE, FL FOR A TOTAL COST OF \$79,111.00, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0)**

RECESS: 9:55 A.M. - 10:05 A.M.

VI. PUBLIC HEARING AGENDA

K. 10:00 A.M.

Agenda Item K-1, Equivalent Residential Unit - consider and adopt an Ordinance amending Charlotte County Code, Section 4-6-1, deleting Subsection (c)(1)b, in order to allow street and drainage assessments on roads normally maintained by other County, State and Federal funds (road and bridge roads) (Proof of publication was in order.)

Ann Navan, Budget Officer stated the definition of Equivalent Residential Unit in Charlotte County Code, Section 4-6-1, currently excludes "any parcel of property lying contiguous only to an abutting street which is normally maintained by other County, State or Federal funds." Mrs. Navan stated deletion of this language will permit the non-ad valorem assessment of these properties, more fairly apportioning the benefit received from the maintenance of the MSBU roads to all of the properties benefited. Mrs. Navan requested approval of this ordinance. THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0) COMMISSIONER CUMMINGS MOVED FOR APPROVAL OF THE ENACTMENT OF

ORDINANCE #2004-022, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.

(This a quasi-judicial hearing which requires disclosure of "ex-parte" communications and sworn testimony. Findings must meet the "substantial competent evidence" legal standard that the proposal is consistent with adopted policy. Allows cross-examination of witnesses and rebuttal.)

(Supervisor of Minutes Caroline W. Lounsbury administered the oath to prospective witnesses.) (Chairman DeBoer polled the Board for Ex-Parte disclosures. Commissioner Cummings stated he had a few conversations with Attorney Haymans and Mr. & Mrs. Jeffrey Slack and will file the proper ex-parte communication form.)

Agenda Item K-2, Zoning Atlas - Second Public Hearing - Z-03-11-47 - requesting a rezoning for 10.75+ acres from Agricultural Estates (AE) to Industrial Light (IL) for property located east of Burnt Store Road, north of Jones Loop Road and southwest of Taylor Road, to correct zoning and Future Land Use Map inconsistencies that exist in this area (Proof of publication was in order.)

*Inga Williams, Planner III stated this petition is for a request of rezoning for 10.75+ acres from Agriculture Estates to Industrial Light. Ms. Williams stated the properties involved in this proposed change are located east of Burnt Store Road, north of Jones Loop Road and southwest of Taylor Road in the Punta Gorda area. Ms. Williams stated the Charlotte County Community Development Department is proposing this rezoning in order to correct zoning and Future Land Use Map inconsistencies that exist in this area. Ms. Williams stated the proposed zoning is consistent with the Low Intensity Industrial Future Land Use Map classification. Ms. Williams stated this is the second of two public hearings required by Florida Statutes for County initiated rezonings of 10 acres or more. Ms. Williams stated the Community Development Department and the Planning and Zoning Board recommends approval of the rezoning. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. (4:0) COMMISSIONER CUMMINGS MOVED FOR APPROVAL AND ENACTMENT OF ORDINANCE #2004-023 (Z-03-11-47) BASED ON THE FINDINGS AND ANALYSIS PRESENTED IN THE PLANNING AND***

ZONING DIVISION STAFF REPORT DATED FEBRUARY 25, 2004, AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. (4:0)

V. REGULAR AGENDA

J. REGULAR BUSINESS

Agenda Item J-1, Approve funding of \$1.0 million to begin acquisition of properties for the Countywide Habitat Conservation by advancing funds from the currently establish .05 mills rate set aside each year in the County's CIP for the purpose of environmental lands

Ann Navan, Budget Officer stated the Board of Charlotte County Commissioners previously directed that .05 mills from the Capital Projects Fund millage be set aside each year for the purpose of acquiring environmentally sensitive lands. Mrs. Navan stated those dollars have been most recently used to repay dollars borrowed when land for San Casa environmental park were purchased. Mrs. Navan stated with the repayment of San Casa being finished in FY 05, current projects are that beginning in FY 05, dollars will again be available for the purchase of other environmentally sensitive lands. Mrs. Navan stated the currently adopted CIP estimates that between FY 05 and FY 08 there will be \$1.9 million available. Mrs. Navan stated the capital projects fund has balances that can be used to fund the up-front purchases, made available due to carryover of expenditures in FY 04/05. Mrs. Navan stated those dollars, would in turn be replaced by an assessment mechanism (MSBU or MSTU) for the benefiting properties. **Chairman DeBoer** questioned if the Board could possibly do this during the budget process instead of approving this item now. **Chairman DeBoer** reminded the Board Members that no one knows exactly what the State's plan is for funding to the County. Bruce D. Loucks, County Administrator stated this item was the desire of the Board, it would help the County in their timing with Wildlife Fish & Game, but there is nothing driving the Board to approve this now. Jim Thomson, Environmental Services Director stated these monies would help us with the backup of permits being held up. **Chairman DeBoer** announced he is in receipt of a letter from Dr. Goggin stating the Department of Health is in need of a new facility for health care and that the Legislature will not be providing funding. **Chairman DeBoer** reiterated that he would

prefer to wait until the budget process to discuss this item. **Commissioner D'Aprile** questioned the advantage vs. the disadvantage of approving this now. Mr. Loucks stated the advantage is that the County will be showing good faith to the Wildlife Fish & Game. **Commissioner Devos** requested an explanation as to where the monies for this will be coming from. Mrs. Navan stated .05 mills has been set aside from the CIP and there is a funding mechanism in place. **COMMISSIONER DEVOS MOVED FOR APPROVAL FOR FUNDING OF \$1.0 MILLION TO BEGIN ACQUISITION OF PROPERTIES FOR THE COUNTYWIDE HABITAT CONSERVATION BY ADVANCING FUNDS FROM THE CURRENTLY ESTABLISHED .05 MILLS RATE SET ASIDE EACH YEAR IN THE COUNTY'S CAPITAL IMPROVEMENT PROJECTS FOR THE PURCHASE OF ENVIRONMENTAL LANDS, SECONDED BY COMMISSIONER CUMMINGS.** **Commissioner Cummings** stated for the Interim Plan to work we would already had to have properties in place and questioned how much significant properties do we now have. **Commissioner Cummings** questioned if there is an inventory of land to use for the batch permit of application process. **Commissioner Cummings** stated if we handle this item during the budget process then we wouldn't have the funds until October. Mr. Loucks stated cash availability is there now. **Commissioner Cummings** stated he will support the motion. Attorney Lee stated she consulted with staff and the County's Property Manager, their concern is that property values will be increasing and people could purchase properties for private mitigation banks. Mr. Loucks stated anyone would have to go through the same process, like the County, for mitigation banks. Mr. Thomson stated he is anticipating additional permits could be trickling in at a later date. **Chairman DeBoer** commented on the \$1.0 million and questioned what that dollar amount is based on. Mr. Thomson stated he doesn't know value of property or costs. **Commissioner Cummings** stated that **Commissioner Horton** had suggested the \$1.0 million dollar figure. **Commissioner Cummings** requested this item be brought back at a later date with a specific dollar amount. **COMMISSIONER CUMMINGS WITHDREW HIS SECOND.** **COMMISSIONER DEVOS WITHDREW THE MOTION.** **Chairman DeBoer** stated the entire Board is struggling with this and he's not sure that by flashing \$1.0 million in front of an agency would be more favorable for us. **Commissioner Cummings** stated he supports the Interim Plan. **Chairman DeBoer** directed staff to bring back a dollar amount based on needs.

J. REGULAR BUSINESS

Agenda Item J-2, Review approval and signature of subordination documents for closing of Punta Gorda Pines permanent financing

Victoria Carpenter, Human Services Director stated in 2001, the Board of Charlotte County Commissioners provided \$450,000.00 to Punta Gorda Pines, LTD to construct an apartment complex in Punta Gorda and subordinated their lender position to construction lender, Bank of America. Mrs. Carpenter stated Punta Gorda Pines began payments on the \$450,000.00 in 2003, and no default exists. Mrs. Carpenter stated Punta Gorda Pines LTD management company, LCA Development is now planning to close their permanent financing and has forwarded new subordination documents for the County's signature. Mrs. Carpenter stated the primary lender will be Fannie Mae. Mrs. Carpenter stated staff has researched this matter and spoken with the County's Attorney's office. Mrs. Carpenter stated staff recommends approval and signatures. **Chairman DeBoer** questioned if this a normal process. Mrs. Carpenter stated that believes so. **COMMISSIONER DEVOS MOVED FOR APPROVAL OF AGREEMENT #2004-026, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. (4:0)**

VII. CITIZENS' INPUT - ANY SUBJECT

Donna Whittington stated a few weeks ago she commented on escalating prices and that Commissioner DeBoer desired to tell everyone on the record that she and her husband had turned down several generous appraisals from the County for their property. Mrs. Whittington stated that there was no need for Commissioner DeBoer to give out this information. **Chairman DeBoer** reminded Mrs. Whittington that she needs to address the Board as an entity and not single out one Commissioner.

Lance Corporal Carl D. Obermeyer commented on the Murdock Village Project and stated these property owners need to be adequately compensated for their properties.

Chairman DeBoer stated that the appraisals being done on the properties on the Murdock Village Project are being appraised at 120% of the value, property owners are not obligated to pay any impact fees to the County if they build a new home within 12 months. **Chairman DeBoer** stated the Board of Charlotte County Commissioners doesn't get involved in the process.

L. County Administrator

Bruce D. Loucks, County Administrator stated that at the April 14, 2004 Fish & Wildlife Conservation meeting in Tallahassee, the Commission directed their staff to initiate the ruling change process to amend the Lemon Bay Manatee Rule to approve a 25 mph access corridor. Mr. Loucks stated the meeting scheduled for Monday, May 3, 2004 is a Joint Workshop between the City of Punta Gorda, School Board and the Board of Charlotte County Commissioners to discuss schools and land use planning. Mr. Loucks stated the eleven acres next door has been appraised at \$2.1 million, but the owner is asking \$2.6 million to include the development rights and to allow transfer of impact fee credits in the amount of \$450,000.00. Mr. Loucks stated staff has looked at other properties nearby, i.e. 28 acres on Toledo Blade between K-Mart and Home Depot whereby the owners are asking \$6.0 million. Mr. Loucks stated that Mrs. Hoeft will be giving the Board a quick update regarding Mr. Tatone utilizing the Stadium for an amphitheater. Mr. Loucks stated that Mr. Tatone is still interested but has some concerns. Mrs. Hoeft briefly updated the Board as follows:

- Mr. Tatone has now moved forward with a different proposal than originally offered by the County. Mr. Tatone is looking at requesting five years for the contract with a five year renewal.
- Looking at a concert season which could take us from April 1st through October 20th with some options.
- Ability to work with our Punta Gorda Clear Channel office for promotions.
- Concert season would primarily be set aside in the summer months, he would ultimately become the County's promoter year round.
- Mr. Tatone is looking for the use of our two-story building, so he would be able to use the old training/coaching area as a use for entertainers coming in which can be accomplished.

- The liquor license is an issue that is very important to Mr. Tatone, but it is not beneficial over the long haul that we would be providing the liquor license.
- Mr. Tatone's organization would be getting revenues through ticket sales, concessions, advertising and billboards and he would be giving back to the County \$2.50 for each ticket.
- Mr. Tatone would be picking up all maintenance costs for **his** concerts. It has been mistaken that Mr. Tatone would pickup \$300,000.00 for maintenance which has definitely been an inaccuracy.
- The County would still be liable for any unusual breakage, electrical or air conditioning. Mr. Tatone would be responsible for all sports lighting that would be utilized for his concerts.
- Mr. Tatone has requested the County to take up and down the stage for concerts, which is an issue that we would like for Mr. Tatone to be responsible for, as well as covering the costs for any repair to the ball field.
- Performance clause - staff has concerns with the fact if we only have ten concerts, don't have a very good attendance, Mr. Tatone would have to be held liable for sometime of performance clause.
- Discussions have been held with regard to how either party would get out of this agreement and terms.
- The County Attorney's office is still doing the background reference review and we're still waiting for the financials to come in for review.

(Board discussion ensued regarding background financials for Mr. Tatone and any partners, the possibility of continuing additional tournaments at the Stadium, rental use agreement, repairs to the Stadium, costs of maintaining the parking lot area, and risks of losing other revenue sources.) Mr. Loucks stated that Mr. Tatone would like more access to the Stadium and staff is concerned that a six month window would encroach on

other Charlotte County's activities planned for the Stadium and we need to define some type of balance. Mrs. Hoeft stated that Mr. Tatone and the County would be sharing the costs for the parking lot, but not for the ball field. **Commissioner D'Aprile** stated he is willing to go for it and see what happens. **Commissioner Devos** stated that providing concerts for the County is wonderful, but doesn't want to put down resources generated from other uses, i.e. tournaments. **Commissioner Devos** stated the more uses for the Stadium would enable the County to offset their expenses for the operation. **Commissioner Devos** stated that the Board needs to give direction to Mrs. Hoeft that there is a commitment from us to seek other sports activities for the Stadium. **Chairman DeBoer** stated that if Mr. Tatone wants to come to the table, has his financials in order, then let's deal, but if he's not qualified then we need to seek out other various activities to utilize the Stadium. **Chairman DeBoer** stated that the Stadium is a "white elephant" and will never pay for itself. Roger Baltz, Assistant County Administrator spoke with regard to a piece of property located on Cattedock Road which the County is trying to pursue for boat ramps and requested a letter from the Board be sent to SWFMD expressing their desire to construct a boat ramp. **(BOARD AGREED TO SEND THE LETTER.)**

Kelly Shoemaker, Assistant County Administrator presented the following last legislature updates:

- Construction grant for the library is doing very well.
- Internet screening has been attached to another Bill and our lobbyists don't feel very hopeful.
- Platted Lots. **Chairman DeBoer** stated that the legislature is taking a very conservative approach with regard to platted lands. **Commissioner Cummings** stated the platted lands needs to be restudied. **Commissioner Cummings** stated for every acre acquired today and flip to commercial/industrial - you avoid acquiring four acres of right-of-way in the future. **Commissioner Cummings** stated for each empty lot that you intelligently flip from residential to commercial today, you avoid taking four peoples homes in the future, which is a very powerful reason.

Chairman DeBoer stated he was of the opinion that the funding for the Library had already passed. Mrs. Shoemaker stated that it does look very promising, but she is still a bit skeptical. Mrs. Shoemaker stated the value of the grant is \$500,000.00. Mrs. Shoemaker commented on the costs shift for the Department of Juvenile Justice (DJJ). **Chairman DeBoer** stated approximately \$93 million of costs will be shifted to the counties for juvenile detention, that could've been funded instead of giving a sales tax break. **Chairman DeBoer** stated he would like to use this cost shift to write a letter to the Governor requesting our property back which is next to the jail. **Commissioner D'Aprile** questioned if the property given was contingent upon building a facility. **Chairman DeBoer** stated this piece of property could be used for a fire training academy. **(Board agreed for a letter to be written to the Governor.)** Attorney Lee commented on the property for the DJJ facility, stated that Ms. Roth has been in contact with the Department and is working closely with them to try to get the property released.

M. County Attorney

Attorney Lee gave a brief update to the Board on the following two cases: Mission Unity or Unity Mission (not sure which word comes first) - she was visited by Mr. Byrum who is the Director of Unity Mission (regarding the Recovery House) which is in a residential neighborhood. Mr. Byrum has indicated that he would like to engage in a pre-suit settlement with the County. Mr. Byrum's last demand from his attorney was over \$10 million and this week Mr. Byrum has indicated that we could possibly settle this case before he files suit in Federal Court. Attorney Lee stated staff is reviewing the files and a recommendation will be brought back to the Board within the next couple of weeks. **Commissioner Devos** stated the settlement needs to be **significantly reduced**. **Commissioner Devos** stated that what is occurring right now is an abuse of the system. **Chairman DeBoer** stated unless it's a significant decrease, that actually reflects any true damages that might have occurred, he wouldn't agree to any type of settlement. **Chairman DeBoer** stated he finds it rather obscene for a man that claims to be a Man of God has varied so far from biblical principle. **Chairman DeBoer** stated that Charlotte County hasn't done anything wrong.

Attorney Lee commented on another issue regarding the dog training facility located at Charlotte Ranchettes. Attorney Lee

stated she has met with Attorney Sullivan, the property owner Mr. Dahle and Mr. Tom Smith and the purpose of this meeting was to resolve the timeline regarding when Mr. Smith met with the property owner, what he told him, and what the circumstances were. Attorney Lee stated the outcome of this meeting there were some questions raised in Mr. Smith's mind, he is reviewing his file, will be writing a memo to the County Attorney indicating what his findings are. Attorney Lee stated that based on Mr. Smith's memo and his findings, it could change on how the Board looks at this situation. Attorney Lee stated she would be bringing back her recommendations to the Board within the next couple of weeks. **Commissioner Cummings** expressed concerns with another dog training facility located in Charlotte Ranchettes that there is no structure and reminded staff not to lose sight on this situation.

Agenda Item M-1, Update on the Edgewater Condominiums

Brendan Bradley, Deputy County Attorney stated the last time he spoke to the Board he said the next event would be Judge Anderson's decision on whether or not to allow the complaint for declaratory judgment, which was filed in November 2002. Attorney Bradley stated the Judge indicated he would allow the case to continue to its conclusion and be set for trial sometime in June 2004. Attorney Bradley stated the complaint was filed in November 2002, in December 2002 the Construction Board of Adjustments & Appeal upheld the decision of the Building Official declaring the building unsafe. Attorney Bradley stated that decision precipitated some discussion which resulted in a developer's agreement between Charlotte County and Edgewater 2000 LLC on January 14, 2003. Attorney Bradley stated that in this agreement the County agreed not to pursue demolition of the building during the pendency of a lawsuit and the developer agreed to file a building permit application to complete the building for an allowed OMI use which would include residential within sixty days of either a final unappealable decision finding the restrictions invalid, or the dismissal of the lawsuit based on an agreement by the County to lift the restrictions. Attorney Bradley stated if the restriction survived, the developer would then have to file a building permit application within 120 days. Attorney Bradley stated that once the building permit was issued, the developer had agreed in the developer's agreement to complete the exterior of

the building within nine months and to have the building opened for at least partial occupancy within twelve months from the date of the issuance of the building permit. Attorney Bradley stated there was a \$500.00 per day penalty if any of those deadlines were exceeded and after the deadlines were exceeded by 30 days the County could pursue demolition of the building. Attorney Bradley stated that in April 2004 the developer signed an agreement earlier submitted by Mr. & Mrs. Dunn, who lives in the shadow of the building and also Lemon Bay Breezes Condominium Association entered into an agreement with the developer to essentially permit the completion of the building as a residential condominium. Attorney Bradley stated that Attorney Haymans reported this morning to the Board that all but one unit owner have agreed to lift the restrictions and the one owner is holding out because of a sign which recently went up for Remax Realty. Attorney Bradley stated that the County's position has improved since it may its decision in response to a citizen's input in November 2002. Attorney Bradley stated the situation has improved along the lines that now we have a timeframe once the clock starts ticking, that the developer has agreed to meet the timeframe and if he doesn't meet the timeframe the County will be able to pursue the demolition of the building. Attorney Bradley stated the County can choose today to lift the restrictions or not. Attorney Bradley stated if the County decides not to lift the restriction then there would be a hearing in June, a decision would follow, if the decision was appealed by either party it would be several months before it could be heard and decided by the Court of Appeals. Attorney Bradley stated if the Board decides to lift the restrictions based on the comments heard today, a document releasing the restrictions would be prepared and the court matter would be dismissed, and at that point the 60 day timeframe would begin to run. Attorney Bradley commented on the possibility of the developer needing to request variances for building height and set back or ADA accessibility requirements that matter would be heard by the Board of Adjustment & Appeals which meets the first and third Monday of every month, which would result in a short delay. Attorney Bradley stated if the Board decides to lift the restriction, request is hereby made to give the authority to the Chairman to sign the necessary documentation which would include a Release of Restrictions and authority to enter into a Settlement Agreement. **Commissioner Devos** stated if the restrictions are lifted she doesn't want any

more delays with this project. Attorney Bradley stated that Attorney Haymans has indicated that his client will move this project as quickly as possible. **Commissioner Devos** stated she doesn't have much confidence with the developer. **Commissioner Devos** stated she would be willing to support lifting the restrictions, but assured her fellow Board Members that she will be the first Commissioner to move for demolition of the building if the conditions aren't met by the developer. **Commissioner Cummings** stated this situation has been going on for 15 years. **Commissioner Cummings** stated he wants a time line as to when this building will be occupied or when there will only be grass growing on the property. Attorney Bradley stated he cannot predict a time frame. **Chairman DeBoer** requested the County Attorney's office provide the Board with written document giving specific assurances for the County regarding building height, setbacks and FEMA regulations. **Chairman DeBoer** reported that FEMA might have a problem with occupancy of the first floor of the structure. **Chairman DeBoer** questioned Attorney Bradley as to whether or not he would be able to provide this type of document and additional assurances by May 6, 2004 when the Board meets again. Attorney Haymans responded affirmatively that he will work with Attorney Bradley on this document. **Commissioner D'Aprile** stated this building has been opened to the elements for 15 years and questioned as to how can we be assured this building will be safe after completion. Attorney Bradley stated that matter has been discussed with the Building Official and as part of the application process, applicant will be providing a signed and sealed plans done by a structural engineer pertaining to the safety of the building or not. Attorney Bradley stated he would like to delay this matter until May 6th as the **Chairman** requested. **Chairman DeBoer** reminded Attorney Bradley that the FEMA issues also need to be addressed. **(BOARD AGREED TO DELAY THIS MATTER UNTIL MAY 6TH.)**

N. Commissioner's Comments

Commissioner Cummings stated that the owners of the Babcock ranch have agreed to give the County ninety days to purchase this property. **Commissioner Cummings** commented on the two Governor appointees that serve on the Regional Planning Council that have either not attended the meetings at all, or just a few. **Commissioner Cummings** stated that School Board Member Connie Kanter has expressed a desire to serve on this Council.

Commissioner Cummings suggested the **Chair** send a letter to the Governor informing him of the situation existing. **Commissioner Cummings** stated numerous attempts have been made by his office to reach both of these appointees, but he hasn't been able to get any response. **Chairman DeBoer** stated he will write the letter. **Chairman DeBoer** requested **Commissioner Cummings** to fill in for him on the Resource Committee at least through the summer. **Commissioner Cummings** stated he would do it, if it fits into his schedule. **Chairman DeBoer** commented on the fact that Dr. Goggin from the Health Department needs a new facility and is inquiring about the Vascular/Surgery building on US 41 and Midway. **Chairman DeBoer** stated Dr. Goggin would be willing to cut their budget by 10% if we can provide this. **Chairman DeBoer** stated funding by the State is continuing to be cut back to Arts & Humanities and right now they won't be able to make their monthly rent payments. **Chairman DeBoer** requested the other Board Members try to discuss this matter with Mr. Loucks about giving them the \$1,060.00 from now until the end of September. **Chairman DeBoer** stated that during the budget discussions maybe the possibility could arise of including Arts & Humanities into the Murdock Village project. **Chairman DeBoer** commented on the policy that was adopted by the County regarding retired County employees, i.e. former employees that have worked for Charlotte County for 20 years there would be some type of a gap providing health insurance until they would actually be able to get on Medicare. **Chairman DeBoer** stated this policy was for all employees including the Sheriff's office, but now the Sheriff's office has a different health insurance provider and staff is now saying that the Sheriff's employees are not covered under this policy. **Chairman DeBoer** stated there are some Sheriff's employees (long-term) that are planning to retire soon and will be needing this gap in insurance. **Chairman DeBoer** stated he will be coming back to the Board with either an update to the existing policy because we definitely need to do something for these employees. **Commissioner Devos** stated the County is now entering into a new chapter with the Sheriff and possibly the Board could present him with an opportunity to revisit their insurance provider and this issue might just go away. **Chairman DeBoer** stated he isn't sure that the Sheriff's employees want to be part of our health insurance policy. **Chairman DeBoer** suggested Risk Management provide the Board with an amount as to what it would cost to cover these employees. **Chairman DeBoer** commented on the waterfront property owned by the County on

Midway/O'Hara which the County was considering to possibly utilize for a boat ramp. **Chairman DeBoer** stated that the Manchester Civic Association doesn't want a boat ramp and have expressed a desire for us to sell the property. **Commissioner Cummings** stated he isn't prepared to sell waterfront property. **(BOARD MEMBERS AGREED WITH COMMISSIONER CUMMINGS' COMMENT.)** **Commissioner Devos** requested information as to when the County can expect having a Utility Director hired. Mr. Loucks stated interviews will be held this Friday and hopefully we will have an individual on board in approximately one month. **Commissioner Devos** questioned where Thomas Keith, Assistant County Administrator/Interim Acting Utility Director is going. Mr. Loucks stated that Mr. Keith is going back to Sarasota County, is on vacation now and will be back to work here for one day or so. Mr. Loucks stated that Charlotte County Utilities will be placed under Roger Baltz, Assistant County Administrator. **Commissioner D'Aprile** commented on the Tom Adams Bridge/Boat Ramp and stated that Sandpiper Key owns approximately 30% of this property. **Commissioner D'Aprile** stated he seems to be of the opinion that everyone wants to keep this boat ramp opened for emergency vehicles. **Commissioner D'Aprile** stated no one in this area has contacted the emergency people to get their input if they do indeed need it opened or not. **Commissioner D'Aprile** stated that Mrs. Hoeft will be writing letters to various organizations in that area as to whether or not they require the boat ramp or not. **Commissioner D'Aprile** stated he doesn't want to prolong this issue any longer.

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April 27, 2004

MEETING ADJOURNED: 12:17 P.M.

Signature on file in Commission Minutes
Matthew D. DeBoer
Chairman

ATTEST:

BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS

By: Signature on file in Commission Minutes
Deputy Clerk

ksm/cwl